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Title 14. Natural Resources

Complete Title

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BARCLAYS OFFICIAL CALIFORNIA CODE OF REGULATIONS

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TITLE 14. NATURAL RESOURCES

NOMENCLATURE CROSS–REFERENCE

(NOTE: Effective April 1, 1990, the Office of Administrative Law authorized the renaming of the hierarchical headings used within the Titles of the *California Code of Regulations*. Until the agencies implement these changes in their regulations, use the following Cross–Reference Table for the new organizational headings used in this Title.)

OLD HIERARCHY	REVISED HIERARCHY
Division	Division
Part	Subdivision
Chapter	Chapter
Subchapter	Subchapter
Article	Article
Section	Section

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TITLE 14. NATURAL RESOURCES

Division 1. Fish and Game Commission—Department of Fish and Game

(Originally Printed 3-31-45)

Foreword
Statement of Purpose, Effect, and Application of Rules *

* Foreword supplied by Fish and Game Commission on October 10, 1957.

These rules and regulations may be used as guides in the exercise of discretion, where a discretion is vested. However, under no circumstances, and in no particular case shall they, or any of them, be construed as a limitation or restriction upon the exercise of any discretion, where such exists; nor shall they in any event be construed to deprive the commission of any exercise of powers, duties and jurisdiction conferred by law.

Except for rules or regulations adopted pursuant to provisions of Sections 200 to 221, inclusive, of the Fish and Game Code, the commission may suspend or modify these rules, in whole or in part, upon good cause shown or when in the discretion of the commission the particular facts or circumstances render such action appropriate in a given instance.

** Section 12000 of the Fish and Game Code provides that a violation of any provision of that code other than Sections 3009 and 12001 or any rule, regulation or order made or adopted under that code is a misdemeanor.

Section 12000 of Division 9, Chapter 1 of the Fish and Game Code provides that a violation of any provision of the rules and regulations found herein in this Title 14 is a misdemeanor. (Stats. of 1961, Ch. 1815.)

**Amendment to foreword supplied by Fish and Game Commission on May 15, 1980.

Subdivision 1. Fish, Amphibians and Reptiles

Foreword
1-19-74

In Register 74, No. 3, major substantive changes have been made to former Sections 1.05 through 98.8 of Part 1, Division 1, Title 14, dealing with sport fishing regulations of the commission. Previous Chapters 1, 2, and 3 of Part 1, which constituted the aforementioned sections, have been repealed and replaced with Chapters 1 through 5. The former Chapter 4, concerning commercial fish, can now be found as Chapter 6. Former Chapter 5, concerning capture, transportation, possession and sale of live freshwater fish for bait for profit, can now be found as Chapter 7, and former Chapter 6, containing miscellaneous regulations, can now be found as Chapter 8.

The new sport fishing regulations cannot directly be compared with the previous regulations on a section-by-section basis. In the new format the regulations are broken into Chapter 1, General Provisions and Definitions; Chapter 2, Statewide Regulations for Fishing and Frogging in Inland Waters; Chapter 3, Inland Water Fishing; Chapter 4, Ocean Fishing; and Chapter 5, Reptiles and Amphibians.

The basic objective in the new sport fishing regulations format is to divide the state into eight sport fishing districts, each containing certain common characteristics for all waters within it. Consequently, one should now first determine the sport fishing district containing the water of interest, and look within that district's regulations for general seasons, bag limits and methods of take applicable to that district. Review should then be made of the special regulations contained in that district for any exceptions which may apply. Chapters 1 and 2 contain certain provisions, definitions and regulations for fishing and frogging in the inland waters which are applicable to all districts other than the Ocean and San Francisco Bay District.

Chapter 1. General Provisions and Definitions

§ 1.04. Anadromous Waters.

Anadromous waters are inland waters that are accessible to fish migrating from the ocean.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 206 and 215, Fish and Game Code.

HISTORY

1. New section filed 2-5-98; operative 3-1-98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 1.05. Angling.

To take fish by hook and line with the line held in the hand, or with the line attached to a pole or rod held in the hand or closely attended in such manner that the fish voluntarily takes the bait or lure in its mouth.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 2, 15, 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Repealer of Chapter 1 (§§1.05 through 1.95, not consecutive) and new Chapter 1 (§§ 1.05 through 1.86, not consecutive) filed 1-16-74; designated effective 3-1-74 (Register 74, No. 3). For history of former sections, see Register 59, No. 5; 61, Nos. 2, 26; 64, Nos. 8, 25; 66, No. 45; 67, No. 7; 69, No. 51; 70, No. 52; 72, No. 52.
2. Amendment of NOTE filed 12-31-80; effective thirtieth day thereafter (Register 81, No. 1).
3. Repealer of Chapter 1 (Sections 1.05-1.99, not consecutive) and new Chapter 1 (Sections 1.05-1.86, not consecutive) filed 2-17-82; designated effective 3-1-82 (Register 82, No. 8). For prior history, see Registers 80, No. 2 and 74, No. 51.
4. Amendment filed 1-22-86; designated effective 3-1-86 (Register 86, No. 6.)

§ 1.08. Artificial Fly.

Any fly constructed by the method known as fly tying.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210, 215-222, and 5516, Fish and Game Code.

HISTORY

1. Amendment filed 1-22-86; designated effective 3-1-86 (Register 86, No. 6).

§ 1.11. Artificial Lure.

An artificial lure is a man-made lure or fly designed to attract fish. This definition does not include scented or flavored artificial baits.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210, 215-222 and 5516, Fish and Game Code.

HISTORY

1. Amendment filed 1-22-86; designated effective 3-1-86 (Register 86, No. 6).
2. Amendment filed 2-9-96; operative 2-9-96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).

§ 1.14. Authorization for Taking Fish.

Fish, amphibians, reptiles, mollusks and crustaceans may be taken only in the amounts, only during the open season and only with the gear authorized and shall not be taken otherwise.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 18, 45, 62, 86, 200–202, 203.1, 205–210, 215–222 and 5516, Fish and Game Code.

§ 1.17. Bag and Possession Limit.

No more than one daily bag limit of each kind of fish, amphibian, reptile, mollusk or crustacean named in these regulations may be taken or possessed by any one person unless otherwise authorized; regardless of whether they are fresh, frozen, or otherwise preserved.

EXCEPTIONS: See Sections 7.00, 7.50(a), 27.60(c), and 195, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 18, 45, 62, 86, 200, 202, 205 and 7120, Fish and Game Code.

HISTORY

1. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
3. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
4. Amendment filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
5. Amendment of section and NOTE filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
6. Amendment filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 1.18. Bay–Delta Sport Fishing Enhancement Stamp.

A person shall not sport fish in the tidal waters of San Francisco and San Pablo bays east of the Golden Gate Bridge and west of the Carquinez Bridge, (i.e., all tidal waters, sloughs, canals and forebays within the area east of Highway 101, west of Highway 29, west of Interstates 80 and 880, and north of Highway 237, including the Napa River below the Trancas bridge in Napa, Sonoma Creek below the Highway 121 bridge and the Petaluma River east of Highway 101), the Carquinez Strait, the Sacramento–San Joaquin Delta (i.e., all rivers, sloughs, canals, cuts, forebays, and flooded islands within the area south of Interstate 80, west of Highway 99, north of Interstates 580 and 205, and Highway 120, and east of Interstate 680), the Sacramento River below Keswick Dam, the Feather River below Oroville Dam, the Yuba River below Englebright Dam, the American River below Nimbus Dam, the Cosumnes River west of Highway 99, the Mokelumne River below Camanche Dam, the Calaveras River below New Hogan Dam, the San Joaquin River below Mendota Dam, the Stanislaus River below Goodwin Dam, the Tuolumne River below La Grange Dam, and the Merced River below Crocker–Huffman Dam, unless he or she first obtains, in addition to a valid California sport fishing license and any applicable stamp issued pursuant to Section 7149 or 7149.05, a Bay–Delta Sport Fishing Enhancement Stamp and affixes that stamp to his or her valid sport fishing license.

NOTE: Authority cited: Sections 200, 202, 240, 1050 and 7360, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 240, 713, 1050, 1055 and 7360, Fish and Game Code

HISTORY

1. New section filed 12–30–2003 as an emergency; operative 1–1–2004 (Register 2004, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–30–2004 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 12–30–2003 order, including further amendment of section, transmitted to OAL 4–23–2004 and filed 6–1–2004 (Register 2004, No. 23).

§ 1.19. Barbless Hook.

A fish hook from which the barb or barbs have been removed or completely bent closed, or which is manufactured without barbs.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 48, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.20. Black Bass.

Includes largemouth, smallmouth, redeye and spotted bass.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 1740–1743, Fish and Game Code.

§ 1.23. Bow and Arrow Fishing Tackle.

Such tackle must have the arrow shaft or the point, or both, attached by a line to the bow or to a fishing reel (includes crossbow).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.24. Bullfrog.

Includes only *Rana catesbeiana*. See Chapter 5 for amphibian regulations.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 1.26. Bullhead.

Includes brown, black and yellow bullhead.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.29. Catfish.

Includes channel, white, blue and flathead catfish.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 1725–1728, Fish and Game Code.

§ 1.32. Chumming.

Placing any material in the water, other than on a hook while angling, for the purpose of attracting fish to a particular area in order that they may be taken.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 1725–1728, Fish and Game Code.

§ 1.35. Closed or Closure.

Refers to waters or areas closed to all fishing unless otherwise authorized.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 29, 62, 200–202, 203.1, 205–210, 215–222 and 1725–1728, Fish and Game Code.

§ 1.38. Closed Season.

That period during which the taking of fish, amphibians, reptiles, mollusks or crustaceans is prohibited.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 11, 29, 35, 86, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.39. Coastal Pelagic Species.

Coastal pelagic species means any of the following: northern anchovy (*Engraulis mordax*), Pacific sardine (*Sardinops sagax*), Pacific mackerel (*Scomber japonicus*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*).

NOTE: Authority: Section 205, Fish and Game Code. Reference: Sections 200, 202 and 215, Fish and Game Code.

HISTORY

1. New section filed 4–15–2003; operative 4–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).

§ 1.41. Dates.

Dates of seasons and closures are inclusive.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 11, 29, 35, 62, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.42. Dip Net.

Webbing supported by a frame, and hand held, not more than six feet in greatest dimension, excluding handle.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 56, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.44. Dividing Line Between Lake and Stream.

The mouth of the stream at the existing level of the lake surface. Stream regulations apply to parts of streams in the exposed beds of partially empty lakes.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.46. Finfish Defined.

Finfish are defined as any species of bony fish or cartilaginous fish (sharks, skates and rays). Finfish do not include amphibians, invertebrates, plants or algae.

NOTE: Authority cited: Sections 200 and 202, Fish and Game Code. Reference: Sections 200 and 202, Fish and Game Code.

HISTORY

1. New section filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 1.47. Fishing Closures (Special), Seasons and Bag and Size Limits.

The District Special Regulations are exceptions to the open seasons and bag limits specified in the Species Regulations. Where more than one area is fished, the number of fish in possession shall not exceed the limit specified in the Species Regulations. Open seasons and closures on streams listed in the District Special Regulations do not include tributaries of such streams unless so specified.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 18, 86, 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

§ 1.48. Gill Net.

A single wall of webbing, bound at the top by a float line and at the bottom by a weighted line and used for entangling fish.

NOTE: Authority cited: Section 8682, Fish and Game Code. Reference: Sections 8680–8682 and 8700, Fish and Game Code.

HISTORY

1. New section filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1.49. Highly Migratory Species.

Highly migratory species means any of the following: albacore, bluefin, bigeye, and yellowfin tuna (*Thunnus spp.*); skipjack tuna (*Katsuwonus pelamis*); dorado (dolphinfish) (*Coryphaena hippurus*); striped marlin (*Tetrapturus audax*); thresher sharks (common, pelagic, and bigeye) (*Alopias spp*); shortfin mako shark (*Isurus oxyrinchus*); blue shark (*Prionace glauca*); and Pacific swordfish (*Xiphias gladius*).

NOTE: Authority: Section 205, Fish and Game Code. Reference: Sections 200, 202 and 215, Fish and Game Code.

HISTORY

1. New section filed 4–15–2003; operative 4–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).

§ 1.51. Hoopa Indian Salmon Possession Limit.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 7708, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222, 7155, 7700, 7702, 7703, 7706, 7708 and 12300, Fish and Game Code.

HISTORY

1. Amendment filed 8–24–82 as an emergency; effective upon filing (Register 82, No. 35). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–22–82.
2. Certificate of Compliance transmitted to OAL 12–13–82 and filed 1–20–83 (Register 83, No. 4).
3. Renumbering of Section 1.51 to Section 5.86 filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 1.52. Marking Requirements for Salmon Taken by Other Than Commercial Means.

NOTE: Authority cited: Section 7708, Fish and Game Code. Reference: Sections 7700, 7702, 7703, 7706 and 7708, Fish and Game Code.

HISTORY

1. Amendment filed 8–24–82 as an emergency; effective upon filing (Register 82, No. 35). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–22–82.
2. Certificate of Compliance transmitted to OAL 12–13–82 and filed 1–20–83 (Register 83, No. 4).
3. Renumbering of Section 1.52 to Section 5.87 filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 1.53. Inland Waters.

Inland waters are all the fresh, brackish and inland saline waters of the state, including lagoons and tidewaters upstream from the mouths of coastal rivers and streams. Inland waters exclude the waters of San Francisco and San Pablo bays downstream from Carquinez Bridge, the tidal portions of rivers and streams flowing into San Francisco and San Pablo Bays, and the waters of Elkhorn Slough, west of Elkhorn Road between Castroville and Watsonville. Also see Section 27.00.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 1.56. Lake.

Includes natural lakes or man–made reservoirs.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.59. Limit.

Refers to daily bag limit and possession limit per person, or boat limit authorized in Sections 27.60(c) and 195, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 18, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
2. Amendment filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 1.60. Lure.

A manufactured article or object equipped with one or more hooks designed to attract or catch fish.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 3–2–2006; operative 4–1–2006 (Register 2006, No. 9).

§ 1.61. Non–Buoyant Lure.

Any lure that sinks in freshwater.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 3–2–2006; operative 4–1–2006 (Register 2006, No. 9).

§ 1.62. Minimum and Maximum Size.

No fish, mollusks or crustaceans less than the legal minimum size or greater than the maximum legal size (total, fork or alternate) may be possessed, except as otherwise provided. Total length is the longest straight–line measurement from the tip of the head to the end of the longest lobe of the tail. Fork length is the straight–line distance from the tip of the head to the center of the tail fin. Tip of the head shall be the most anterior point on the fish with the mouth closed and the fish lying flat on its side. Alternate length is the straight–line distance from the base of the foremost spine of the first dorsal fin to the end of the longest lobe of the tail. Unless otherwise provided, all fish, mollusks or crustaceans less than the legal minimum size or greater than the maximum legal size must be returned immediately to the water from which they were taken.

NOTE: Authority cited: Sections 200, 202, 205, 219 and 220, Fish and Game Code. Reference: Sections 18, 200, 202, 205 and 220, Fish and Game Code.

HISTORY

1. Amendment filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of section heading and section filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 1.63. Movement of Live Fish.

Except as provided in sections 4.00 through 4.30 and 230, live fin fish may not be transported alive from the water where taken.

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Amendment filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
3. Amendment filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 1.65. Multiple Hook.

A hook with two or more points.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 48, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.67. Native Reptiles and Amphibians.

Native reptiles and amphibians are those subspecies, and species, including all color phases, of the classes Reptilia and Amphibia indigenous to California. This definition includes all specimens regardless of their origin even if they were produced in captivity.

NOTE: Authority cited: Sections 200, 202, 205, 220, 5061 and 6896, Fish and Game Code. Reference: Sections 200, 202, 205, 220, 5060, 5061, 6895 and 6896, Fish and Game Code.

HISTORY

1. New section filed 9–10–96; operative 9–10–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
2. Amendment filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 1.68. Open Season.

That period of time during which the taking of fish, amphibians, reptiles, mollusks and crustaceans is authorized.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 11, 35, 48, 62, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.70. Opening Date and Bag Limit for Boundary Waters.

Waters, exclusive of their tributaries, on the boundary between areas or districts with different opening dates or limits shall open on the earlier date and have the larger limit unless otherwise specified.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 11, 35, 48, 62, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering of former section 1.71 to new section 1.70 filed 4–7–2005; operative 5–7–2005 (Register 2005, No. 14).

§ 1.71. Sacramento–San Joaquin River Delta.

The Sacramento–San Joaquin River Delta includes all rivers, sloughs, canals, cuts, forebays, and flooded islands within the area south of Interstate 80 to its junction with Highway 50, and south of Highway 50 via the Pioneer Bridge to its junction with Highway 99, west of Highway 99, north of Interstate 580, 205, and Highway 120, and east of Interstate 680.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. Renumbering of former section 1.71 to section 1.70 and new section 1.71 filed 4–7–2005; operative 5–7–2005 (Register 2005, No. 14).
2. Amendment filed 3–2–2006; operative 4–1–2006 (Register 2006, No. 9).

§ 1.72. Stream (Includes Creeks and Rivers).

A stream is a body of water that flows at least periodically or intermittently through a bed or channel having banks and supports fish or other aquatic life. This includes watercourses having a surface or subsurface flow that supports or has supported riparian vegetation.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200–202 and 205–210, Fish and Game Code.

HISTORY

1. New Section filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9). For history of former Section 1.72, see Register 86, No. 6).

§ 1.73. Salmon.

Includes chinook, coho, pink, chum and sockeye salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering of former Section 1.74 to Section 1.73 filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).

§ 1.74. Sport Fishing Report Card and Tagging Requirements.

(a) Purpose. These regulations address potential concern for overfishing and a lack of recreational fishing effort and catch information in some or all areas where the fishery operates. Many of these species are of high commercial value, and therefore, additional enforcement mechanisms are needed to improve compliance with existing bag limits and other regulations, and to reduce the potential for poaching.

(b) Species and Location Requirements. Individuals fishing for or taking the following species are subject to report card requirements in the following locations described below:

(1) Salmon, in the Klamath–Trinity River System only. The Klamath–Trinity River System is defined as the anadromous waters of the Klamath River and Trinity River basins. Anadromous waters are defined in Section 1.04.

(2) Steelhead trout, in all anadromous waters where take is authorized.

(3) White sturgeon, in all areas where take is authorized. Tagging of retained individual sturgeon is also required.

(4) Red abalone, in all areas where take is authorized. Tagging of retained individual abalone is also required

(5) California spiny lobster, in all areas where take is authorized.

(c) General Report Card Requirements.

(1) Any person fishing for or taking any of the species identified in this Section shall have in their possession a non–transferable report card issued by the department for the particular species. See special exemption regarding possession of report cards for lobster divers in Section 29.91.

(2) Notwithstanding other statutes and regulations that may exempt sport fishing license requirements, non–transferable report cards are required for any person fishing for or taking the species identified above. All cardholders shall adhere to all reporting and tagging requirements defined in this Section and Sections 5.79, 5.87, 5.88, 27.92, 29.16, and 29.91 regardless of whether a sport fishing license requirement applies. This provision applies to all of the following persons:

(A) Any person who is under 16 years of age

(B) Any person who is fishing from a public pier

(C) Any person who is fishing on free fishing days

(D) Any person who holds a lifetime fishing license

(3) Persons described in subsections 1.74(c)(2) may purchase report cards without purchasing a license.

(4) All entries made on any report card or tag must be legible and in indelible ink.

(5) Entries Required at the Time of Report Card Issuance. At the time of issuance of the report card, the cardholder is responsible for entry of the following information, unless both the report card and the sport fishing license are issued through the Automated License Data System:

(A) The date the report card is issued, the individual's name, street address, city, state, zip code, home phone, and date of birth shall be entered in the appropriate spaces on the report card. If the cardholder has a driver's license, or DMV identification number, this information shall also be entered in the appropriate spaces. If the cardholder has an e–mail address, it may be entered in the space provided.

(B) Acquisition of Sturgeon Fishing Report Cards and Abalone Report Cards — If the cardholder is required to have a sport fishing license, the report card number shall be entered in the designated space provided on the back of the individual's sport fishing license, and the sport fishing license number shall be entered on the report card in the appropriate space.

(C) Acquisition of Klamath–Trinity Salmon Report Cards, Steelhead Report and Restoration Cards and Spiny Lobster Report Cards — If the cardholder is required to have a sport fishing license, both the name of the report card and the number shall be entered in the blank area on the back of the individual's sport fishing license, and the sport fishing license number shall be entered on the report card in the appropriate space.

(D) If the cardholder wishes to purchase another fishing license after their one, two, or ten–day sport fishing license has expired the cardholder need not purchase a second report card for any species, so long as the cardholder still possesses the report card valid for the calendar year. At the time of purchase of the subsequent license, the additional sport fishing license number shall be entered in the appropriate space on the report card. If there is a space provided for the particular card on the sport fishing license, the number shall be entered in the appropriate space at the

time of purchase. If there is no space provided for the card, both the name of the report card and the number shall be entered on the back of the individual's sport fishing license.

(6) A report card shall be valid only during the open fishing season for the calendar year shown on the report card.

(7) Cardholders shall return their card by January 31 of the following year to the department at the address specified on the card.

(8) Any person who fails to return his or her report card to the Department by the deadline may be restricted from obtaining the same card in a subsequent license year or may be subject to an additional fee for the issuance of the same card in a subsequent license year.

(9) For abalone and sturgeon report cards, only one report card may be issued per person per license year.

(10) Report cards may not be transferred to another person and no person may possess any report card other than their own.

(d) Replacement Procedures for Lost Abalone or Sturgeon Report Cards. For species for which an individual may purchase only one report card per year (i.e., abalone and sturgeon), if the cardholder loses the card, a replacement card shall be acquired only by following the procedures below:

(1) The individual shall provide all of the following to a Department license office location:

(A) A photocopy of the original report card issued in the cardholder's name, unless the report card was issued through the Automated License Data System.

(B) An affidavit, signed under penalty of perjury, containing the following information:

1. A statement confirming that the originally issued report card cannot be recovered.

2. A statement of the cardholder's best recollection of the prior catch records that were entered on the report card that was lost, including the number of tags utilized.

3. A statement describing the factual circumstances surrounding the loss of the card.

(C) Proof of purchase of the original report card, in the form of an itemized receipt, credit card billing statement, invoice, or other written business record expressly documenting that a report card for the particular species was purchased and the corresponding fee was paid. The cardholder is exempt from this requirement if the report card was issued through the Automated License Data System.

(D) Payment of the Replacement Card Fee specified in Section 701(f), 701(g) or 701(h) Title 14, CCR, established pursuant to subdivision 1053(b) of the Fish and Game Code, and as adjusted pursuant to Sections 713 and 1055 of the Fish and Game Code.

(E) Payment of the Replacement Processing Fee specified in Section 701(i) or 701(j), Title 14, CCR, established pursuant to subdivision 1050(e) of the Fish and Game Code.

(2) Based on the information provided in the written affidavit, the department shall issue only the number of tags that were reported unused on the previously issued report card.

(3) At the time the replacement card is acquired, if the cardholder is required to have a sport fishing license, the number of the replacement card shall be entered in the appropriate space on the sport fishing license and the fishing license number shall be entered in the space provided on the report card.

(4) All regulations applicable to the initial card also apply to additional cards issued pursuant to this subsection.

(e) Replacement Procedures for Salmon, Steelhead, or Lobster Report Cards.

(1) Any cardholder who fills in all available lines on his or her steelhead, salmon or lobster report card shall return the card to the department at the address specified on the card prior to purchasing a second card.

(2) Any cardholder who loses his or her steelhead, salmon or lobster report card may purchase a second card, but at or before the time of purchase shall provide a written affidavit to the department at the address on the report card documenting the lost catch and effort data required by the card to the best of the cardholder's recollection.

(3) At the time the additional card is acquired, if the cardholder is required to have a sport fishing license, both the name of the report card and the number shall be entered on the back of the individual's sport fishing license, and the fishing license number shall be entered in the space provided on the report card.

(4) All regulations applicable to the initial card also apply to additional cards issued pursuant to this subsection.

(f) Specific Report Card and Tagging Requirements. Data recording and tagging procedures vary between report cards and species. See specific regulations in Sections 5.79, 5.87, 5.88, 27.92, 29.16, and 29.91 that apply in addition to the regulations of this Section.

NOTE: Authority cited: Sections 200, 202, 205, 240, 1050, 1053, 1055, 1055.1 and 7380, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 240, 713, 1050, 1053, 1055, 1055.1, 7149.8, 7380, 7381 and 7382, Fish and Game Code.

HISTORY

1. Renumbering of former section 1.74 to section 1.73 and new section 1.74 filed 5–21–86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 21).
2. Amendment filed 6–1–87; operative 6–1–87 (Register 87, No. 24).
3. Amendment of section heading, newly designated subsection (a) and NOTE and new subsection (b) filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
4. Amendment of subsection (a) filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).
5. Amendment of subsection (b) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
6. Amendment of subsection (a) filed 8–5–99; operative 8–5–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 32).
7. Amendment of subsection (b) and amendment of NOTE filed 6–26–2003; operative 7–26–2003 (Register 2003, No. 26).
8. Change without regulatory effect amending section heading and subsection (b) filed 9–22–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 39).
9. Amendment filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
10. Amendment of subsection (a) and amendment of NOTE filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).
11. Amendment of section heading, repealer and new section and amendment of NOTE filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 1.75. Salmon Spawning Areas.

No salmon may be taken or possessed on any salmon spawning area when it is closed to salmon fishing.

[The next page is 5.]

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 310, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

§ 1.76. Spearfishing.

The taking of fish by spear or hand by persons who are in the water and may be using underwater goggles, face plates, breathing tubes, SCUBA or other artificial underwater breathing device.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.77. Sunfish.

Includes bluegill, green sunfish, redear sunfish, pumpkinseed, warmouth, yellow perch and Sacramento perch.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 1.80. Take.

Hunt, pursue, catch, capture or kill fish, amphibians, reptiles, mollusks, crustaceans or invertebrates or attempting to do so.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 86, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 1.84. Titles and Section Numbers.

All titles and headings used in these regulations are a part thereof. All section numbers cited refer to these regulations unless otherwise specified.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 2, 5, 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering of former Section 1.85 to Section 1.84 filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1.85. Trammel Net.

Two or more walls of webbing, bound at the top by a float line and at the bottom by a weighted line and used for entangling fish.

NOTE: Authority cited: Sections 8682, Fish and Game Code. Reference: Sections 8680–8682, 8700 and 8720, Fish and Game Code.

HISTORY

1. Renumbering of former Section 1.85 to Section 1.84, and new Section 1.85 filed 7–1–83; effective thirtieth day thereafter (Register 83, No. 27).

§ 1.86. Trout.

Includes all trouts, chars, steelhead, kokanee salmon and grayling.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 1725–1728, Fish and Game Code.

§ 1.87. Waste of Fish.

It is unlawful to cause or permit any deterioration or waste of any fish taken in the waters of this state.

NOTE: Authority cited: Section 5510, Fish and Game Code. Reference: Sections 5510, 7700, 7701, 7704 and 7705, Fish and Game Code.

HISTORY

1. New section filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 1.88. Public Pier.

A public pier is a publicly owned manmade structure that has the following characteristics: is connected, above the mean high tide, to the main coastline or to the landmass of a named and charted natural island; has unrestricted free access for the general public; and has been built or currently functions for the primary purpose of allowing angling access to ocean waters.

Additionally, publicly owned jetties or breakwaters that are connected to land, as described above, that have free unrestricted access for the general public and whose purpose it is to form the most seaward protective boundary of an ocean harbor are public piers. Jetties, breakwaters, promenades, sea walls, moles, docks, linings, barriers and other structures that are not the most seaward protective boundary of an ocean harbor, are not public piers.

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Section 7153, Fish and Game Code.

HISTORY

1. New section filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).

§ 1.90. Nearshore Fish Stocks, Nearshore Fisheries, Nearshore Waters, and Shallow Nearshore Rockfish Defined.

(a) Under the authority of Section 8587.1 of the Fish and Game Code, Section 8586 of the Fish and Game Code is made inoperative.

(b) "Nearshore fish stocks" means any of the following:

(1) black rockfish (Sebastes melanops),
(2) black–and–yellow rockfish (Sebastes chrysomelas),
(3) blue rockfish (Sebastes mystinus),
(4) brown rockfish (Sebastes auriculatus),
(5) cabezon (Scorpaenichthys marmoratus),
(6) calico rockfish (Sebastes dallii),
(7) California scorpionfish (sculpin) (Scorpaena guttata),
(8) California sheephead (Semicossyphus pulcher),
(9) China rockfish (Sebastes nebulosus),
(10) copper rockfish (Sebastes caurinus),
(11) gopher rockfish (Sebastes carnatus),
(12) grass rockfish (Sebastes rastrelliger),
(13) greenlings of the genus Hexagrammos,
(14) kelp rockfish (Sebastes atrovirens),
(15) monkeyface eel (Cebidichthys violaceus),
(16) olive rockfish (Sebastes serranoides),
(17) quillback rockfish (Sebastes maliger), and
(18) treefish (Sebastes serriceps),

(c) "Nearshore fisheries" means the commercial or recreational taking, possession, or landing of any species of nearshore fish stocks.

(d) "Nearshore waters" means ocean waters including around offshore rocks and islands extending from the shore to a depth of 20 fathoms.

(e) "Shallow nearshore rockfish" means a subgroup of rockfishes (genus Sebastes) including only black–and–yellow rockfish, China rockfish, gopher rockfish, grass rockfish, and kelp rockfish.

NOTE: Authority cited: Sections 7071 and 8587.1, Fish and Game Code. Reference: Sections 8585.5 and 8586, Fish and Game Code.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Amendment of section heading and new subsection (e) filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).

§ 1.91. Federal Groundfish and Rockfish, Cabezon and Greenling (RCG) Complex.

(a) The species or species groups listed in subsections 1.91(a)(1) through 1.91(a)(12) constitute "federal groundfish" and are managed under the Federal Pacific Coast Groundfish Fishery Management Plan:

(1) "Nearshore Rockfish," which means the following species of rockfish: black rockfish (*Sebastes melanops*), black and yellow rockfish (*S. chrysomelas*), blue rockfish (*S. mystinus*), brown rockfish (*S. auriculatus*), calico rockfish (*S. dalli*), China rockfish (*S. nebulosus*), copper rockfish (*S. caurinus*), gopher rockfish (*S. carnatus*), grass rockfish (*S. rastrelliger*), kelp rockfish (*S. atrovirens*), olive rockfish (*S. serranoides*), quillback rockfish (*S. maliger*), treefish (*S. serriceps*)

(2) "California Scorpionfish" (*Scorpaena guttata*)

(3) "Shelf Rockfish" which means the following species of rockfish: bocaccio (*Sebastes paucispinis*), bronzespotted rockfish (*S. gilli*), canary rockfish (*S. pinniger*), chilipepper (*S. goodei*), cowcod (*S. levis*), dusky rockfish (*S. ciliatus*), flag rockfish (*S. rubrivinctus*), greenblotched rockfish (*S. rosenblatti*), greenspotted rockfish (*S. chlorostictus*), greenstriped rockfish (*S. elongates*), harlequin rockfish (*S. variegates*), honeycomb rockfish (*S. umbrosus*), Mexican rockfish (*S. macdonaldi*), pink rockfish (*S. eos*), redstripe rockfish (*S. proriger*), rosethorn rockfish (*S.*

helvomaculatus), rosy rockfish (*S. rosaceus*), shortbelly rockfish (*S. jordani*), silvergray rockfish (*S. brevispinis*), speckled rockfish (*S. ovalis*), squarespot rockfish (*S. hopkinsi*), starry rockfish (*S. constellatus*), stripetail rockfish (*S. saxicola*), tiger rockfish (*S. nigrocinctus*), vermilion rockfish (*S. miniatus*), widow rockfish (*S. entomelas*), yelloweye rockfish (*S. ruberrimus*), yellowtail rockfish (*S. flavidus*)

(4) "Slope Rockfish" which means the following species of rockfish: aurora rockfish (*Sebastes aurora*), bank rockfish (*S. rufus*), blackgill rockfish (*S. melanostomus*), darkblotched rockfish (*S. crameri*), Pacific ocean perch (*S. alutus*), redbanded rockfish (*S. babcocki*), rougheye rockfish (*S. aleutianus*), sharpchin rockfish (*S. zacentrus*), shortraker rockfish (*S. borealis*), splitnose rockfish (*S. diploproa*), yellowmouth rockfish (*S. reedi*)

(5) "Sharks", including only leopard shark (*Triakis semifasciata*), soupfin shark (*Galeorhinus zyopterus*), and spiny dogfish (*Squalus acanthias*)

(6) "Skates", including only big skate (*Raja binoculata*), California skate (*R. inornata*), and longnose skate (*R. rhina*)

(7) "Roundfish", including only cabezon (*Scorpaenichthys marmoratus*), kelp greenling (*Hexagrammos decagrammus*), lingcod (*Ophiodon elongates*), Pacific cod (*Gadus macrocephalus*), Pacific whiting (*Merluccius productus*), and sablefish (*Anoplopoma fimbria*)

(8) "Thornyheads", which means longspine thornyhead (*Sebastolobus altivelis*), and shortspine thornyhead (*Sebastolobus alascanus*)

(9) "Federally Managed Flatfish", including only arrowtooth flounder (arrowtooth turbot) (*Atheresthes stomias*), Dover sole (*Microstomus pacificus*), English sole (*Parophrys vetulus*), petrale sole (*Eopsetta jordani*), and starry flounder (*Platichthys stellatus*).

(10) "Other Flatfish", including only butter sole (*Isopsetta isolepis*), curlfin sole (*Pleuronichthys decurrens*), flathead sole (*Hippoglossoides elassodon*), Pacific sanddab (*Citharichthys sordidus*), rex sole (*Glyptocephalus zachirus*), rock sole (*Lepidopsetta bilineata*), and sand sole (*Psettichthys melanostictus*).

(11) "Other fish", including only ratfish (*Hydrolagus colliei*), finescale codling (*Antimora microlepis*), and Pacific rattail (*Coryphaenoides acrolepis*)

(12) All genera and species of the family Scorpaenidae that occur off California and not specifically listed in (a)(1) through (a)(4) or (a)(8) above are included in the list of species.

(b) "RCG Complex" means all species of rockfish (*Sebastes*), cabezon (*Scorpaenichthys marmoratus*), and kelp and rock greenlings (genus *Hexagrammos*).

NOTE: Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code.

HISTORY

1. New section filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
2. Amendment of section heading, section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
3. Amendment of subsections (a)(9) and (a)(10) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).

§ 1.92. Transgenic.

Genetically altered by introducing DNA (1) from another species or (2) through engineered endogenous constructs by means such as but not limited to recombinant DNA and RNA techniques to produce, gene addition, deletion, and doubling, or changing the position of the gene. This definition excludes DNA vaccines, individuals produced by the techniques of whole genome ploidy manipulation, and hybridization between closely related species, as in traditional hybridization.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 220. Reference: Sections 200–202, 205, 206, 210 and 220.

HISTORY

1. New section filed 4–14–2003; operative 5–14–2003 (Register 2003, No. 16).

§ 1.93. Weight.

Any object directly or indirectly attached to a fishing line with the purpose of casting or sinking a lure or bait.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 209, 210, 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 3–2–2006; operative 4–1–2006 (Register 2006, No. 9).

Chapter 2. Statewide Regulations for Fishing and Frogging in Inland Waters

Article 1. Fishing Methods and Gear Restrictions

§ 2.00. Fishing Methods—General.

(a) All fish may be taken only by angling with one closely attended rod and line or one hand line with not more than three hooks nor more than three artificial lures (each lure may have three hooks attached) attached thereto. Anglers in possession of a valid two–rod stamp and anglers under 16 years of age may use up to two rods in inland waters which regulations provide for the taking of fish by angling, except those waters in which only artificial lures or barbless hooks may be used. See District Trout, Salmon and Special regulations for exceptions.

(b) Snagging is prohibited. Snagging is defined as impaling or attempting to impale a fish in any part of its body other than the mouth by use of a hook, hooks, gaff, or other mechanical implement. This definition does not include activities otherwise authorized under these regulations for the lawful use of a gaff, bow and arrow, or spear.

(c) It is unlawful to kill, or retain in possession any fish which has not voluntarily taken the bait or artificial lure in its mouth. Any fish not taken pursuant to these regulations, shall be released immediately back into the water.

NOTE: Authority cited: Sections 200, 202, 205, 219, 220 and 7149.4, Fish and Game Code. Reference: Sections 200, 202, 206, 220 and 7149.4, Fish and Game Code.

HISTORY

1. Repealer of chapter 2 (§§ 2 through 34.95, not consecutive) and new chapter 2 (§§ 2.00 through 2.85, not consecutive) filed 1–16–74; designated effective 3–1–74 (Register 74, No. 3). For history of former sections, see Register 60, Nos. 1, 3; 61, Nos. 2, 26; 62, No. 5; 63, No. 1; 64, No. 25; 66, Nos. 1, 45; 67, Nos. 36, 51; 68, Nos. 25, 38, 48; 69, Nos. 8, 31, 51; 70, Nos. 25, 52; 71, No. 15; 72, Nos. 1, 5, 51, 52.
2. Repealer of chapter 2 (sections 2.00–2.90, not consecutive), renumbering of section 3.90 to section 781.5 and new chapter 2 (articles 1–4, sections 2.05–5.95, (not consecutive) filed 2–17–82; designated effective 3–1–82 (Register 82, No. 8). For prior history, see Registers 75, No. 52 and 74, No. 51.
3. Renumbering and amendment of former section 2.05 to section 2.00 filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
4. Amendment filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
5. Amendment filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).
6. Change without regulatory effect amending section filed 12–20–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 51).
7. Amendment designating existing section as subsection (a) and adopting new subsections (b) and (c) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
8. Change without regulatory effect amending subsection (a) and NOTE filed 12–26–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 52).

§ 2.01. Limits on Weights and Hook Spacing.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200 and 206, Fish and Game Code.

HISTORY

1. New section filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
2. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.02. Fishing Methods—North Coast District.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Amendment of subsection (a) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
3. Amendment of subsection (a) filed 8–11–98; operative 8–11–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 33).
4. Amendment of subsection (a) filed 4–30–2001; operative 5–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 18).
5. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.03. Special Upper Sacramento River Gear Restrictions.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 6–25–92 as an emergency; operative 6–25–92 (Register 92, No. 26). A Certificate of Compliance must be transmitted to OAL 10–23–92 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–22–92 as an emergency; operative 10–22–92 (Register 92, No. 43). A Certificate of Compliance must be transmitted to OAL 2–19–93 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1 (Register 93, No. 20).
4. New section filed 5–12–93; operative 5–12–93 pursuant to Fish and Game Code section 202 (Register 93, No. 20).
5. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.04. Fishing Methods—Special Provisions.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Amendment of first paragraph and subsection (e) filed 7–13–93; operative 8–12–93 (Register 93, No. 29).
3. Amendment of subsections (b), (c), and (e)–(g) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
4. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.05. Fishing Methods—General.

NOTE: Authority cited: Sections 200, 202, 205, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer of chapter 2 (§§ 2 through 34.95, not consecutive) and new chapter 2 (§§ 2.00 through 2.85, not consecutive) filed 1–16–74; designated effective 3–1–74 (Register 74, No. 3). For history of former sections, see Register 60, Nos. 1, 3; 61, Nos. 2, 26; 62, No. 5; 63, No. 1; 64, No. 25; 66, Nos. 1, 45; 67, Nos. 36, 51; 68, Nos. 25, 38, 48; 69, Nos. 8, 31, 51; 70, Nos. 25, 52; 71, No. 15; 72, Nos. 1, 5, 51, 52.
2. Repealer of chapter 2 (sections 2.00–2.90, not consecutive), renumbering of section 3.90 to section 781.5 and new chapter 2 (articles 1–4, sections 2.05–5.95, (not consecutive) filed 2–17–82; designated effective 3–1–82 (Register 82, No. 8). For prior history, see Registers 75, No. 52 and 74, No. 51.
3. Renumbering and amendment of former section 2.05 to section 2.00 filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
4. Amendment of NOTE filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).

§ 2.06. Use of Gaffs.

No person shall possess or use a gaff in inland waters, except that a gaff three feet or less in length may be used to land legal–sized fish only by anglers fishing from a boat in the Sacramento River main stem below Deschutes Road Bridge.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 5507, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Repealer and new section filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.07. Underwater Viewing Devices.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.08. Special Fishing Methods and Bag Limits—Barrett and Upper Otay Lakes, San Diego County.

The following fishing methods restrictions and bag limits apply to Barrett Lake and Upper Otay Lake:

(a) Only artificial lures with barbless hooks may be used.

(b) The bag limit for all species is zero.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Repealer and new section filed 12–12–94; operative 12–12–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
3. Amendment of section heading, new first paragraph, and amendment of subsections (c) and (c)(3) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment of section heading, repealer of subsections (a) and (c)–(c)(3), new subsection (b), subsection relettering, amendment of newly designated subsection (a) and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 2.09. Possession of Illegal Gear.

Except as otherwise provided, no person shall use or possess, except in his or her home, any landing gear, any nets, except standard landing–type dip nets not exceeding 36 inches in greatest dimension, excluding handle, gaffs or spears within 100 yards of any river, stream, lake or reservoir. Non–electronic underwater viewing devices may not be used for taking fish except under the provisions of Section 2.30.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Amendment filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
3. Renumbering of former section 1.71 to section 1.70 and new section 1.71 filed 4–7–2005; operative 5–7–2005 (Register 2005, No. 14).

§ 2.10. Hook and Weight Restrictions.

(a) Definition of Gap: For the purposes of this section, "gap" means the distance measured from the point of a hook to the shank.

(b) Maximum Gaps and Gear Rigging for Rivers and Streams unless otherwise provided (does not apply to lakes and reservoirs, the Sacramento–San Joaquin Delta (see Section 1.71 for definition of the Delta), and the Colorado River.

1. No person shall use any single hook with a gap greater than 1 inch or any multiple hook with a gap greater than 3/4 inch.

2. It is unlawful to use any hook which is directly or indirectly attached closer than 18 inches to any weight exceeding 1/2 ounce.

3. It is unlawful to use any multiple hook or more than one single hook on non–buoyant lures exceeding one ounce.

4. It is unlawful to use any weight directly attached below a hook.

(c) Maximum Gaps for the Sacramento–San Joaquin Delta (see Section 1.71 for definition of the Delta).

1. No person shall use any single hook with a gap greater than 1 inch or any multiple hook with a gap greater than 3/4 inch.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205 and 220, Fish and Game Code.

HISTORY
1. Editorial correction of subsection (a)(4) filed 9–2–82 (Register 82, No. 36).
2. Amendment of subsection (a)(4)(B) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
3. Amendment of subsection (a)(4)(A) filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
4. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
5. Amendment of subsection (d) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
6. New subsection (g) filed 9–11–89 as an emergency; operative 9–11–89 (Register 89, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–9–90.
7. Subsection (g) repealed by operation of law on 1–9–90. New subsections (g)–(i) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

8. Amendment of subsection (e) filed 1–17–91; operative 1–17–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 8).
9. Editorial correction of printing error in subsection (a) (Register 91, No. 31).
10. Repealer and new section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
11. Amendment of subsection (a) filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
12. Repealer and new section filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
13. Amendment of section heading and section filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
14. Amendment filed 4–7–2005; operative 5–7–2005 (Register 2005, No. 14).

§ 2.11. Special Fishing Methods—Lake County.

(a) In Clear Lake and its tributaries, hitch may be taken by hand or hand–held dip net.

(b) No barriers or weirs may be constructed to herd fish.

(c) All hitch are to be utilized and not left as waste.

(d) All fish taken by hand or net other than hitch must be immediately returned live to the water. No other fish may be possessed along with hitch as part of a mixed bag.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 2.12. Special Fishing Methods—Shasta County.

(a) In all waters of the Fall River Valley downstreams from Thousand Springs Road, in the Pit River from the confluence with the Fall River downstream to Lake Britton, and in Hat Creek from Hat No. 2 Powerhouse downstream to Lake Britton, western suckers may be taken by hand or hand–thrown spears only by enrolled members of the Pit River Tribe.

(b) Open Season: January 1 through April 15.

(c) No fish other than western suckers may be speared, and all fish other than western suckers captured by hand must be immediately returned live to the water.

(d) No other fish may be possessed along with western suckers as part of a mixed bag.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. New section filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).

§ 2.13. Special Net Restriction—Santa Clara and Santa Cruz Counties.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205, 206, 209 and 210, Fish and Game Code.

HISTORY

1. New section filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
2. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.14. Special Fishing Methods—San Joaquin River.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 205, 206 and 215, Fish and Game Code.

HISTORY

1. New section filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
2. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 2.15. Use of Lights.

Lights may be used when fishing at night when and where such fishing is permitted. Lights may be used on or as part of any fishing tackle (this supersedes Section 2005 of the Fish and Game Code).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 2005, Fish and Game Code. Reference: Sections 200–202, 203.1, 205, 210, 215–222 and 2005, Fish and Game Code.

§ 2.20. Fishing Beneath Ice.

Fish may be taken beneath the ice during the open season for that water.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–17–91; operative 1–17–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 8).

§ 2.25. Bow and Arrow Fishing.

Bow and arrow fishing is permitted only for the taking of carp, goldfish, western sucker, Sacramento blackfish, hardhead, Sacramento pikeminnow and lamprey, all year, except in:

(a) Designated salmon spawning areas.

(b) The Colorado River District where only carp, tilapia, goldfish and mullet may be taken.

(c) See bullfrogs (Section 5.05).

(d) The East Fork Walker River between Bridgeport Dam and the Nevada State line where carp only may be taken during trout season.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 203.1, 206, 207, 210, 217.5, 217.6, 219 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (d) and new subsection (e) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
2. Amendment of subsection (b) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
3. Amendment of first paragraph, repealer of subsection (d), subsection relettering and amendment of NOTE filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 2.30. Spearfishing.

Spearfishing is permitted only in:

(a) The Colorado River District for carp, goldfish and mullet, all year.

(b) The Valley District for carp, tilapia, goldfish, western sucker, Sacramento blackfish, hardhead, Sacramento pikeminnow and lamprey, from May 1 through September 15, except that no spearfishing is permitted in:

(1) Shasta and Tehama counties (see Section 2.12).

(2) Butte Creek (Butte Co.).

(3) Feather River below Oroville Dam (Butte Co.).

(4) Designated salmon spawning areas.

(c) The Kern River from the Kern–Tulare county line upstream to the Johnsondale Bridge for carp, goldfish, western sucker, hardhead and Sacramento pikeminnow, from May 1 through September 15.

(d) See bullfrogs (Section 5.05).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(1) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
2. New subsection (c) and amendment of newly designated subsection (d) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
3. Amendment of subsections (a) and (b)(1) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment of subsections (b) and (c) filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 2.35. Taking Fish near Dams, Fishways, Screens and Egg–Taking Stations.

No fish may be taken within 250 feet of:

(a) Any fishway or any egg–taking station.

(b) Any dam or any weir or rack which has a fishway or an egg–taking station.

(c) The upstream side of any fish screen.

Fish may be taken upstream or downstream from any dam that does not have a fishway or egg–taking station (this supersedes Section 5502 of the Fish and Game Code).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205, 210 and 215–222, and 5502, Fish and Game Code.

§ 2.40. Chumming.

Chumming is permitted only in:

(a) The Colorado River District, but only the approved bait fishes for this District may be used as chum (see Section 4.15) except in the Salton Sea where corn may also be used.

(b) Carquinez Strait and Suisun Bay and their tributaries and saltwater tributaries.

(c) Sacramento River and tidewater of tributaries downstream from Interstate 80 bridge.

(d) San Joaquin River and tidewater of tributaries downstream from Interstate 5 bridge.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205, 210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 2.45. Computer Assisted Remote Fishing.

(a) It is unlawful to take or assist in the taking of any fish in or from this state, by computer–assisted remote fishing.

(b) It is unlawful to establish or operate a computer–assisted remote fishing site for the purpose of taking any fish from or within this state.

(c) For the purposes of this section, "computer–assisted remote fishing" means the use of a computer or any other remotely controlled device, equipment, software, or technology, to remotely control the aiming or discharge of any weapon, including, but not limited to, any firearm, bow and arrow, spear, harpoon or any other weapon capable of killing or injuring any fish, for the purposes of taking any fish.

(d) For the purposes of this section, "computer–assisted remote fishing site" means any computer, internet site or web–based device or system, or other electronically operated site or system used to assist in the remote taking fish.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 11–1–2005; operative 12–1–2005 (Register 2005, No. 44).

Article 2. Fishing Hours

§ 3.00. Fishing Hours.

(a) Day Defined: One hour before sunrise to one hour after sunset. Remaining hours are night.

(b) All fish may be taken day or night, except as follows:

(1) WATERS WITH RESTRICTED FISHING HOURS FOR ALL SPECIES:

(A) American River between Business 80 and Nimbus Dam (Sacramento Co.): Night fishing prohibited.

(B) Heenan Lake, (Alpine Co.): See section 7.50(b)(76)(A).

(C) Mono County: Night fishing is prohibited in all Mono County waters except Topaz Lake, where fishing is prohibited from two hours after sunset to one hour before sunrise.

(D) Tahoe Lake (Placer and El Dorado Cos.): Fishing is prohibited from two hours after sunset to one hour before sunrise.

(2) WATERS WHERE NIGHT AND DAY FISHING IS ALLOWED, BUT NO TROUT OR SALMON MAY BE TAKEN AT NIGHT:	NO FISHING HOURS RESTRICTIONS AT LAKES LISTED BELOW:
(A) North Coast District	
(B) North Central District, all waters except those (waters) listed to the right.	Berryessa Lake (Napa Co.) and Mendocino Lake (Mendocino Co.)
(C) South Central District, all waters except those (waters) listed to the right.	Coyote Lake (Santa Clara Co.)
(D) Valley District, north of Interstate 80, all waters except those listed to the right.	Camp Far West Lake (Nevada, Placer, and Yuba cos.), Collins Lake (Yuba Co.), Oroville Lake (Butte Co.) and Wildwood Lake (Nevada Co.)
(E) Shasta, Siskiyou, Lassen, and Tehama counties.	

Also, see Section 27.56.

NOTE: Authority cited: Sections 200, 202, 205, 215, 220 and 240, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment of subsection (b) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Amendment of subsection (b) filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
5. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
6. Amendment of subsection (b)(3) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
7. Amendment of subsection (b)(5)(B) filed 1–17–91; operative 1–17–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 8).
8. New subsection (b)(6) filed 4–26–91 as an emergency; operative 4–26–91 (Register 91, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–26–91 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to emergency amendment filed 4–26–91 by operation of Government Code section 11346.1(f) (Register 91, No. 48).
10. New subsection (b)(7) filed 7–14–92; operative 7–14–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 29).
11. New subsection (b)(6) filed 11–18–92; operative 12–18–92 (Register 92, No. 47).
12. Repealer and new section and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
13. New subsection (b)(1)(E), subsection relettering, and amendment of NOTE filed 7–3–98 as an emergency; operative 7–3–98 (Register 98, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–2–98 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 7–3–98 order, including amendment of section, transmitted to OAL 10–29–98 and filed 12–11–98 (Register 98, No. 50).
15. Amendment of subsection (b)(1)(B) filed 6–10–99; operative 6–10–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 24).
16. Repealer of subsection (b)(1)(E) and subsection relettering filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
17. Repealer of subsection (b)(1)(B) and subsection relettering filed 6–22–2000; operative 7–22–2000 (Register 2000, No. 25).

Article 3. Bait Regulations for Inland Waters

§ 4.00. Bait—General.

Legally acquired and possessed invertebrates, mollusks, crustaceans, amphibians (except salamanders), fish eggs and treated and processed foods may be used for bait, except:

(a) No species specified as endangered, threatened, candidate, fully–protected, or otherwise protected under state and federal law may be used as bait.

(b) No salamander may be used as bait. See section 5.05 for other amphibians that may be used as bait.

(c) See Section 5.35 for restrictions on crayfish;

(d) See Section 7.50(b)(74) for restriction on bait collecting on Hat Creek;

(e) No trout may be maintained or possessed in a live condition in any container on or attached to any boat;

(f) Except for restrictions listed under special regulations, dead ocean fish may be used as bait statewide. This section supersedes the provisions of sections 4.10, 4.15, 4.20, 4.25 and 4.30.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200–202, 205, 5504 and 5505, Fish and Game Code.

HISTORY

1. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
4. Amendment of subsection (b) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
5. Amendment of first paragraph filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
6. Amendment of subsection (e) filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).

7. Amendment filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 4.05. Bait Fish Capture Methods.

(a) Approved bait fish may be taken only by hand, with a dip net, or with traps not over three feet in greatest dimension. Such bait fish may not be purchased, bartered, sold, transferred or traded; or transported alive from the location where taken. Any other species taken shall be returned to the water immediately. Traps need not be closely attended. Dip net use: A dip net must be hand held, and the motion of a dip net shall be caused only by the physical effort of the operator. A dip net may not be moved through the water by any mechanical force or motorized device.

(b) Within the area bounded by Highway 111 on the north and east and Highway 86 on the west and south, approved bait fish may be taken only with dip nets with diagonal mesh size one inch and greater, or by traps in water greater than four feet in depth. Traps may not exceed three feet in greatest dimension. Approved bait fish may not be taken by hand within this area.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 206 and 5505, Fish and Game Code.

HISTORY

1. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. New subsection (a) designator and subsection (b) and amendment of NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. Amendment of subsection (b) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).

§ 4.10. Bait Fish Use in the Southern District.

Except as provided below, live or dead fin fish shall not be used or possessed for use as bait in the Southern District:

(a) Dead threadfin shad and live or dead longjaw mudsucker may be used in all Southern District waters.

(b) Live threadfin shad may be used only at the location where taken.

(c) Golden shiner and red shiner may be used in San Diego County.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
3. Amendment of subsections (a) and (a)(1) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment of subsection (a) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
5. Amendment of subsection (a)(1) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
6. Amendment filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).

§ 4.15. Bait Fish Use in the Colorado River District.

Except as provided below, live or dead fin fish shall not be used or possessed for use as bait in the Colorado River District:

(a) Live or dead golden shiner, fathead minnow, red shiner, mosquitofish, longjaw mudsucker, threadfin shad, goldfish, sunfish, molly, and dead carp may be used in all Colorado River District waters.

(b) Live carp may be used only at the location where taken.

(c) Tilapia may be used in the Salton Sea, and may be taken for bait only within the area bounded by Highway 111 on the north and east and Highway 86 on the west and south (except as in subsection (d) below).

(d) Tilapia may be taken and used for bait in the Colorado River and its associated backwaters only within the area bounded by Palo Verde Diversion Dam south to the Morelos Dam.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202 and 206, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment filed 2–11–86; designated effective 3–11–87 (Register 87, No. 9).
3. Amendment of subsection (a) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
4. Adoption of NOTE following subsection (b) filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
5. Amendment of subsections (a), (a)(1) and (a)(3) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
6. Amendment of subsection (a) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
7. Amendment of subsection (a)(1) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
8. Amendment filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).
9. Amendment of subsection (d) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
10. Amendment of subsections (a) and (c) and amendment of NOTE filed 11–8–2004; operative 12–8–2004 (Register 2004, No. 46).

§ 4.20. Bait Fish Use in the Valley and South Central Districts.

Except as provided below, live or dead fin fish shall not be used or possessed for use as bait in the Valley or South Central District:

(a) Live or dead golden shiner, fathead minnow, mosquitofish, longjaw mudsucker, and staghorn sculpin, and dead threadfin shad, Mississippi silverside and lamprey may be used in all Valley and South Central District waters except those listed in subsection (f) below.

(b) Red shiner may be used only in the Valley District north of Interstate 580 and Highway 132.

(c) Yellowfin gobies may be used in the Valley District only in those areas described in subsections (d)(1)–(3) below.

(d) In addition, except for trout and salmon, fin fish lawfully taken in the following waters by angling or with bait fish methods approved in Section 4.05 may be used only in the waters where taken:

(1) Carquinez Strait and Suisun Bay and their tributaries and saltwater tributaries.

(2) Sacramento River and tidewater of tributaries downstream from the Highway 32 bridge near Hamilton City, Feather River downstream from the Oroville Hatchery Fish Barrier Dam, Yuba River downstream from Daguerre Point Dam, and American River downstream from Nimbus Dam.

(3) San Joaquin River and tidewater of tributaries downstream from Interstate 5 bridge.

(e) Live threadfin shad, Mississippi silverside and lamprey may be used only at the location where taken.

(f) Fin fish may not be used in Keller Lake (Glenn Co.), Letts Lake (Colusa Co.), Merced Lake (San Francisco Co.), Upper and Lower Plaskett Meadow Ponds (Glenn Co.), Whale Rock Reservoir (San Luis Obispo Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 11–1–82 as an emergency; effective upon filing (Register 82, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–1–83.
2. Certificate of Compliance including editorial correction of NOTE filed 2–14–83 (Register 83, No. 7).
3. Amendment of subsection (a) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
4. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
5. Amendment of subsection (a)(4) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
6. Amendment of subsections (a), (a)(1) and (a)(2)(B) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
7. Amendment of subsection (a) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
8. Amendment filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
9. Amendment filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).

§ 4.25. Bait Fish Use in the North Central District.

Except as provided below, live or dead fin fish shall not be used or possessed for use as bait in the North Central District:

(a) Golden shiner, fathead minnow, red shiner, mosquitofish, longjaw mudsucker and staghorn sculpin may be used in Napa and Sonoma counties, in Marin County except for Stafford Lake, in Lake County except for the Eel River and its tributaries, and in Lake Mendocino (Mendocino Co.).

(b) Live threadfin shad, Mississippi silverside and lamprey may be used only at the location where taken.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment of subsection (a) filed 5–21–86; effective upon filing (Register 86, No. 21).
3. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
4. Amendment of subsection (a) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
5. Amendment of subsection (a) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
6. Amendment filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).

§ 4.30. Bait Fish Use in the Sierra and North Coast Districts.

Except as provided below, live or dead fin fish shall not be used or possessed for use as bait in the Sierra and North Coast Districts.

(a) In Donner, Fallen Leaf and Tahoe lakes Lahontan redside, tui chub, Tahoe sucker, Lahontan speckled dace, mountain sucker and Paiute sculpin may be used only in the same lake where taken.

(b) In Shasta Lake only golden shiner, red shiner, fathead minnows, mosquitofish and threadfin shad may be used or possessed for use as bait.

(c) Crayfish shall not be used for bait in the Pit River and all tributaries between Pit 3 Dam (Lake Britton) and the Fall River–Cassel Road Bridge at Fall River Mills, California (includes Hat Creek and Fall River and their tributaries).

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
3. New subsection (a)(2) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
4. New first paragraph, repealer of subsection (a), redesignation of subsections (a)(1)–(2) as subsections (a)–(b) amd subsection relettering, and amendment of newly designated subsection (c) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
5. Amendment of first paragraph, new subsection (d) and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
6. Repealer of subsection (c) and subsection relettering filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).

Article 4. Species Regulations

§ 5.00. Black Bass.

It is unlawful to take or possess black bass except as provided below:

(Note: Some waters are closed to all fishing under Section 7.50.)

(a) General Statewide Restrictions:

(1) Lakes/Reservoirs and the Sacramento–San Joaquin Delta: The following waters, except for those listed in subsection (b) Special Regulations (below), are open to fishing all year, with a 12–inch minimum size limit and a five–fish daily bag limit: All lakes and reservoirs in the State, and the Sacramento–San Joaquin River Delta, (see Section 1.71 for definition of the Delta).

(2) Rivers/Streams and Private Ponds: Rivers, streams, canals, and lakes or ponds entirely on private lands, which are not listed in subsection (b) Special Regulations (below), are open all year with no size limit and a five–fish daily bag limit.

(b) Special Regulations: Counties and individual waters listed below are those having regulations different from the General Statewide Restrictions in subsection (a) above).

Area or Body of Water	*Open Season*	*Size (total length)*	*Bag Limit*
DISTRICTS AND COUNTIES WITH SPECIAL REGULATIONS			
(1) Colorado River District: All waters (Bag and size limits conform with Arizona regulations.)	All year.	13–inch minimum.	6
(2) Inyo County: all streams east of Highway 395 from the southern Inyo County line north to the junction of Highway 6 and east of Highway 6 to the Mono County line.	All year.	12–inch minimum.	5
The remaining streams of Inyo County, except those waters listed in sections 7.50(b)(82) and 7.50(b)(134).	Last Saturday in Apr through Nov. 15.	12–inch minimum.	5
All Lakes, Big Pine Canal, Fish Spring Canal, and Millpond.	All year.	12–inch minimum.	5
(3) Lassen County: all waters.	All year.	No size limit.	5
(4) Modoc County: all waters except Dorris and Big Sage Reservoirs (see (a)(1) General Statewide Restrictions (above) for these two lakes).	All year.	No size limit.	10
(5) Mono County: all waters except for Fish Slough listed in these regulations and those waters listed as closed to all fishing in Section 7.50.	Last Saturday in April through Nov. 15.	No size limit.	5
(6) Plumas County: all waters.	All year.	No size limit.	5
(7) Shasta County: all lakes except Britton, Shasta and Whiskeytown lakes (see subsection (a)(1) above for these three lakes).	All year.	No size limit.	5
INDIVIDUAL BODIES OF WATER WITH SPECIAL REGULATIONS			
(8) Barrett Lake (San Diego County). (Also see Section 2.08)	All year.	No black bass shall be possessed.	0
(9) Big Lake (Shasta County) (see also Section 7.00(b)(4))	Last Saturday in Apr through Nov. 15.	12–inch minimum	5
	Nov. 16 through last Friday in April.	No black bass shall be possessed.	0
(10) Casitas Lake (Ventura County).	All year.	12–inch minimum. No more than one over 22 inches.	5
(11) Castaic Lake (Los Angeles County).	All year.	18–inch minimum.	2
(12) Cuyamaca Lake (San Diego County).	All year.	No size limit. No smallmouth bass shall be possessed.	5
(13) Diamond Valley Lake, (Riverside County)	All year.	Largemouth bass 15–inch minimum	5
		No smallmouth bass shall be possessed	0
(14) Eastman Lake (Madera and Mariposa Cos.) (Note: See Section 7.50(b)(62) for special area closures).	All year.	22–inch minimum.	1
(15) El Capitan Reservoir (San Diego County).	All year.	15–inch minimum.	5
(16) Fish Slough (Mono County), except the fenced portions of Fish Slough within Owens Valley Native Fishes Sanctuaries and BLM Spring, which are closed to all fishing all year.	All year.	No size limit.	5
(17) Hensley Lake (Madera County).	All year.	15–inch minimum.	2

Area or Body of Water	*Open Season*	*Size (total length)*	*Bag Limit*
(18) Hodges Lake (San Diego County).	All year.	15–inch minimum.	5
(19) Isabella Lake (Kern County).	All year.	15–inch minimum.	2
(20) Kaweah Reservoir (Tulare County).	All year.	15–inch minimum.	2
(21) Lett's Lake (Colusa County).	All year.	No size limit.	5
(22) McClure Reservoir (Mariposa County).	All year.	None between 12 and 15 inches.	5
(23) Millerton Reservoir (Fresno and Madera counties).	All year.	None between 12 and 15 inches.	5
(24) Oroville Lake (Butte County).	All year.	None between 12 and 15 inches.	5
(25) Orr Lake (Siskiyou County).	All year.	None between 12 and 15 inches	5
(26) Plaskett Meadows lakes, upper and lower (Glenn County).	All year.	No size limit.	5
(27) Shaver Lake (Fresno County).	All year.	No size limit.	5
(28) Silverwood Lake (San Bernardino County).	All year.	15–inch minimum.	2
(29) Siskiyou Lake (Siskiyou County).	All year.	None between 12 and 15 inches.	5
(30) Skinner Lake (Riverside County).	All year.	15–inch minimum.	2
(31) Success Reservoir (Tulare County).	All year.	15–inch minimum.	2
(32) Trinity Lake (Trinity County).	1: March 1 through May 31	12–inch minimum.	2
	2: June 1 through Feb. 29	12–inch minimum.	5
(33) Trout Lake (Siskiyou (County).	Only weekends and Wednesdays from the last Saturday in April through Sept. 30.	22–inch minimum. Only artificial lures may be used.	1
(34) Upper Otay Lake (San Diego County). (Also see Section 2.08).	All year.	No black bass shall be possessed.	0

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment of subsection (c) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
4. New subsections (b)(4) and (c)(3) filed 4–16–86 as an emergency; effective upon filing (Register 86, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–14–86.
5. Certificate of Compliance transmitted to OAL 8–13–86 and filed 8–14–86 (Register 86, No. 33).
6. Amendment of subsection (c) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
7. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
8. New subsection (b)(5) filed 9–11–89 as an emergency; operative 9–11–89 (Register 89, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–9–90.
9. Subsection (b)(5) repealed by operation of law on 1–1–90. Amendment filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
10. Amendment of subsections (a), (o), (q) and (r) filed 1–17–91; operative 1–17–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 8).
11. Amendment filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
12. Amendment filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
13. Editorial correction of subsections (c)(9)–(10) (Register 95, No. 13).
14. Amendment of subsection (c)(3), new subsection (c)(4), subsection renumbering, and amendment of subsection (c)(7) filed 3–28–95; operative 3–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 13).
15. Amendment of subsections (a), (b)(2) and (c)(1), new subsection (c)(3) and subsection renumbering, new subsections (c)(9) and (c)10) and subsection renumbering, and new subsection (c)(17) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
16. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
17. Amendment of subsection (d)(20) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
18. Amendment filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
19. Amendment of subsection (b)(1), repealer of subsections (b)(9) and (b)(28), subsection renumbering and amendment of newly designated subsection (b)(33) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
20. Amendment of subsection (a)(1), new subsection (b)(12), subsection renumbering, repealer of former subsection (b)(25) and amendment of subsection (b)(33) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
21. Amendment of subsection (a)(1) filed 4–7–2005; operative 5–7–2005 (Register 2005, No. 14).
22. Amendment of subsections (b)(2)–(5) and (b)(7), new subsection (b)(9), repealer of subsection (b)(16) and subsection renumbering filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 5.05. Amphibians.

(a) Only the following amphibians may be taken under the authority of a sportfishing license, subject to the restrictions in this section. No amphibians may be taken from ecological reserves designated by the commission in Section 630 or from state parks, or national parks or monuments.

(1) Pacific giant salamander (*Dicamptodon tenebrosus*)

(2) California giant salamander (*Dicamptodon ensatus*)

(3) Southern Seep (Torrent) Salamander (*Rhyacotriton variegatus*)

(4) Rough–skinned newt (*Taricha granulosa*)

(5) California newt (*Taricha torosa*)

(6) Red–bellied newt (*Taricha rivularis*)

(7) Northwestern salamander (*Ambystoma gracile*)

(8) Long–toed salamander (*Ambystoma macrodactylum*), **except** Santa Cruz long–toed salamander (*Ambystoma macrodactylum croceum*)

(9) Black salamander (*Aneides flavipunctatus*)

(10) Clouded salamander (*Aneides ferreus*)

(11) Arboreal salamander (*Aneides lugubris*)

(12) California slender salamander (*Batrachoseps attenuatus*): See Special Closure (f)(1)

(13) Pacific slender salamander (*Batrachoseps pacificus*): See Special Closure (f)(1)

(14) Relictual slender salamander (*Batrachoseps relictus*): See Special Closure (f)(1)

(15) Dunn's salamander (*Plethodon dunni*)

(16) Ensatina salamander (*Ensatina eschscholtzii*)

(17) Western toad (*Bufo boreas*)

(18) Woodhouse's toad (*Bufo woodhouseii*)

(19) Red–spotted toad (*Bufo punctatus*)

(20) Great Plains toad (*Bufo cognatus*)

(21) Great Basin spadefoot toad (*Scaphiopus (Spea) intermontana*)

(22) Couch's spadefoot toad (*Scaphiopus (Spea) couchii*)

(23) California chorus frog (*Pseudacris (Hyla) cadaverina*)

(24) Pacific chorus frog (*Pseudacris (Hyla) regilla*)

(25) Northern leopard frog (*Rana pipiens*)

(26) Southern leopard frog (*Rana yutricularia*)

(27) Rio Grande leopard frog (*Rana berlandieri*)

(28) Bullfrog (*Rana catesbeiana*)

(b) Open season: All year. The season closures in Chapter 3 (District Trout and Salmon District General Regulations and Special Regulations) do not apply to fishing for amphibians with methods other than hook and line (see sections 7.00 and 7.50(a)(2)).

(c) Limit: The daily bag and possession limit for each of the amphibian species listed in subsection (a), above, is four except for bullfrogs, which have no daily bag or possession limit.

(d) Hours: Amphibians may be taken at any time of day or night.

(e) Methods of take:

(1) Amphibians may be taken only by hand, hand-held dip net, or hook and line, except bullfrogs may also be taken by lights, spears, gigs, grabs, paddles, bow and arrow, or fishing tackle.

(2) It is unlawful to use any method or means of collecting that involves breaking apart of rocks, granite flakes, logs, or other shelters in or under which amphibians may be found.

(f) Special closures:

(1) No slender salamanders (*Batrachoseps* spp.) may be taken from Inyo and Mono counties and from the Santa Rosa Mountains, Riverside County.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (a), repealer of subsections (a)(1)–(2) and amendment of subsection (b) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
2. Repealer and new section filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.10. Candlefish or Eulachon.

(a) Open season: All year, except for closures listed under special regulations.

(b) Limit: Twenty-five pounds.

(c) Methods of take: Candlefish may be taken with dip nets.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (c) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 5.15. Catfish and Bullheads.

(a) Open season: All year, except for closures listed under special regulations.

(b) Limit: Bullheads, no limit; all other catfish, no limit, except as follows:

BODY OR BODIES OF WATER	BAG LIMIT
(1) All waters of the Colorado River District:	
Also see subsection (c) below.	10
(2) All waters of the Southern District not listed below:	10
(3) Alameda County:	
Alameda Creek Quarry Ponds.	5
Chabot Lake.	5
Cull Canyon Lake.	5
Del Valle Reservoir.	5
Don Castro Lake.	5
Jordan Lake.	5
Shadow Cliffs Lake.	5
Temescal Lake.	5
(4) Contra Costa County:	
Contra Loma Lake.	5
Lafayette Lake.	10
San Pablo Lake.	5
(5) Inyo County:	
All waters	10
(6) Los Angeles County:	
Alondra County Park Lake.	5
Belvedere Park Lake.	5
Cerritos Regional Park Lake.	5
Earvin "Magic" Johnson County Park Lake.	5
John Anson Ford Park Lake.	5
Kenneth Hahn Regional Park Lake.	5
La Mirada Regional Park Lake.	5
(7) Mono County:	
All waters	10
(8) San Bernardino County:	
Cucamonga-Gusti Regional Park Lakes.	5
Glen Helen Regional Park Lakes.	5
Gregory Lake.	5
Mojave Narrows Regional Park.	5
Prado Regional Park Lakes.	5
Yucaipa Regional Park Lakes.	5
(9) San Diego County: All Waters except Barrett and Upper Otay lakes	5
Barrett Lake.	0
Upper Otay Lake.	0
(10) San Joaquin County:	
Oak Grove Regional Park Lake in Stockton	10
(11) Santa Clara County:	
All waters	5

(c) Carcasses: In the Colorado River and its backwaters, the carcasses of all catfish and bullheads imported, possessed or transported must have either the head, tail or skin attached so that the species can be identified and numbers can be determined until such fish are being prepared for immediate consumption.

NOTE: Authority cited: Sections 200, 202, 205, 215, 220 and 240, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. New subsection (b)(3) filed 9–11–89 as an emergency; operative 9–11–89 (Register 89, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–9–90.
3. Subsection (b)(3) repealed by operation of law on 1–9–90. Amendment of subsections (b)(1) and (b)(2), and new subsection (b)(3) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
4. Repealer and new section filed 12–12–94; operative 12–12–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
5. Amendment of subsection (b)(9) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
6. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
7. Amendment of subsection (b)(4) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.20. Clams, Freshwater.

(a) Open season: All year, except for closures listed under special regulations.

(b) Limit: Fifty pounds (in the shell).

(c) Methods of take: Freshwater clams may be taken only by hand, or by spade, shovel, hoe, rake or other appliance operated by hand.

(d) The season closures in Chapter 3 (District Trout and Salmon Special Regulations) do not apply to freshwater Clam fishing (see sections 7.00 and 7.50(a)(2)).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New subsection (d) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.25. Corvina in the Salton Sea.

(a) Open season: All year.

(b) Bag limit: Two.

(c) Possession Limit: Four.

(d) Minimum size limit: 18 inches total length.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 210, 215, 2930, 2931 and 2932, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 3–1–90, operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsection (b) and new subsection (c) filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
3. Amendment of subsection (b), new subsection (c), subsection relettering and amendment of NOTE filed 11–8–2004; operative 12–8–2004 (Register 2004, No. 46).

§ 5.26. Gulf Croaker and Sargo in the Salton Sea.

(a) Open season: All year.

(b) Daily bag limit: Six each species.

(c) Possession limit: 12 each species.

(d) Size limit: None.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 210, 215, 2930, 2931 and 2932, Fish and Game Code.

HISTORY

1. New section filed 11–8–2004; operative 12–8–2004 (Register 2004, No. 46).

§ 5.30. Crappie.

(a) Open season: All year, except for closures listed under special regulations.

(b) Bag Limit: Twenty-five, except in:

(1) Barrett and Upper Otay Lakes (San Diego Co.) where the bag limit is zero for all species (See Section 2.08), and

(2) Eastman Lake (Madera Co.) where only 25 crappie and sunfish, all species combined, may be taken per day. (See Section 5.82.)

(c) Size Limit: No size limit, except at Hodges and El Capitan Lakes (San Diego County), where the minimum size limit is 10 inches, total length.

NOTE: Authority cited: Sections 200, 202, 205, 219, 220 and 240, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. Renumbering of former section 5.30 to section 5.82 and new section filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10). For prior history, see Register 90, No. 10.
2. Amendment of subsection (b) and NOTE filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
3. Editorial correction renumbering erroneously designated HISTORY 2 to HISTORY 3 (Register 98, No. 6).
4. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 5.35. Crayfish.

(a) Open season: All year, except for closures listed in subsection (d) of this Section.

(b) Limit: No limit.

(c) Methods of take: Crayfish may be taken only by hand, hook and line, dip net or with traps not over three feet in greatest dimension. Any other species taken shall be returned to the water immediately. Traps need not be closely attended.

(d) Closures for Protection of Shasta Crayfish: Fall River upstream of Spring Creek Bridge, Lava Creek, Tule River and all connected waters upstream of Little Tule River, Sucker Springs Creek, Crystal Lake, Rising River and Rising River Lake are closed to take and possession of crayfish. (See Section 4.30 for prohibition against crayfish use for bait in sections of the Pit River).

(e) The season closures in Chapter 3 (District Trout and Salmon Special Regulations) do not apply to crayfish fishing with methods other than hook and line (see sections 7.00 and 7.50(a)(2)).

NOTE: Authority cited: Sections 200, 202, 205, 215 and 8491, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 8490 and 8491, Fish and Game Code.

HISTORY

1. Amendment of subsection (c) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Amendment filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
3. New subsection (a)(3) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment of subsection (a), repealer of subsections (a)(1)–(3), new subsections (d) and (e) and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
5. Amendment of subsection (e) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.37. Grass Carp.

No grass carp may be taken or possessed at any time, except that any grass carp inadvertently taken must be immediately returned unharmed to the water.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment filed 5–5–97; operative 6–4–97 (Register 97, No. 19).

§ 5.40. Lamprey.

(a) Open season: All year, except for closures listed under special regulations.

(b) Limit: No limit.

(c) Methods of take: Lamprey may be taken only by hand, hook, spear, bow and arrow fishing tackle, dip net or traps not over three feet in greatest dimension. Any other species taken shall be returned to the water immediately. Traps need not be closely attended.

(d) The season closures in Chapter 3 (District Trout and Salmon Special Regulations) do not apply to lamprey fishing with methods other than hook and line (see sections 7.00 and 7.50(a)(2)).

NOTE: Authority cited: Sections 200, 202, 205 and 210 Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY

1. Amendment of subsection (c) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. New subsection (d) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.45. Marine Fin Fish, Mollusks and Crustaceans.

Marine fin fish, mollusks and crustaceans taken in lagoons and tidal waters are subject to the bag and possession limits established for the Ocean and San Francisco Bay District (beginning with Section 27.00).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 5.50. Mountain Whitefish.

(a) Open season: No mountain whitefish may be taken in any water except when trout may be taken in such water.

(b) Limit: Five.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

§ 5.51. Northern Pike.

(a) Lake Davis and its tributaries: No live northern pike may be possessed or transported. Any northern pike taken must immediately be killed and returned to the water. Note: After September 15, 2007, this subsection (a) expires and northern pike regulations at Lake Davis return to statewide regulations in subsection (b) below.

(b) All other State waters: No northern pike, dead or alive, may be released into any water at any time. All northern pike taken shall be killed immediately by removing the head and shall be retained by the angler. The angler shall notify the Department that he/she has taken and possesses a northern pike by calling the Department's CalTip telephone number (1–888–DFG–CALTIP) as soon as possible, but not more than 24 hours after taking the northern pike. The angler shall maintain the head and body of the fish in a refrigerated or frozen condition, whenever possible, until the Department collects the northern pike.

NOTE: Authority cited: Sections 200, 202, 205, 220 and 240, Fish and Game Code. Reference: Sections 200, 202, 205, 220 and 240, Fish and Game Code.

HISTORY

1. New section filed 8–14–95 as an emergency; operative 8–14–95 (Register 95, No. 33). A Certificate of Compliance must be transmitted to OAL by 12–12–95 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(f) (Register 96, No. 6).
3. New section filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Repealer and new section filed 5–8–98; operative 5–8–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 19).
5. Amendment filed 5–10–2007; operative 5–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).

§ 5.55. Mullet.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 5.60. Reptiles.

(a) General Provisions: Only the following reptiles may be taken under the authority of a sportfishing license, subject to the restrictions in this section. The limit for each of the species listed below is two, unless otherwise provided. Limit, as used in this section, means daily bag and possession limit. No reptiles shall be taken from ecological reserves designated by the commission in Section 630 or from state parks, or national parks or monuments.

(b) No sportfishing license is required for the sport take of any rattlesnake.

(1) Painted turtle (*Chrysemys picta*): Limit: No limit.
(2) Slider Turtle (*Pseudemys (Trachemys) scripta*): Limit: No limit.
(3) Spiny softshell turtle (*Trionyx spiniferus*): Limit: No limit.
(4) Western banded gecko (*Coleonyx variegatus*)
(5) Desert iguana (*Dipsosaurus dorsalis*)
(6) Chuckwalla (*Sauromalus obesus*)
(7) Zebra-tailed lizard (*Callisaurus draconoides*)
(8) Colorado Desert fringe-toed lizard (*Uma notata*)
(9) Mojave fringe-toed lizard (*Uma scoparia*)
(10) Desert spiny lizard (*Sceloporus magister*)
(11) Granite spiny lizard (*Sceloporus orcutti*)
(12) Western fence lizard (*Sceloporus occidentalis*): Limit: Species No. 12–16 have a limit of twenty-five (25) in the aggregate
(13) Sagebrush lizard (*Sceloporus graciosus*): Limit: Species No. 12–16 have a limit of twenty-five (25) in the aggregate
(14) Side-blotched lizard (*Uta stansburiana*): Limit: Species No. 12–16 have a limit of twenty-five (25) in the aggregate
(15) Western skink (*Eumeces skiltonianus*): Limit: Species No. 12–16 have a limit of twenty-five (25) in the aggregate
(16) Desert night lizard (*Xantusia vigilis*): Limit: Species No. 12–16 have a limit of twenty-five (25) in the aggregate
(17) Long-tailed brush lizard (*Urosaurus graciosus*)
(18) Tree lizard (*Urosaurus ornatus*)
(19) Small-scaled lizard (*Urosaurus microscutatus*)
(20) Desert horned lizard (*Phrynosoma platyrhinos*)
(21) Short-horned lizard (*Phrynosoma douglassii*)
(22) Great basin collared lizard (*Crotaphytus bicintores*)
(23) Banded rock lizard (*Petrosaurus mearnsi*)
(24) Baja California collared lizard (*Crotaphytus vestigum*)
(25) Long-nosed leopard lizard (*Gambelia wislizenii*)
(26) Gilbert's skink (*Eumeces gilberti*)
(27) Western whiptail (*Cnemidophorus tigris*)
(28) Southern alligator lizard (*Elgaria multicarinata*)
(29) Northern alligator lizard (*Elgaria coerulea*)
(30) California legless lizard (*Anniella pulchra*), **except** black legless lizard (*Anniella pulchra nigra*): Limit: One (1)
(31) Rubber boa (*Charina bottae*), **except** southern rubber boa (*Charina bottae umbratica*)
(32) Rosy boa (*Lichanura trivirgata*)
(33) Ringneck snake (*Diadophis punctatus*)
(34) Sharp-tailed snake (*Contia tenuis*)
(35) Spotted leaf-nosed snake (*Phyllorhynchus decurtatus*)
(36) Racer (*Coluber constrictor*)
(37) Coachwhip (*Masticophis flagellum*), **except** San Joaquin Coachwhip (*Masticophis flagellum ruddocki*)
(38) Striped whipsnake (*Masticophis taeniatus*)
(39) California whipsnake (striped racer) (*Masticophis lateralis*), *except* Alameda whipsnake (*Masticophis lateralis euryxanthus*)
(40) Western patch-nosed snake (*Salvadora hexalepis*).
(41) Glossy snake (*Arizona elegans*)
(42) Gopher snake (*Pituophis melanoleucus*): Limit: Four (4)
(43) Common kingsnake (*Lampropeltis getula*): Limit: Four (4)
(44) California mountain kingsnake (*Lampropeltis zonata*), **except** San Diego mountain kingsnake (*Lampropeltis zonata pulchra*): Limit: One (1). Special Closure: No California mountain kingsnakes shall be taken in Orange and San Diego counties, and in Los Angeles County west of Interstate 5.
(45) Long-nosed snake (*Rhinocheilus lecontei*)
(46) Common garter snake (*Thamnophis sirtalis*), **except** San Francisco garter snake (*Thamnophis sirtalis tetrataenia*): Special Closure: No common garter snakes shall be taken in Los Angeles, Orange, Riverside, San Diego, and Ventura counties.
(47) Terrestrial garter snake (*Thamnophis elegans*)
(48) Western aquatic (Sierra) garter snake (*Thamnophis couchii*)
(49) Pacific coast aquatic garter snake (*Thamnophis atratus*)
(50) Northwestern garter snake (*Thamnophis ordinoides*)
(51) Checkered garter snake (*Thamnophis marcianus*)
(52) Ground snake (*Sonora semiannulata*)
(53) Western shovel-nosed snake (*Chionactis occipitalis*)
(54) California black-headed snake (*Tantilla planiceps*)
(55) Southwestern black-headed snake (*Tantilla hobartsmithi*)
(56) Lyre snake (*Trimorphodon biscutatus*)
(57) Night snake (*Hypsiglena torquata*)
(58) Western blind snake (*Leptotyphlops humilis*)
(c) Open season: All year.
(d) Hours: Reptiles may be taken at any time of day or night.
(e) Methods of take:
(1) Reptiles may be taken only by hand, except as provided in subsections (d)(2) and (3) below, or by the following hand-operated devices:
(A) Lizard nooses.
(B) Snake tongs.
(C) Snake hooks.
(2) Rattlesnakes may be taken by any method.
(3) Turtles may be taken by hook and line. Fishing methods described in Section 2.00 apply to the take of spiny softshell turtles, slider turtles and painted turtles.
(4) It is unlawful to use any method or means of collecting that involves breaking apart of rocks, granite flakes, logs or other shelters in or under which reptiles may be found.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2). For prior history, see Register 86, No. 6.

§ 5.65. Shad, American.

(a) Open season: All year, except for closures listed under special regulations.
(b) Limit: Twenty-five.
(c) Methods of take: Shad may be taken only by angling, except that a dip net may be used in the Valley District.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 5.70. Spiny Softshell Turtle in the Colorado River District.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 5.75. Striped Bass.

(a) Open season: All year except for closures listed in special regulations.
(b) Limit: Two, except in waters listed in (d) below.
(c) Minimum size: 18 inches total length except in waters listed in (d) below.
(d) Exceptions:
(1) In the Colorado River District, the Southern District (except Lake Elsinore), and New Hogan, San Antonio and Santa Margarita lakes.
(A) Limit: Ten.
(B) Minimum size: No size limit.
(2) Lake Elsinore has the limit and minimum size shown in (b) and (c) above.
(e) For the purpose of these regulations, any striped bass hybrid with white bass is considered to be striped bass.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment filed 1–30–84; designated effective 2–9–84 (Register 84, No. 5).
2. Repealer and new section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).

3. Amendment of subsection (d) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
4. Amendment of subsection (d)(2) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
5. Amendment of subsections (d)(1) and (2) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
6. Repealer of subsection (d)(1) designator and amendment of resulting addition to subsection (d), redesignation of former subsections (d)(1)(A)–(B) as subsections (d)(1)–(2) and repealer of subsections (d)(2)–(d)(2)(B) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
7. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
8. Repealer of subsections (d)(2)–(d)(2)(B) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
9. Amendment of subsection (d)(1) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
10. Amendment filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 5.79. White Sturgeon Report Card and Tagging Requirements for Inland Waters (FG 683, See Section 701).

(a) Sturgeon Fishing Report Card Required. All anglers must have a Sturgeon Fishing Report Card in their possession while fishing for or taking sturgeon. Anglers must complete and return the card pursuant to regulations in this Section and in Section 1.74.

(b) Tagging and Recording Requirements for Retained Fish. A Sturgeon Fishing Report Card includes detachable tags that shall be used to tag any white sturgeon that is taken and retained in the sport fishery. Any white sturgeon possessed by any person shall be tagged.

(1) Upon taking and retaining a white sturgeon, the cardholder shall immediately record the following information:

(A) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the tag. Tags shall be used in sequential order.

(B) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the Sturgeon Fishing Report Card which corresponds to the number on the tag.

(2) Immediately after recording the information above, the cardholder shall remove and completely detach the tag from the card and affix it to the white sturgeon. Cardholders shall not wait until completion of fishing activity to tag any white sturgeon in possession.

(3) The tag shall be securely fastened to the fish. To affix the tag, a "zip tie", string, line or other suitable material shall be passed through the tag at the location specified on the sturgeon tag and attached to the fish.

(4) Tags shall not be removed from the report card until immediately prior to affixing to a white sturgeon. Any tags detached from the report card and not affixed to a white sturgeon shall be considered used and therefore invalid. No person shall possess any used or otherwise invalid sturgeon tags.

(5) Records of Prior Activity. All tags must be accounted for at all times by entry of a record on the Sturgeon Fishing Report Card corresponding to all tags that are not in possession. Any tag that was lost or destroyed shall be recorded as such on the corresponding line on the Sturgeon Fishing Report Card.

(c) Reporting Requirements for Released Fish.

(1) Whenever the cardholder catches and releases a sturgeon, the cardholder shall immediately record the month, day, location code, and species of sturgeon.

(2) If all lines in the "sturgeon released" field of the report card are filled, any additional sturgeon caught and released need not be recorded on the card.

(d) Sturgeon tags must be left affixed to the fish in place, including while stored at a residence or non–transient location, until the fish is processed for immediate consumption.

(e) The annual fee for the Sturgeon Fishing Report Card is specified in Section 701, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 5.80. White Sturgeon.

(a) Open season: All year, except for closures listed under special regulations.

(b) Daily and annual bag limit: One fish per day. Three fish per year statewide.

(c) Size limit: No fish less than 46 inches total length or greater than 66 inches total length may be taken or possessed.

(d) Methods of take: The sturgeon must voluntarily take the bait or lure in its mouth. No sturgeon may be taken by trolling, snagging or by the use of firearms. Sturgeon may not be gaffed, nor shall any person use any type of firearm to assist in landing or killing any sturgeon.

(e) Report card required: Any person fishing for or taking sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the department and shall adhere to all reporting and tagging requirements for sturgeon defined in Sections 1.74 and 5.79, Title 14, CCR.

(f) Special North Coast District Sturgeon Closure (Humboldt, Del Norte, Trinity and Siskiyou cos.). It is unlawful to take any sturgeon in the North Coast District at any time.

(g) For regulations on take and possession of sturgeon in ocean waters as defined in Section 27.00, see Sections 27.90, 27.91, and 27.95.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment of subsections (b)–(d) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsection (c) and NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. Amendment of subsection (c) filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
4. Amendment of subsection (b) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
5. Amendment of section heading and subsection (c), new subsection (f) and amendment of NOTE filed 3–20–2006 as an emergency; operative 3–20–2006 (Register 2006, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–18–2006 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 3–20–2006 amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 33).
7. Amendment of section heading and subsections (b) and (c) and new subsections (e)–(h) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
8. Amendment of subsection (e), repealer of subsections (e)(1)–(f)(2) and subsection relettering filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 5.81. Green Sturgeon.

(a) Green sturgeon may not be taken or possessed.

(b) Green sturgeon taken and released incidentally to white sturgeon fishing shall be reported on a Sturgeon Fishing Report Card issued by the department, in accordance with procedures defined in Sections 1.74 and 5.79, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 3–20–2006 as an emergency; operative 3–20–2006 (Register 2006, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–18–2006 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2006, No. 33).
3. New section filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
4. Amendment of subsection (b) filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 5.82. Sunfish and Tilapia.

(a) Open season: All year, except for closures listed under district or special regulations.

(b) Limit: No limit except as follows:

(1) Barrett and Upper Otay Lakes (San Diego County): zero bag limit for all species.

(2) Eastman Lake (Madera Co.); No more than 25 crappie and sunfish of all species combined. (Note: See Section 5.00 for black bass regulations and Section 2.08 regarding special restrictions for Barrett and Upper Otay lakes).

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY

1. Renumbering of former section 5.30 to section 5.82 and amendment of section heading and NOTE filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code section 202 and 215 (Register 94, No. 10).
2. Amendment of subsection (b) filed 12–12–94; operative 12–12–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
3. Amendment of subsection (b) and NOTE filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
4. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 5.85. Trout and Salmon.

See Chapter 3, District Trout, Salmon and Special Regulations.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 5.86. Hoopa and Yurok Indian Salmon Possession Limit.

It is unlawful for any person to possess more than one daily bag or possession limit of fish except as follows: Eligible Hoopa Valley and Yurok Reservation Indians, as defined in Chapter 1, Part 250, Title 25, CFR—Indian Fishing, Hoopa Valley Reservation and Yurok Reservation–Department of the Interior; may possess more than two salmon outside boundaries of the Hoopa Valley Reservation, provided:

(a) Such eligible Indians possess and display upon demand by any officer authorized to enforce this section their Indian Fishers identification card.

(b) All fish are possessed for subsistence or ceremonial purposes and are clearly marked by removing the dorsal fin prior to transporting them from the reservation.

It shall be unlawful to sell or possess for sale any salmon marked pursuant to this section.

NOTE: Authority cited: Sections 200, 202, 205, 219, 220 and 7708, Fish and Game Code. Reference: Sections 200, 202, 205, 210, 220, 7155, 7700, 7702, 7703, 7706, 7708 and 12300, Fish and Game Code.

HISTORY

1. Renumbering of former Section 1.51 to Section 5.86 filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6). For history of former Section 5.86, see Register 82, No. 29.
2. Amendment filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
3. Amendment of section heading filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 5.87. Klamath–Trinity Salmon Report Card Requirement (FG 684, See Section 701).

(a) Report Card Required in Waters of the Klamath–Trinity River System. All anglers must have a Klamath–Trinity Salmon Report Card in their possession while fishing for or taking salmon in waters of the Klamath–Trinity River System, and must complete and return the card pursuant to regulations in this Section and in Section 1.74.

(b) Prior to beginning fishing activity, the cardholder shall record the month, day, and fishing location on the first available line on the report card.

(c) Whenever the cardholder lands (either retains or releases) a Chinook salmon, the angler shall immediately record whether the fish was an adult or a jack, and whether the fish has an adipose fin present. Whenever the cardholder releases a Coho salmon, the angler shall immediately record whether the maxillary is present or absent.

(d) Whenever the cardholder moves to another fishing location, the angler shall record the month, day, and location on the next line on the report card.

(e) In the Klamath–Trinity River System, a jack Chinook salmon is defined as any Chinook salmon that is less than 22 inches total length.

(f) In the event an angler fills in all lines and returns a Klamath–Trinity Salmon Report Card, an additional card may be purchased. See Section 1.74.

(g) The annual fee for the Klamath–Trinity Salmon Report Card is specified in Section 701, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11). For prior history, see Register 96, No. 6.

§ 5.88. Steelhead Report and Restoration Card Requirements for Inland Waters (FG 682, See Section 701).

(a) Steelhead Fishing Report and Restoration Card Required. All anglers must have a Steelhead Fishing Report and Restoration Card in their possession while fishing for or taking steelhead in anadromous waters, as defined in Section 1.04. Anglers must complete and return the card pursuant to regulations in this Section and in Section 1.74. For purposes of these regulations, a steelhead trout is defined as any rainbow trout greater than 16 inches in length found in anadromous waters.

(b) Prior to beginning fishing activity, the cardholder must record the month, day, and location code on the first available line on the report card.

(c) When a steelhead is retained, the cardholder must immediately fill in a circle indicating whether the fish is a wild fish or a hatchery fish.

(d) When the cardholder moves to another location code, or finishes fishing for the day, the angler must immediately record on the card the number of wild and hatchery fish that were released from that location.

(e) In the event an angler fills in all lines and returns a Steelhead Fishing Report and Restoration Card, an additional card may be purchased. See Section 1.74.

(f) The annual fee for the Steelhead Fishing Report and Restoration Card is specified in Section 7380 of the Fish and Game Code.

NOTE: Authority cited: Section 7380, Fish and Game Code. Reference: Sections 7380 and 7381, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 5.90. White Bass.

(a) Open season: All year.

(b) Limit: No limit. No live white bass may be possessed or transported. Any white bass taken must immediately be killed by removing the head or cutting through the gills, except at Lake Nacimiento (San Luis Obispo County) where any white bass taken must immediately be released into the water or killed by removing the head or cutting through the gills.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. Amendment filed 1–30–84; designated effective 2–9–84 (Register 84, No. 5).
2. Amendment of subsection (b) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Amendment of subsection (b) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 5.93. Fully Protected Fishes.

None of the following fishes may be taken or possessed at any time: Colorado pikeminnow, Mohave chub, Lost River sucker, Modoc sucker, shortnose sucker, humpback sucker, Owens pupfish, unarmored three–spine stickleback, rough sculpin, bonytail, Owens tui chub, Cottonball Marsh pupfish and desert pupfish.

NOTE: Authority cited: Sections 200, 202, 205, 215, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. Amendment of section heading, section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

2. Amendment filed 12-27-2007; operative 1-26-2008 (Register 2007, No. 52).

§ 5.95. Other Species.

Other species of fish may be taken in any number and at any time of the year by angling, except for closures and restrictions listed under district special regulations.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 203.1, 206, 207, 210, 217.5, 217.6, 219 and 220, Fish and Game Code.

HISTORY

1. Amendment of section and NOTE filed 12-27-2007; operative 1-26-2008 (Register 2007, No. 52).

Chapter 3. Trout, Salmon and Special Regulations

Article 1. District Definitions

§ 6.00. Definition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Repealer of Chapter 3 (Sections 51 through 98.8, not consecutive) and new Chapter 3 (Sections 4.00 through 26.80, not consecutive) filed 1-16-74; designated effective 3-1-74 (Register 74, No. 3). For history of former sections, see Register 71, No. 22; 72, Nos. 1, 51, 52; 73, Nos. 3, 15.
2. Repealer of Chapter 3 (Sections 4.00-26.82, not consecutive) and new Chapter 3 (Articles 1-7, Sections 6.00-13.95, not consecutive) filed 2-17-82; designated effective 3-1-82 (Register 82, No. 8).
3. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.05. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.07. Bear Creek Trout Restrictions (San Bernadino Co.), from Big Bear Dam to Confluence of Santa Ana River.

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205-210, Fish and Game Code.

HISTORY

1. New section filed 2-11-87, designated effective 3-1-87 (Register 87, No. 9).
2. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.08. Big Bear Lake Tributaries Closure (San Bernadino Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205-210, Fish and Game Code.

HISTORY

1. New section filed 2-11-87, designated effective 3-1-87 (Register 87, No. 9).
2. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.10. Deep Creek Trout Restrictions (San Bernardino Co.), Only from Headwaters at Little Green Valley to Confluence of Willow Creek.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Amendment filed 2-21-84; designated effective 3-1-84 (Register 84, No. 8).
2. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.13. Malibu Creek Trout Restrictions (Los Angeles Co.) Only from Mouth to Rindge Dam.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 12-12-86; effective upon filing pursuant to Fish and Game Code Section 215.
2. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.15. Murray Lake Closure (San Diego Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 209 and 210, Fish and Game Code.

HISTORY

1. Amendment filed 2-28-85 as an emergency; designated effective 3-1-85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 6-27-85; effective thirtieth day thereafter (Register 85, No. 26).
3. Amendment filed 2-11-87; designed effective 3-1-87 (Register 87, No. 9).
4. Amendment filed 1-3-89; operative 2-2-89 (Register 89, No. 1).
5. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.20. San Gabriel River, West Fork, and Tributaries Trout Restrictions (Los Angeles Co.).

NOTE: Authority cited: Sections 200, 202, 210, 240 and 315, Fish and Game Code. Reference: Sections 200, 202, 205, 210, 240 and 315, Fish and Game Code.

HISTORY

1. Amendment filed 6-29-83 as an emergency; effective upon filing (Register 83, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10-27-83.
2. Certificate of Compliance transmitted to OAL 10-26-83 (corrected Certificate of Compliance transmitted 11-21-83) and filed 11-23-83 (Register 83, No. 48).
3. Amendment filed 2-21-84; designated effective 3-1-84 (Register 84, No. 8).
4. Amendment filed 7-11-84 as an emergency; effective upon filing (Register 84, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11-9-84.
5. Certificate of Compliance as to 7-11-84 order transmitted to OAL 10-11-84 and filed 10-25-84 (Register 84, No. 43).
6. Amendment filed 2-28-85 as an emergency; designated effective 3-1-85. Certificate of Compliance included (Register 85, No. 11).
7. Amendment filed 5-27-87 as an emergency; operative 5-27-87 (Register 87, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9-24-87.
8. Certificate of Compliance transmitted to OAL 9-21-87 and filed 10-14-87 (Register 87, No. 42).
9. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.25. Upper Otay Lake Closure (San Diego Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.30. Ventura River and Tributaries Trout Restrictions (Ventura Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 203.1, 205-210 and 215-222, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 1-20-83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3-1-90; operative 3-1-90 (Register 90, No. 10).

§ 6.31. North Coast District Definition.

The North Coast District consists of the inland waters of all of Trinity, Humboldt and Del Norte counties and the portion of Siskiyou County northwest of a line drawn between Mt. Eddy and the Black Butte Summit railroad crossing of Interstate 5 and west of Interstate 5 between the railroad corssing and Weed, and west of Highway 97 between Weed and the Oregon border.

NOTE: Authority cited: Section 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 3-1-90; operative 3-1-90 (Register 90, No. 10).
2. Amendment filed 12-27-96; operative 12-27-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).

§ 6.32. North Central District Definition.

The North Central District consists of the inland waters of all of Marin, Napa, Sonoma, Lake and Mendocino counties.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 6.33. South Central District Definition.

The South Central District consists of the inland waters of all of Monterey, San Benito, San Francisco, San Luis Obispo, San Mateo, Santa Clara and Santa Cruz counties; all of Alameda County west of Interstate 680, and that portion of Alameda County which is both east of Interstate 680 and south of Interstate 580; all of Contra Costa County west of Interstate 80, and that portion of Contra Costa County which is both south of Highway 4 and west of Interstate 680.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).

§ 6.34. Southern District Definition.

The Southern District consists of the inland waters of all of Los Angeles, Orange, San Diego, Santa Barbara and Ventura counties and those portions of Riverside and San Bernardino counties outside of the Colorado River District (see Section 6.37).

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 6.35. Sierra District Definition.

The Sierra District consists of all of Modoc, Lassen, Shasta, Sierra, Plumas, Alpine, Inyo and Mono counties; Tulare County east of the west boundaries of Sequoia National Forest and Sequoia National Park; Fresno County east of the west boundaries of Sierra and Sequoia National Forests (excluding Pine Flat Lake); Madera County east of the west boundary of Sierra National Forest; Mariposa, Tuolumne, Calaveras, Amador, El Dorado, Placer and Nevada counties east of Highway 49 (excluding Don Pedro, McClure and New Melones lakes); the portion of Siskiyou County southeast of a line drawn between Mt. Eddy and the Black Butte summit railroad crossing of Interstate 5 and east of Interstate 5 between the railroad crossing and Weed and east of Highway 97 between Weed and the Oregon border; and Tehama County excluding Black Butte Lake. Those waters excluded above are part of the Valley District (see Section 6.36).

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 6.36. Valley District Definition.

The Valley District consists of all of Butte, Colusa, Glenn, Kern, Kings, Merced, Sacramento, San Joaquin, Solano, Stanislaus, Sutter, Yolo and Yuba counties; Tulare County west of the west boundaries of Sequoia National Forest and Sequoia National Park; Fresno County west of the west boundaries of Sierra and Sequoia National Forests (including all of Pine Flat Lake); Madera County west of the west boundary of the Sierra National Forest; Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolomne counties west of Highway 49 (including all of Don Pedro, McClure and New Melones lakes); that portion of Alameda County which is both east of Interstate 680 and north of Interstate 580; and all of Contra Costa County east of Interstate 680 and that portion of Contra Costa County which is both north of Highway 4 and east of Interstate 80; and all of Black Butte Lake.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY
1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).

§ 6.37. Colorado River District Definition.

The Colorado River District consists of Imperial County and those portions of Riverside and San Bernardino counties lying south and east of the following line: Starting at the intersection of Highway 86 with the north boundary of Imperial County; north along Highway 86 to its intersection with Interstate 10; east along Interstate 10 to its intersection with

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Cottonwood Springs Road; north along Cottonwood Springs Road and the Mecca Dale Road to Amboy; east along old Highway 66 to its intersection with Interstate 40; east along Interstate 40 to its intersection with Highway 95; and north along Highway 95 to the California–Nevada boundary. All of the Coachella Canal and Lake Cahuilla are included in this District.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

Article 2. District General Regulations

§ 7.00. District General Regulations.

Unless otherwise provided, waters shown as open to trout and salmon fishing in subsections (a) through (g) below, are open to fishing for other species. Every body of water listed in subsections (a) through (g) of Section 7.00 (below) is closed to all fishing, except during the open season as shown. Unless otherwise provided, waters closed to trout and salmon fishing are closed to fishing for all other species, except that these closures do not apply to fishing for amphibians (see Section 5.05), freshwater clams (see Section 5.20), crayfish (see Section 5.35), and lamprey (see Section 5.40), using fishing methods other than hook–and–line fishing. Daily bag and possession limits, unless otherwise provided, mean the total number of trout and salmon in combination. Unless otherwise provided, no more than one daily bag limit may be possessed. Silver (coho) salmon may not be taken in any of the waters of the State, except in Lake Oroville. Incidentally hooked Silver (coho) salmon, except those in Lake Oroville, must be immediately released unharmed to the waters where they are hooked. In waters where the bag limit for trout or salmon is zero, fish for which the bag limit is zero must be released unharmed, and should not be removed from the water.

District/Water	*Open Season*	*Daily Bag and Possession Limit*
(a) North Coast District		
(1) No trout or salmon may be taken in the North Coast District except as provided in subsection (2), (3) and (4) below and the Alphabetical List of Waters with Special Regulations.		
(2) All lakes and reservoirs except those listed by name in the Special Regulations.	All year.	5 per day 10 in possession
(3) Anadromous waters of the Klamath and Trinity River Systems, and those entering the ocean south of Humboldt Bay, which are not listed in the Special Regulations.	Closed to all fishing all year.	
(4) All anadromous waters tributary to Humboldt Bay, and north of Humboldt Bay, except those of the Klamath and Trinity river systems and those listed by name in the Special Regulations.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(5) All streams except anadromous waters and those listed by name in the Special Regulations.	Last Saturday in Apr. through Nov. 15.	5 trout per day, 10 in possession
(NOTE: A list of the non–anadromous waters opened to trout fishing (STREAMS AND PORTIONS OF STREAMS NOT LISTED IN THE SPECIAL REGULATIONS THAT ARE OPEN TO TROUT FISHING FROM THE LAST SATURDAY IN APRIL THROUGH NOVEMBER 15 (New 6–12–98), which is incorporated by reference herein) is available from the Department's Region 1 Office, 601 Locust Street, Redding, CA 96001 (Telephone: (530) 225–2300).		
(6) SPECIAL BROOK TROUT BONUS BAG AND POSSESSION LIMIT: UP TO 10 BROOK TROUT PER DAY LESS THAN 8 INCHES TOTAL LENGTH MAY BE TAKEN AND POSSESSED IN ADDITION TO THE OTHER DAILY BAG AND POSSESSION LIMITS SPECIFIED FOR THE NORTH COAST DISTRICT.		
(b) Sierra District		
(1) Anadromous waters of Tehama and Shasta counties not listed in the Special Regulations. (Section 7.50). (See subsection (b)(156) of Section 7.50, regarding the Sacramento River.)	Last Saturday in Apr. through Nov. 15. Only artifical lures and barbless hooks may be used.	0
(2) All lakes and reservoirs except those in the Fall River Valley, those in Inyo and Mono counties and those listed by name in the Special Regulations.	All year.	5 per day 10 in possession
(3) All streams, lakes and reservoirs in Inyo and Mono counties, except those listed by name in the Special Regulations.	Last Saturday in Apr. through Nov. 15.	5 per day 10 in possession
(4) All streams, lakes and reservoirs in the Fall River Valley above the Pit No. 1 Powerhouse on Fall River in Shasta County, except those listed by name in the Special Regulations.	Last Saturday in Apr. through Nov. 15.	2
(5) All streams in Lassen and Modoc counties east of Highway 395 and north of Clarks Valley Road. Clarks Valley Road is defined as those portions of county routes 510, 512 and 506 running easterly from the town of Madeline to the Nevada border.	Saturday preceding Memorial Day through Nov. 15.	5 per day 10 in possession
(6) American River, North Fork, Middle Fork, South Fork and their tributaries within the Sierra District (Placer, Eldorado, Amador, and Alpine cos.)	Last Saturday in Apr. through Nov. 15	5 per day 10 in possession
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(7) All other streams except those listed by name in the Special Regulations.	Last Saturday in Apr. Nov. 15.	5 per day 10 in possession
(8) Mono County waters, when closed to trout fishing, are closed to all fishing, except for the unrestricted portions of Fish Slough which are open to fishing all year. Also, see Mono County waters listed in sections 5.00 and 7.50.		
(9) SPECIAL BROOK TROUT BONUS BAG AND POSSESSION LIMIT: (A) IN SIERRA DISTRICT WATERS OF SISKIYOU, SHASTA AND TEHAMA COUNTIES, UP TO 10 BROOK TROUT PER DAY LESS THAN 8 INCHES TOTAL LENGTH MAY BE TAKEN AND POSSESSED IN ADDITION TO THE OTHER DAILY BAG AND POSSESSION LIMITS SPECIFIED FOR THE SIERRA DISTRICT. (B) IN THE SIERRA DISTRICT SOUTH OF INTERSTATE 80, UP TO 10 BROOK TROUT PER DAY LESS THAN 10 INCHES TOTAL LENGTH MAY BE TAKEN AND POSSESSED IN ADDITION TO THE OTHER DAILY BAG AND POSSESSION LIMITS SPECIFIED FOR THE SIERRA DISTRICT. THIS ALLOWANCE DOES NOT INCLUDE RED LAKE IN ALPINE COUNTY OR KIRMAN, LANE OR ROOSEVELT LAKES IN MONO COUNTY.		5
(c) North Central District		
(1) All lakes and reservoirs except those listed by name in the Special Regulations.	All year.	
(2) All streams except those listed by name in the Special Regulations.	Closed to all fishing all year.	
(3) The tidewaters of all streams except those listed by name in the Special Regulations. Note: Some waters within this district are tide waters regulated by regulations for the ocean and San Francisco Bay District (see sections 1.53 and 27.00)	All year Closed to all fishing all year.	
(d) Valley District		
(1) All lakes and reservoirs except those listed by name in the Special Regulations.	All year.	5
(2) All anadromous waters except those listed by name in the Special Regulations (See definition of anadromous waters, Section 1.04).	All year	0

District/Water	*Open Season*	*Daily Bag and Possession Limit*
(3) All streams except anadromous waters and those listed by name in the Special Regulations.	All year	5
(e) South Central District		
(1) All lakes and reservoirs except those listed by name in the Special Regulations.	All year	5
(2) That portion of any stream west of any Highway 1 bridge except those listed by name in the special regulations.	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(3) All streams in Alameda, Contra Costa, and Santa Clara Counties except those listed by name in the Special Regulations.	Last Saturday in Apr. through Nov. 15	5
(4) All other streams and portions of streams except those listed in subsection (e)(2) above or by name in the Special Regulations.	Closed to all fishing all year	
(f) Southern District		
(1) All lakes and reservoirs except those listed by name in the Special Regulations.	All year.	5
(2) All streams except anadromous waters in San Diego County, and except those listed by name in the Special Regulations.	All year. Only artificial lures with barbless hooks may be used.	2
(3) All streams except anadromous waters in Los Angeles, Ventura, Santa Barbara, Orange, San Bernardino and Riverside Counties, and except those listed by name in the Special Regulations.	All year.	5
(4) All anadromous waters except those listed by name in the Special Regulations (See definition of anadromous waters, Section 1.04)	Closed to all fishing all year.	
(5) All streams and tributaries (except those listed by name in the Special Reguilations) above Twitchell Dam on the Cuyama River, above Bradbury Dam and below Gibraltar Dam on the San Ynez River; above Matilja Dam on Matilija Creek and above Wheeler Gorge Campground on NF Matilija Creek; and above Rindge Dam on Malibu Creek.	All year	5
(g) Colorado River District		
(1) The Colorado River and its back waters	All year	10
(2) All other waters	All year	5

NOTE: Authority cited: Sections 200, 202, 205, 220 and 240, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. Repealer and new section filed 3–1–90; operative 3–1–90 (Register 90, No. 10). For prior history, see Register 89, No. 46.
2. New subsections (a)(4) and (b)(7) filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. New subsections (a)(5) and (c)(4) and amendment of subsections (a)(1)–(3), (b)(2)–(4) and (c)(1)–(3) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code section 202 and 215 (Register 94, No. 10).
4. Amendment of first paragraph, subsections (b)(7) and (f) and new subsections (f)(1)–(5) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
5. Editorial correction of subsection (b)(3) (Register 97, No. 26).
6. Amendment of subsections (a)(5), (b)(7), (c)(4) and (e)(2), new subsection (f)(2), subsection renumbering, amendment of newly designated subsection (f)(3), and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
7. Amendment of subsections (a)(1) and (a)(3), repealer of subsection (a)(5), amendment of subsections (c)(2)–(3), repealer of subsection (c)(4) and amendment of NOTE filed 2–11–98 as an emergency; operative 2–11–98 (Register 98, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–11–98 or emergency language will be repealed by operation of law on the following day.
8. Editorial correction restoring inadvertently deleted subsections (b)–(b)(7)(B) and correcting subsection (c)(3) and HISTORY 7 (Register 98, No. 11).
9. Amendment of subsections (a)(1) and (a)(3), repealer of subsection (a)(5), amendment of subsections (c)(2)–(3), repealer of subsection (c)(4) and amendment of NOTE refiled 3–13–98 as an emergency; operative 3–13–98 (Register 98, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–13–98 or emergency language will be repealed by operation of law on the following day.
10. New subsection (a)(3), subsection renumbering, and amendment of newly designated subsection (a)(4) filed 5–15–98 as an emergency; operative 5–15–98 (Register 98, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–14–98 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 3–13–98 and 5–15–98 orders, including additional amendment of first paragraph and subsections (a)(3), (a)(4), (d)(2), (d)(3), (e)(2) and (f)(6), transmitted to OAL 7–7–98 and filed 8–11–98 (Register 98, No. 33).
12. Repealer and new subsection (a)(3), new subsections (a)(4) and (b)(5), subsection renumbering, amendment of newly designated subsection (b)(7), and amendment of subsections (e)(2) and (e)(4) filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
13. Amendment of first paragraph and subsections (b)(1) and (b)(3), new subsection (b)(4) and subsection renumbering filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
14. Amendment of first paragraph filed 6–19–2003; operative 7–19–2003 (Register 2003, No. 25).
15. Amendment of subsection (b)(1), repealer of former subsection (b)(3), subsection renumbering, amendment of newly designated subsection (b)(3) and subsections (e)(2) and (f)(2)–(5) and repealer of subsection (f)(6) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
16. Amendment of subsection (b)(5), new subsection (b)(6), subsection renumbering, amendment of newly designated subsection (b)(8) and subsections (c)(3) and (f)(5) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 7.05. Trout.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10). For prior history, see Register 89, No. 46.

§ 7.10. Imperial County Special Closure.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, and 220, Fish and Game Code. Reference: Sections 200 and 205, Fish and Game Code.

HISTORY

1. Repealer filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).

§ 7.15. Sunbeam Lagoon Closure (Imperial Co.).

NOTE: Authority cited: Sections 200, 202, 205, 220 and 240, Fish and Game Code. Reference: Sections 200 and 205, Fish and Game Code.

HISTORY

1. New section filed 11–14–89 as an emergency; operative 11–14–89 (Register 89, No. 46). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–14–90.
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

Article 3. Alphabetical List of Waters with Special Fishing Regulations

§ 7.50. Alphabetical List of Waters with Special Fishing Regulations.

(a) General Provisions:

(1) Unless otherwise provided, waters shown as open to trout and salmon fishing below, are open to fishing for other species. Every body of water listed below is closed to all fishing except during the open season as shown.

(2) Unless otherwise provided, waters closed to trout and salmon fishing are closed to fishing for all other species, except that these closures do not apply to fishing for amphibians (see Section 5.05), freshwater clams (see Section 5.20), crayfish (see Section 5.35), and lamprey (see Section 5.40), using fishing methods other than hook–and–line fishing.

(3) Daily bag and possession limits, unless otherwise noted, mean the total number of salmon or trout in combination.

(4) Unless otherwise provided, it is unlawful to possess more than one daily bag limit.

(5) The following special regulations deal primarily with seasons, size limits, and bag and possession limits. Please be aware that these waters

may also be subject to restrictions on fishing methods and gear (sections 2.05 through 2.40), fishing hours (section 3.00), and the use of bait (sections 4.00 through 4.30).

(b)

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(1) Alambique Creek (San Mateo Co.).	Last Saturday in Apr. through Nov. 15	5 trout
(1.5) Alameda Creek and tributaries (Alameda and Santa Clara cos.)	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(2) Albion River (Mendocino Co.). Also see Section 8.00(b).		
Main stem below the confluence of South Fork Albion.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(3) Alder Creek (Mendocino Co.). Also see Section 8.00(b).		
Main stem below Tramway Gulch.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(4) Almanor Lake tributaries (Lassen, Plumas and Shasta Cos.) upstream to the first lake.	Saturday preceding Memorial Day through Nov. 15	5 per day 10 in possession
(5) American River (Sacramento Co.)		
(A) From Nimbus Dam to the Hazel Avenue bridge piers.	All year	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(B) From Hazel Avenue bridge piers to the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site.	Jan. 1 through Sept. 14. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(C) From the U.S. Geological Survey gauging station cable crossing about 300 yards downstream from the Nimbus Hatchery fish rack site to the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park.	Jan. 1 through Oct. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(D) From the SMUD power line crossing at the southwest boundary of Ancil Hoffman Park downstream to the Jibboom Street Bridge.	All year	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(E) From the Jibboom Street Bridge to the mouth.	July 16 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Jan. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(6) Antelope Creek (Tehama Co.).		
(A) From confluence with North Fork downstream to U.S. Geological Survey gauging station cable crossing at mouth of Antelope Creek Canyon	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(B) From U.S. Geological Survey gauging station cable crossing at mouth of Antelope Creek Canyon downstream to mouth of Antelope Creek.	June 16 through September 30.	0
(6.5) Antelope Lake tributaries (Plumas Co.).	Saturday preceding Memorial Day through Nov. 15	5 per day 10 in possession
(7) Applegate River and tributaries (Siskiyou Co.).	Last Saturday in Apr. through Nov. 15	5 per day 10 in possession
(8) Aptos Creek (Santa Cruz Co.) from mouth to bridge on Aptos Creek Road. Also see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(9) Arroyo de los Frijoles above Lake Lucerne (San Mateo Co.).	Last Saturday in Apr. through Nov. 15.	5 trout
(10) Arroyo Grande Creek (San Luis Obispo Co.).		
(A) Above Lopez Reservoir.	Last Saturday in Apr. through Nov. 15. Closed to all fishing all year.	5, but only 2 salmon
(B) From mouth to Lopez Canyon Dam.	Closed to all fishing all year.	
(11) Arroyo Leon (San Mateo Co.).		
(12) Arroyo Seco River (Monterey Co.). Also see Section 8.00(c).		
(A) The main stem Arroyo Seco and tributaries above the waterfall and footbridge located approximately 3.5 miles upstream from the U.S. Forest Service Ranger Station.	Last Saturday in Apr. through Nov. 15.	5
(B) The main stem Arroyo Seco and tributaries below the waterfall located approximately 3.5 miles upstream from the U.S. Forest Service Ranger Station.	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(12.5) Auburn Ravine Creek and tributaries (Placer Co.) east of Nelson Lane.	Fourth Saturday in May through Oct. 14.	0 trout 0 salmon
(13) Balm of Gilead Creek (Trinity Co.).	See Eel River 7.50(b)(63).	
(13.5) Bass Lake (Siskiyou Co.).	Feb. 1 through Sept. 30.	5
(14) Battle Creek (Shasta and Tehama Cos.).		
(A) From mouth to Coleman Fish Hatchery weir.	Closed to all fishing all year.	
(B) From 250 feet upstream from the Coleman National Fish Hatchery upstream to Angel Falls (near Mineral) on the South Fork and to Ponderosa Way Bridge on the North Fork.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(15) Bear Creek and tributaries (Shasta and Siskiyou Cos.) between Pondosa Way bridge and confluence with Fall River.	Saturday preceding Memorial Day through Nov. 15	5 per day 10 in possession
(17) Bear Creek (San Bernardino Co.) from Big Bear Dam to confluence of Santa Ana River.	All year. Only artificial lures with barbless hooks may be used	2
(18) Bear River (Humboldt Co.) downstream from County Road Bridge at Capetown, excluding tributaries.	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(18.5) Bear river and tributaries (Placer Co.)		
(A) Bear River from Highway 20 south (downstream) 2.5 miles to the abandoned concrete dam (the Boardman Diversion Dam).	Last Saturday in Apr. through Nov. 15. Maximum size limit: 14 inches total length.	5 per day 10 in possession
(B) Bear River and tributaries from Highway 65 to the South Sutter Irrigation District Diversion Dam.	Fourth Saturday in May through Oct. 14.	0 trout 0 salmon

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(19) Berryessa Lake tributaries (Lake and Napa Cos.).	Last Saturday in Apr. through Nov. 15	5
(19.5) Big Bear Lake tributaries (San Bernardino Co.)	Saturday preceding Memorial Day through Feb. 28	5 per day 10 in possession
(20) Big Chico Creek (Butte Co.).		
(A) From mouth to Bear Hole, located approximately one mile downstream from the upper end of Bidwell Park	June 16 through Oct. 15. Oct. 16 through Feb. 15. Only artificial lures with barbless hooks may be used.	0 0
(B) From Bear Hole to the upper boundary of the Big Chico Creek Ecological Reserve	Nov. 1 through April 30. Only artificial lures with barbless hooks may be used.	0
(C) From the upper boundary of the Big Chico Creek Ecological Reserve to Higgins Hole Falls, located about one–half mile upstream from Ponderosa Way.	Closed to all fishing all year.	0
(21) Big Lagoon (Humboldt Co.). For purposes of this regulation, the boundary between Big Lagoon and Maple Creek is the first private road bridge, located approximately 1/2 mile southeast of the Highway 101 bridge crossing.	All year. Only barbless hooks may be used. Cutthroat trout minimum size limit: 10 inches.	2 cutthroat trout. No other salmonids shall be taken.
(22) Big River (Mendocino Co.). Also see Section 8.00(b).		
Main stem below the confluence of Two Log Creek.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(23) Big Sur River (Monterey Co.). Also see Section 8.00(c).		
(A) Big Sur river and tributaries above the upstream end of the gorge pool at the boundary of Pfeiffer Big Sur State Park with the Ventana Wilderness Area.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(B) Big Sur river within Pfeiffer Big Sur State Park, east of the Highway 1 bridge, to its boundary with the Ventana Wilderness Area.	Closed to fishing all year.	
(23.5) Big Tree Creek (Calaveras Co.) Within Calaveras Big Trees State Park (upstream of the Highway 4 culvert crossing).	Closed to all fishing all year.	
(24) Big Trees Creek (Tuolumne Co.) upstream from the confluence of Beaver Creek.	Closed to all fishing all year	
(25) Black Butte River and tributaries (Glenn Co.) except Cold Creek.	Closed to all fishing all year	
(25.5) Boggy Creek (Fresno Co.) and tributaries (tributary to Thomas Edison Lake).	June 1 through October 15.	5 per day 10 in possession
(26) Bogus Creek (Siskiyou Co.).	See Klamath River 7.50(b)(91.1).	
(26.5) Bridgeport Reservoir Tributaries (Mono Co.). All Bridgeport Reservoir tributaries except Swauger Creek, from Bridgeport Reservoir upstream to Highway 395, and Swauger Creek, from Bridgeport Reservoir upstream to the private property fence line above the Forest Service campground.	Last Saturday in April through the Friday preceding Memorial Day and Oct. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artifical lures with barbless hooks may be used.	1
	Saturday preceding Memorial Day through Sep. 30.	5 per day 10 in possession
(27) Brush Creek (Mendocino Co.). Also see Section 8.00(c).		
Main stem below the Lawson bridge.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(28) Bucks Lake tributaries (Plumas Co.).	Saturday preceding Memorial Day through Sept. 30.	5 per day 10 in possession
(28.5) Burney Creek (Shasta Co.). Burney Creek from Burney Creek Falls downstream to Lake Britton.	Last Saturday in April through Nov. 15. Maximum size limit: 14 inches. Only artificial lures with barbless hooks may be used.	2 trout
(29) Butano Creek (San Mateo Co.).		
(A) Above Butano Falls.	Last Saturday in Apr. through Nov. 15.	5 trout
(B) From mouth to country bridge on Pescadero-Bean Hollow Road.	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(30) Butt Creek and Butt Valley Reservoir Powerhouse Outfall (Plumas Co.).		
(A) Butt Creek.	Saturday preceding Memorial Day through Nov. 15.	5 per day 10 in possession
(B) Butt Valley Reservoir powerhouse outfall, from the powerhouse, downstream to a marker adjacent to Ponderosa Flat Campground.	Saturday preceding Memorial Day through Feb. 28.	2
(31) Butt Valley Reservoir (Plumas Co.).	All year	2
(32) Butte Creek (Butte and Sutter Cos.).		
(A) Butte Creek (Butte Co.) from Oro–Chico Road bridge crossing south of Chico to the Centerville Head Dam, located 300 yards downstream from the DeSabla Powerhouse below DeSabla Reservoir.	November 15 through February 15. Only artificial lures with barbless hooks may be used.	0 trout 0 salmon
(B) Butte Creek (Butte and Sutter Cos.) from the Oro–Chico Road bridge crossing south of Chico to the point that Butte Creek enters the Sacramento River both via Butte Slough outfall gates at Moon's Bend and through Butte Slough, thence both the East and West Canals of the Sutter Bypass, thence Sacramento Slough.	Closed to trout and salmon fishing all year. Open all year to fishing for other species.	
(33) By-Day Creek and tributaries (Mono Co.).	Closed to all fishing all year	
(34) Cache Creek and tributaries (Lake Co.).	Last Saturday in Apr. through Nov. 15	5
(35) Calaveras River downstream from New Hogan Dam and the diverting canal (Mormon Slough) from Bellota Weir downstream to Interstate Highway 5 (Calaveras and San Joaquin cos.).	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(35.5) Calleguas Creek and tributaries (Ventura Co.).	All year.	5
(35.7) Caribou Reservoir (Plumas County)	Last Saturday in Apr. through Nov. 15	2
(36) Carmel River and tributaries above Los Padres Dam (Monterey Co.).	Last Saturday in Apr. through Nov. 15. No rainbow trout less than 10 inches or greater than 16 inches total length may be kept. Only artificial lures with barbless hooks may be used.	5, trout, no more than 2 of which may be rainbow trout.
(37) Carmel River below Los Padres Dam. (Monterey Co.)		
(A) Carmel River tributaries below Los Padres Dam and main stem from Los Padres Dam to the bridge at Robles Del Rio/Esquiline roads (Rosie's Bridge).	Closed to all fishing all year.	

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
(B) Carmel River main stem below the bridge at Robles Del Rio/Esquiline roads (Rosie's Bridge). Also, see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only artificial lures with barbless hooks may be used.	0
(38) Carson River, East Fork and tributaries (Alpine Co.).		
(A) Carson River, East Fork and tributaries above Carson Falls.	Closed to all fishing all year	
(B) Carson River, East Fork from Hangman's Bridge downstream to Nevada State Line.	All year. Only artificial lures with barbless hooks may be used.	0
(39) Cassel Forebay (Hat Creek) (Shasta Co.)	See Hat Creek #1 7.50(b)(75).	
(39.3) Castle Creek (Shasta Co.)	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(39.5) Ceder Creek and tributaries upstream from Moon Lake access road (Lassen Co.).	Closed to all fishing all year	
(40) Chorro Creek (San Luis Obispo Co.) from the point that Chorro Creek enters Midway Marina in Morro Bay upstream to the twin bridges on South Bay Boulevard.	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(41) Chowchilla River (Madera and Mariposa Cos.) from Eastman Lake upstream to West and East Forks and the West Fork Chowchilla River from its mouth upstream to the Highway 49 bridge.	Closed to all fishing all year	
(42) Clear Lake tributaries (Lake Co.).	Last Saturday in Apr. through Nov. 15	5
(42.3) Codornices Creek (Alameda Co.).	Closed to all fishing all year	
(42.5) Cold Creek (Fresno Co.) and tributaries (tributary to Thomas Edison Lake).	June 1 through October 15.	5 per day 10 in possession
(43) Convict Creek (Mono Co.).		
(A) Convict Creek, including side channels and meanders, in the U.C. study area as posted. This area begins about 1/2 mile above the Highway 395 bridge and extends upstream about 1/2 mile.	Closed to all fishing all year.	
(B) Convict Creek downstream of the U.C. study area.	Last Saturday in April through the Friday preceding Memorial Day and Oct. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
	Saturday preceding Memorial Day through Sept. 30.	5 per day 10 in possession.
(C) Convict Creek upstream of the U.C. study area.	Last Saturday in April through Nov. 15.	5 per day 10 in possession.
(43.5) Coon Creek and tributaries (Placer Co.) east of Highway 65.	Fourth Saturday in May through Oct. 14.	0 trout 0 salmon
(43.6) Coon Creek (San Luis Obispo Co.)	Closed to fishing all year.	
(44) Corral Valley Creek and tributaries (Alpine Co.).	Closed to all fishing all year	
(45) Corralitos Creek (Santa Cruz Co.) from mouth to Browns Valley Road. Also see Section 8.00(a).	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(46) Cosumnes River (Sacramento Co.) from Highway 99 bridge upstream to the Latrobe vehicle bridge.	Jan. 1 through Oct. 15. Only barbless hooks may be used.	0
(47) Cottoneva Creek (Mendocino Co.). Also see Section 8.00(b).		
Main stem below the confluence of South Fork Cottoneva Creek.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(48) Cottonwood Creek (Inyo Co.).		
(A) Cottonwood Creek main stem between mouth of Little Cottonwood Creek and South Fork of Cottonwood Creek.	July 1 through Nov. 15. Only artificial lures with barbless hooks may be used	0
(B) Cottonwood Creek (1) and tributaries upstream from the confluence of South Fork, (2) Little Cottonwood Creek and tributaries, (3) the South Fork of Cottonwood Creek and tributaries, and (4) the unnamed tributary flowing through Horseshoe Meadow.	July 1 through Nov. 15. Only artificial lures with barbless hooks may be used	5
(49) Cottonwood Creek drainage lakes (Inyo Co.).		
(A) Cottonwood Lakes 1, 2, 3 and 4 and their tributaries (Inyo Co.).	July 1 through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(B) All remaining Cottonwood Creek drainage lakes.	July 1 through Nov. 15. Only artificial lures with barbless hooks may be used	5
(49.5) Cottonwood Creek and tributaries (Modoc Co.).	Saturday preceding Memorial Day through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(50) Cottonwood Creek, North Fork and tributaries (White Mountains, Mono Co.).	Closed to all fishing all year	
(50.5) Cow Creek and tributaries upstream from Forest Service road 9S10 (Fresno Co.).	Closed to all fishing all year	
(50.8) Coyote Creek (Santa Clara Co.) Also see Section 8.00(c).	Last Saturday in April through November 15. Only artificial lures and barbless hooks may be used.	0
(51) Coyote Valley Creek and tributaries (Alpine Co.).	Closed to all fishing all year	
(52) Crooked Creek (Mono Co.).		
(A) Crooked Creek below the City of Los Angeles gauging station.	Closed to all fishing all year.	
(B) Crooked Creek and tributaries above the Los Angeles gauging station.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(53) Crowley Lake (Mono Co.). (See individual listings for regulations on tributary waters which include: Convict, Crooked, Hilton, Hot, McGee, and Whiskey creeks and the upper Owens River).		
(A) Crowley Lake within 1,800 feet of the outlet dam (this area is marked with a series of buoys).	Closed to all fishing all year for safety purposes.	
(B) Crowley Lake, except for the closed area near the outlet dam (see above).	Last Saturday in Apr. through July 31.	5 per day 10 in possession
	Aug. 1 through Nov. 15. Minimum size limit:18 inches total length. Only artificial lures with barbless hooks may be used.	2

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(53.5) Davis Creek and tributaries (Modoc Co.).	Saturday preceding Memorial Day through November 15. Only artificial lures with barbless hooks may be used.	5 brown trout per day. 10 in possession No other species may be taken or possessed.
(53.8) Davis Lake (Plumas Co.)	All Year	5 per day, 10 in possession
	EXCEPTION: Effective May 10 through Sept. 15, 2007.	10 per day, 10 in possession
(54) Davis Lake tributaries (Plumas Co.).	Saturday preceding Memorial Day through Nov. 15.	5 per day 10 in possession
(54.5) Deadman Creek (Mono Co.).		
(A) Deadman Creek downstream from Hwy. 395. See Owens River 7.50(b)(134).	Last Saturday in April through Nov. 15. Maximum size limit: 16 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(B) Deadman Creek upstream from Hwy. 395.	Last Saturday in April through Nov. 15.	5 per day 10 in possession.
(55) Deep Creek (San Bernardino Co.) from headwaters at Little Green Valley to confluence of Willow Creek	All year. Only artificial lures with barbless hooks may be used	2
(56) Deer Creek (Tehama Co.).		
(A) From 250 feet below Upper Deer Creek Falls and fishway (located 1.5 miles upstream from Potato Patch Campground) downstream 31 miles to U.S. Geological Survey gauging station cable crossing at mouth of Deer Creek Canyon (see Section 2.35 for closure at Upper Deer Creek Falls).	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(B) From U.S. Geological Survey gauging station cable crossing at mouth of Deer Creek Canyon downstream to mouth of Deer Creek.	June 16 through Sept. 30.	0
(57) Deer Creek (Yuba and Nevada Cos.) from mouth to Smartville-Englebright Dam road crossing.	Fourth Saturday in May through Oct. 15. Only artificial lures with barbless hooks may be used.	0
(58) Diaz Lake (Inyo Co.).	First Saturday in Mar. through Nov. 15.	5 per day 10 in possession
	Nov. 16 through the Friday preceding the first Saturday in Mar.	5
(59) [Reserved]		
(59.5) Dry Creek and tributaries (Placer Co.) east of the Atkinson Street Bridge in Roseville.	Fourth Saturday in May through Oct. 14.	0 trout 0 salmon
(60) Dry Creek (Yuba and Nevada Co.) from mouth to Sid Smith Dam about one mile above junction of Scott Forbes and Peoria roads.	Fourth Saturday in May through Oct. 15.	0
(61) Eagle Lake and tributaries (Lassen Co.).		
(A) Eagle Lake.	Saturday preceding Memorial Day through Dec. 31.	2 per day 4 in possession.
(B) Eagle Lake inside the breakwater at the Gallatin Marina and Pine Creek Slough and Pine Creek below State Highway 44.	Closed to all fishing all year	
(C) Eagle Lake tributaries, including Pine Creek above State Hwy. 44.	Saturday preceding Memorial Day through Nov. 15.	5 per day 10 in possession
(61.5) Earl Lake/Talawa (Del Norte Co.).	All year. Only barbless hooks may be used. Cutthroat trout minimum size limit: 10 inches.	2 cutthroat trout. No other salmonids shall be taken.
(62) Eastman Lake (Madera and Mariposa Cos.).	Also see Section 5.00 (Black Bass).	
(A) From the United States Corps of Engineers' buoy line near the Codorniz boat ramp downstream to the dam.	All year.	5
(B) From the United States Corps of Engineers' buoy line upstream.	Closed to all fishing all year	
(63) Eel River (Humboldt, Lake, Mendocino and Trinity cos.). Also see Section 8.00(a).		
ALL WATERS OF THE EEL RIVER DRAINAGE EXCEPT THOSE LISTED BELOW ARE CLOSED TO ALL FISHING.		
(A) Main stem.		
1. From mouth to Fulmor Road, at its paved junction with the south bank of the Eel River.	Fourth Saturday in May through Mar. 31. Only barbless hooks may be used. April 1 through the Friday preceding the last Saturday in May. Only artificial lures with barbless hooks may be used.	0
2. From Fulmor Road, near east end of Cock Robin Island to South Fork Eel River.	Apr. 1 through Sept. 30. Only artificial lures with barbless hooks may be used.	0
	Oct. 1 through Mar. 31. Only barbless hooks may be used.	0
3. From South Fork Eel River to Cape Horn Dam.	Jan. 1 through Mar. 31 and Fourth Saturday in May through Sept. 30. At all times, only artificial lures with barbless hooks may be used. Closed to all fishing Apr. 1 through the Friday preceding the fourth Saturday in May and Oct. 1 through Dec. 31.	0
(B) Van Duzen River.		
1. Main stem and tributaries above Eaton Falls, located about 1/2 mile upstream of the mouth of the South Fork (Little Van Duzen) and 2 1/2 miles west of Dinsmore.	Last Saturday in Apr. through Nov. 15.	5
2. Main stem from its junction with the Eel River to the Highway 36 bridge near Bridgeville.	Fourth Saturday in May through Sept. 30. Only artificial lures with barbless hooks may be used.	0
	Oct. 1 through Mar. 31. Only barbless hooks may be used.	0
(C) South Fork Eel River from mouth to Rattlesnake Creek.	Fourth Saturday in May through Sept. 30. Only artificial lures with barbless hooks may be used.	0
	Oct. 1 through Mar. 31. Only barbless hooks may be used.	0
(D) Middle Fork Eel River.		
1. Middle Fork main stem from mouth to Bar Creek.	Jan. 1 through May 31 and July 16 through Sept. 30. At all times, only artificial lures with barbless hooks may be used. Closed to all fishing Jun. 1 through July 15 and Oct. 1 through Dec. 31.	0
2. Middle Fork tributaries above Indian Dick/Eel River Ranger Station Road	Last Saturday in Apr. through Nov.15. Maximum size limit:14 inches total length.	5

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
3. Middle Fork and tributaries above mouth of Uhl Creek.	Last Saturday in Apr. through Nov. 15. Maximum size limit:14 inches total length. Only artificial lures with barbless hooks may be used.	2
4. Balm of Gilead Creek and tributaries above falls 1 1/4 miles from mouth.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
5. North Fork of Middle Fork and tributaries above mouth of Willow Creek.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
(64) El Estero Lake (Monterey Co.) portions of the lake south of the Pearl Street bridge known as Camino Aquajito Arm and Camino El Estero finger.	Closed to all fishing all year	
(65) Elk Creek (Mendocino Co.). Also see Section 8.00(c).	All year	2
Main stem below the confluence of South Fork Elk Creek.	Fourth Saturday in May through Oct 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(66) Elk River (Humboldt Co.) downstream from Highway 101 bridge, excluding tributaries.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(67) Fall River (Shasta Co.).		
(A) Fall River from its origin at Thousand Springs downstream to the mouth of the Tule River and including Spring Creek and excluding all other tributaries.	Last Saturday in Apr. through Nov. 15. Maximum size limit:14 inches total length. Only artificial lures with barbless hooks may be used.	2
(68) Feather River below Oroville Dam (Butte, Sutter and Yuba Cos.).		
(A) Fish Barrier Dam to Table Mountain bicycle bridge in Oroville.	Closed to all fishing all year	
(B) Table Mountain bicycle bridge to Highway 70 bridge.	Jan. 1 through July 15. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(C) Highway 70 bridge to Sunset Pumps (approx. 5 miles downstream of the town of Live Oak).	Jan. 1 through the last day in Feb.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Mar. 1 through July 15	1 hatchery trout or 1 hatchery steelhead** 0 salmon 1 salmon
	July 16 through Sep. 30.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Oct. 1 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(D) Sunset Pumps (approx. 5 miles downstream of the town of Live Oak) to Highway 20 bridge.	Mar. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	July 16 through the last day in Feb.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(E) Highway 20 bridge to Feather River mouth.	Mar. 1 through July 15.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	July 16 through the last day in Feb.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(68.1) Feather River, Middle Fork (Plumas Co.), from the Union Pacific Railroad Bridge (1/4 mile upstream of County A–23 bridge) to the Mohawk Bridge.	First Saturday in April through Nov. 15.	5 per day 10 in possession
(68.2) Feather River North Fork from Belden Bridge downstream to Cresta Powerhouse (excluding reservoirs) (Plumas Co.).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(68.3) Fish Slough (Mono Co.).		
(A) The portions of Fish Slough which lie within the Owens Valley Native Fishes Sanctuary and BLM Spring.	Closed to all fishing all year.	
(B) All other portions of Fish Slough. Also, see Section 5.00(b)(16) for black bass regulations.	Last Saturday in Apr. through Nov. 15.	5
	Nov. 16 through the Friday preceding the last Saturday in Apr.	0
(69) Freshwater Creek (Humboldt Co.) downstream from bridge at "3 Corners" on the Old Arcata Road, excluding tributaries.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(69.5) Freshwater Lagoon (Humboldt Co.).	All year.	5 per day 10 in possession.
(70) Garcia River (Mendocino Co.). Also see Section 8.00(b).		
Main stem below the Eureka Hill Road bridge.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(71) Golden Trout Wilderness Area (Tulare Co.), excluding the main stem Kern River (see subsection 7.50(b)(86), and the Tule River drainage (See subsection 7.50(b)(197)).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	5
(71.5) Grass Valley Creek Reservoir (Trinity Co.)	All year. Only artificial lures with barbless hooks may be used.	2 trout.
(72) Greenwood Creek (Mendocino Co.). Also see Section 8.00(b).		
Main stem below the log bridge about 1 1/2 miles east of Highway 1.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(72.5) Guadalupe River below Guadalupe Reservoir (Santa Clara Co.) including Los Gatos Ck. Below Vasona Lake, and Alamitos Ck. and Arroyo Calero below Calero Reservoir.	Last Saturday in April through November 15. Only artificial lures and barbless hooks may be used.	0 trout 0 steelhead 0 salmon (See Article 4. Species Regulations for bag limits for other fish).
(73) Gualala River (Mendocino and Sonoma Cos.). Also see Section 8.00(b).		
Main stem below the confluence of Wheatfield and South Forks.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used. Fishing from a flotation device is prohibited from Nov. 15 through Feb. 28 from the confluence of the North Fork to the Highway 1 bridge.	1 hatchery trout or 1 hatchery steelhead**
(74) Hat Creek (Shasta Co.) from Lake Britton upstream to Baum Lake, exclusive of the concrete Hat No. 2 intake canal between Baum Lake and the Hat No. 2 Powerhouse.	Last Saturday in Apr. through Nov.15. Minimum size limit:18 inches total length. Only artificial lures with barbless hooks may be used. Aquatic invertebrates of the orders Plecoptera (stoneflies), Ephemeroptera (mayflies) and Trichoptera (caddisflies) may not be taken or possessed	2
(75) Hat Creek No.1 and Cassel Forebays (Shasta Co.). Those portions of Hat Creek known as No. 1 Forebay and Cassel Forebay.	Last Saturday in Apr. through Nov. 15	5 per day 10 in possession
(76) Heenan Lake and tributaries (Alpine Co.).		
(A) Heenan Lake.	Only on Fridays, Saturdays, and Sundays from the Friday before Labor Day through the last Sunday in October. Fishing hours: Only from sunrise to sunset. Only artificial lures with barbless hooks may be used.	0
(B) Heenan Lake tributaries.	Closed to all fishing all year.	
(77) Hennessey Lake tributaries (Napa Co.).	Last Saturday in Apr. through Nov. 15	5
(77.3) Hilton Creek (Mono Co.).		
(A) Hilton Creek downstream from Crowley Lake Drive.	Last Saturday in April through the Friday preceding Memorial Day and Oct. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
	Saturday preceding Memorial. Day through Sept. 30.	5 per day 10 in possession.
(B) Hilton Creek upstream from Crowley Lake Drive.	Last Saturday in April through Nov. 15.	5 per day 10 in possession.
(77.5) Hobart Creek (Tuolumne Co.), tributary to Spicer Meadows Reservoir.	July 1 through Nov. 15.	5 per day, 10 in possession
(78) Hot Creek (Mono Co.). Hot Creek from the State hatchery property line to the confluence with the Owens River.	All year. Only artificial flies with barbless hooks may be used.	0
(79) Illinois River and tributaries (Del Norte Co.).	Closed to finishing all year.	
(80) Independence Lake and tributaries (Nevada and Sierra Cos.).	NOTE: ALL LAHONTAN CUTTHROAT TROUT TAKEN SHALL BE IMMEDIATELY RETURNED TO THE WATER	
(A) Independence Lake tributaries and Independence Lake within 300 feet of the mouths of all tributaries.	Closed to all fishing all year	
(B) Independence Lake except Independence Lake within 300 feet of the mouths of all tributaries.	All year Only artificial lures with barbless hooks may be used	5 per day 10 in possession
(81) Indian Tom Lake (Siskiyou Co.).	All year	2
(82) Inyo County, Southwestern Portion, in all waters bounded by the Inyo County line on the south and west, Independence Creek on the north, and Highway 395 on the east (also see Cottonwood Creek Restrictions.)	First Sat. in March through Nov. 15.	5 per day 10 in possession
(83) Islay Creek (San Luis Obispo Co.).	Closed to all fishing all year	
(84) Junction Lake and tributaries (Mon Co.) including the lake's outlet stream to Highway 108.	Closed to all fishing all year	
(84.5) Kaweah River and tributaries (Tulare Co.).	All year.	5 per day 10 in possession
(85) Kent Lake tributaries (Marin Co.).	Last Saturday in Apr. through Nov. 15	5
(86) Kern River (Kern and Tulare Cos.).		
(A) From Lake Isabella to the Johnsondale bridge.	All year.	5 per day 10 in possession
(B) From Johnsondale bridge upstream to the point where U.S. Forest Service Trail 33E30 heads east to joint the Rincon Trail.	Last Saturday in Apr. through Nov. 15. Minimum size limit:14 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(C) From the point where U.S. Forest Service Trail 33E30 heads east to join the Rincon Trail upstream to the mouth of Tyndall Creek.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 10 inches total length for rainbow trout only. Only artificial lures with barbless hooks may be used.	2
(87) Kings River (Fresno Co.).		
(A) Kings River, South Fork from its confluence with Copper Creek downstream to the Highway 180 crossing at Boyden Cave.	All year.	2
(B) Kings River South Fork, from the Highway 180 crossing at Boyden Cave downstream to the main stem; Middle Fork, from the western boundary of Kings Canyon National Park downstream to the main stem; and main stem, from the confluence of the South and Middle forks downstream to Garnet Dike Campground.	All year. Only artificial lures with barbless hooks may be used.	0
(C) Kings River, from Garnet Dike Campbround downstream to Pine Flat Lake.	All year.	2
(D) Kings River from Pine Flat Dam downstream to U. S. Army Corps of Engineers Bridge on Pine Flat Road.	Last Saturday in Apr. through Nov. 15.	5
(E) Kings River Thorburn Spawning Channel, the 2,200 foot long channel located 5 miles downstream from Pine Flat Dam, and the reach of river within a 200–foot radius of the channel exit.	Closed to all fishing all year.	

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
(F) Kings River, from Cobbles (Alta) Weir downstream to the Highway 180 crossing.	All year. Only artificial lures with barbless hooks may be used.	0
(88) Reserved		
(B) Kings River from Garnet Dike Campground upstream to confluence of South and Middle Forks, South Fork upstream to the highway crossing at Boyden Cave and Middle Fork upstream to the western boundary of Kings Canyon National Park.	All year Only artificial lures with barbless hooks may be used	0
(89) Kirman (Carmen) Lake (Mono Co.).	Last Saturday in Apr. through Nov. 15. Minimum size limit: 16 inches total length. Only artificial lures with barbless hooks may be use	2
(90) Kirman (Carmen) Lake tributaries (Mono Co.).	Closed to all fishing all year	
(91) Klamath River Regulations (See Section 1.74 for salmon punch card requirements.		
(A) Klamath River main stem and all tributaries above Iron Gate Dam, except Shovel Creek and tributaries. The Klamath River main stem within 250 feet of the mouth of Shovel Creek is closed to all fishing November 16 through June 15.	Last Saturday in Apr. through Nov. 15	5 per day 10 in possession
(B) Shovel Creek and tributaries above mouth of Panther Creek.	Last Saturday in Apr. through Nov. 15.	5
(C) Shovel Creek and tributaries up to and including Panther Creek.	Closed to all fishing all year	

(91.1) Anadromous Waters of the Klamath River Below Iron Gate Dam (Lower Klamath River Basin). The regulations in this subsection apply only to waters of the Klamath River system which are accessible to anadromous salmonids. They do not apply to waters of the Klamath River which are inaccessible to anadromous salmon and trout, for example, portions of the Klamath River system upstream from Iron Gate Dam, portions of the Trinity River system above Lewiston Dam, and the Shasta River and tributaries above Dwinnel Dam. Fishing in these waters is governed by the General Regulations for non-anadromous waters of the North Coast District (see Section 7.00(a)(5)).

(A) Hook and Weight Restrictions.

1. Only barbless hooks may be used.

2. Definitions of Gap: For the purposes of this section, "gap" means the distance measured from the point of a hook to the shank.

3. Maximum Gaps and Gear Rigging.

a. No person shall use any single hook with a gap greater than 1 inch or any multiple hook with a gap greater than 3/4 inch.

b. It is unlawful to use any hook which is directly or indirectly attached closer than 18 inches to any weight exceeding 1/2 ounce.

c. It is unlawful to use any multiple hook or more than one single hook on non-buoyant lures exceeding one ounce.

d. It is unlawful to use any weight attached directly below a hook.

4. During closures to the take of adult salmon, anglers shall not remove any adult Chinook salmon from the water by any means, such as by dragging the fish on shore or using a net.

(B) General Area Closures.

1. No fishing is allowed within 750 feet of any Department of Fish and Game fish-counting weir.

2. No fishing is allowed from the Ishi Pishi Falls road bridge upstream to and including Ishi Pishi Falls from August 15 through December 31. EXCEPTION: members of the Karuk Indian Tribe listed on the current Karuk Tribal Roll may fish at Ishi Pishi Falls using hand-held dip nets.

3. No fishing is allowed from September 15 through December 31 in the Klamath River within 500 feet of the mouths of the Salmon, the Shasta and the Scott rivers.

(C) Klamath River Basin Possession Limits.

1. Trout Possession Limits.

a. The brown trout possession limit is 10 brown trout.

b. The hatchery trout or hatchery steelhead possession limits are as follows:

(i) Klamath River — 1 hatchery trout or hatchery steelhead.

(ii) Trinity River — 4 hatchery trout or hatchery steelhead.

2. Chinook Salmon Possession Limits.

a. Klamath River from January 1 to August 14 and the Trinity River from January 1 to August 31.

(i) 2 Chinook salmon.

b. Klamath River from August 15 to December 31 and Trinity River from September 1 to December 31.

(i) 9 Chinook salmon. No more than 6 Chinook salmon over 22 inches total length may be retained when the take of salmon over 22 inches total length is allowed.

(D) Klamath River Basin Chinook Salmon Quotas.

The Klamath River fall Chinook salmon take is regulated using quotas. Accounting of the tribal and non-tribal harvest is closely coordinated from August 15 through December 31 each year. These quota areas are noted in subsection (b)(91.1)(E) with "Fall Run Quota" in the *Open Season and Special Regulations* column.

1. Quota for Entire Basin.

The 2008 Klamath River Basin quota is 22,500 Klamath River fall Chinook salmon over 22 inches total length. The department shall inform the commission, and the public via the news media, prior to any implementation of restrictions triggered by the quotas. (NOTE: A Department status report on progress toward the quotas for the various river sections is updated weekly, and available at 1-800-564-6479.)

2. Sub Quota Percentages.

a. The sub quota for the Klamath River upstream of the Highway 96 Bridge at Weitchpec and the Trinity River is 50% of the total Klamath River Basin quota.

(i) The sub quota for the Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 Bridge at Weitchpec is 17% of the total Klamath River Basin quota.

(ii) The sub quota for the Trinity River main stem from the Old Lewiston Bridge to Cedar Flat is 16.5% of the total Klamath River Basin quota

(iii) The sub quota for the Trinity River main stem from Hawkins Bar to the confluence with the Klamath River is 16.5% of the total Klamath River Basin quota

b. The sub quota for the Klamath River downstream of the Highway 96 bridge at Weitchpec is 50% of the total Klamath River Basin quota.

(i) The sub quota for the Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth) is 15% of the total Klamath River Basin quota taken downstream of the Highway 101 bridge. (Note: This provision only applies if the department projects that the total Klamath River Basin quota will be met.)

(E) Klamath River Basin Open Seasons and Bag Limits.

All anadromous waters of the Klamath River Basin are closed to all fishing for all year except those areas listed in the following table. Bag limits are for trout and Chinook salmon in combination unless otherwise specified.

Body of Water	Open Season and Special Regulations	Daily Bag Limit
1. Bogus Creek and tributaries.	Fourth Saturday in May through August 31. Only artificial lures with barbless hooks may be used.	0
2. Klamath River main stem from 3,500 feet downstream of Iron Gate Dam to mouth.		
a. Klamath River from 3,500 feet downstream of the Iron Gate Dam to the Highway 96 bridge at Weitchpec.	January 1 to August 14.	0 Chinook salmon 1 hatchery trout or hatchery steelhead**
	Fall Run Quota August 15 to December 31, 2008.	3 Chinook salmon — only 2 fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length.
	Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained from 3,500 feet downstream of Iron Gate Dam to the Interstate 5 bridge when the department determines that the adult fall-run Chinook salmon spawning escapement at Iron Gate Hatchery exceeds 8,000 fish.	
b. Klamath River downstream of the Highway 96 bridge at Weitchpec.	January 1 to August 14.	2 Chinook salmon 1 hatchery trout or hatchery steelhead**

Body of Water	*Open Season and Special Regulations*	*Daily Bag Limit*
	Fall Run Quota August 15 to December 31, 2008.	3 Chinook salmon — only 2 fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 1 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Spit Area (within 100 yards of the channel through the sand spit formed at the Klamath River mouth). This area will be closed to all fishing after the sub quota has been met.	
3. Salmon River main stem, main stem of North Fork downstream of Sawyer's Bar Bridge, and main stem of South Fork downstream of the confluence of the East Fork of the South Fork.	November 1 through February 28.	0
4. Scott River main stem downstream from Fort Jones–Greenview Bridge to the confluence with the Klamath River.	Fourth Saturday in May through February 28.	0
5. Shasta River main stem downstream from the Interstate 5 bridge north of Yreka to the confluence with the Klamath River.	Fourth Saturday in May through August 31 and November 16 through February 28.	0
6. Trinity River and tributaries.		
a. Trinity River main stem downstream from 250 feet below Lewiston Dam to Old Lewiston bridge.	April 1 through August 31. Only artificial flies with barbless hooks may be used.	0
b. Trinity River main stem downstream from Old Lewiston Bridge to the Highway 299 West Bridge at Cedar Flat.	January 1 to August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota September 1 through December 31, 2008.	3 Chinook salmon — only 2 fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota Exception: Chinook salmon over 22 inches total length may be retained downstream of the Old Lewiston Bridge to the mouth of Indian Creek when the department determines that the adult fall–run Chinook salmon spawning escapement at Trinity River Hatchery exceeds 4,800 fish.	
c. Canyon Creek above the falls located about four miles above the wilderness area boundary.	Last Saturday in April through November 15.	2
d. Trinity River main stem downstream from the Highway 299 West bridge at Cedar Flat to the Hawkins Bar Bridge (Road to Denny).	January 1 through August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	September 1 through December 31.	Closed to all fishing.
e. New River main stem downstream from the confluence of the East Fork to the confluence with the Trinity River.	September 15 through November 15. Only artificial lures with barbless hooks may be used.	0
f. Trinity River main stem downstream from the Hawkins Bar Bridge (Road to Denny) to the mouth of the South Fork Trinity River.	January 1 to August 31.	2 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota September 1 through December 31, 2008.	3 Chinook salmon — only 2 fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
g. Trinity River main stem downstream from the mouth of the South Fork Trinity River to the confluence with the Klamath River.	January 1 to August 31.	0 Chinook salmon 5 brown trout 2 hatchery trout or hatchery steelhead**
	Fall Run Quota September 1 through December 31, 2008.	3 Chinook salmon — only 2 fish over 22 inches total length until sub quota is met, then 0 fish over 22 inches total length. 5 brown trout 2 hatchery trout or hatchery steelhead**
h. Hayfork Creek main stem downstream from Highway 3 bridge in Hayfork to the confluence with the South Fork Trinity River.	November 1 through March 31. Only artificial lures with barbless hooks may be used.	0
i. South Fork Trinity River downstream from South Fork Trinity River Bridge at Hyampom to the confluence with the Trinity River	November 1 through March 31.	0 Chinook salmon 2 hatchery trout or hatchery steelhead**
j. South Fork Trinity River downstream from the mouth of Grouse Creek.	Fourth Saturday in May through Mar. 31.	0 Chinook salmon See subsection (b)(91.1)(C) 2. for trout bag limits.
(92) Klopp Lake (Humboldt Co.).	All year. Only artificial lures with barbless hooks may be used	2
(93) Laguna de Santa Rosa (Sonoma Co. tributary to Russian River) upstream from Guerneville Road bridge.	Last Saturday in Apr. through Nov. 15. Open to fishing for non-salmonids only, no salmon or trout may be taken	0

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(95) Lagunitas Creek and tributaries (Marin Co).	Closed to all fishing all year	
(96) Lagunitas Lake (Marin Co.).	All year. Maximum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used	2
(96.5) Lane Lake (Mono Co.).	Last Saturday in Apr. through Nov. 15.	2
(97) Las Gazas Creek and tributaries above Robinson Canyon Road (Monterey Co.).	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(98) Lassen Creek and tributaries (Modoc Co.)	Saturday preceding Memorial Day through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(98.5) Laurel Lakes and tributaries (Mono Co.)	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used	2
(98.6) Lee Vining Creek from the Lee Vining conduit downstream to Mono Lake (Mono Co.)	Last Saturday in Apr. through Nov. 15.	2
(99) Limekiln Creek and tributaries above Highway 1 (Monterey Co.).	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(100) Little Butano Creek above the diversion dam at Butano State Park (San Mateo Co.).	Last Saturday in Apr. through Nov. 15	5 trout
(101) Little Cottonwood Creek and tributaries (Inyo Co.).	See Cottonwood Creek 7.50(b)(48).	
(102) Little River (Humboldt Co.) downstream from the Country Road bridge at Crannell, excluding tributaries.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used. Cutthroat trout minimum size limit: 10 inches.	2 cutthroat trout. No other salmonids shall be taken.
	Nov. 1 through Mar. 31. Only barbless hooks may be used. Cutthroat trout minimum size limit: 10 inches.	1 hatchery trout or 1 hatchery steelhead** 2 cutthroat trout
(103) Little Sur River and tributaries above Coast Road (Monterey Co.).	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(103.5) Little Truckee River (Sierra and Nevada cos.) from Stampede Reservoir Dam Downstream to Boca Reservoir.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(104) Llagas Creek (Santa Clara Co.). Also see Section 8.00(c).		
(A) From mouth to Monterey Highway Bridge.	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(B) From Monterey Highway Bridge to Chesbro Dam.	Closed to all fishing all year	
(104.3) Los Angeles Aqueduct from Owens River to Alabama Gates (Inyo County).	First Saturday in Mar. through Nov. 15.	5 per day 10 in possession
	Nov. 16 through the Friday preceding the first Saturday in Mar.	5
(104.5) Los Osos Creek (San Luis Obispo Co.).	Closed to all fishing all year.	
(105) Los Padres Reservoir (Monterey Co.).	Last Saturday in Apr. through Nov. 15. No rainbow trout less than 10 inches or greater than 16 inches total length may be kept. Only artificial lures with barbless hooks may be used.	5 trout, no more than 2 of which may be rainbow trout.
(106) Macklin Creek (Nevada Co.), arising near Milton-Bowman Tunnel alignment, flowing northwesterly and having its junction with the Middle Fork Yuba River about $2^1/_4$ miles downstream from Milton Reservoir.	Closed to all fishing all year	
(107) Mad River and tributaries (Humboldt Co.).		
(A) Mad River within a radius of 200 yards of its mouth.	Jan. 1 through Mar. 31. Only artificial lures with barbless hooks may be used.	2 hatchery trout or 2 hatchery steelhead.**
(B) Mad River main stem, from 200 yards above its mouth upstream to the confluence with Cowan Creek, excluding tributaries. Also see Section 8.00(a).	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Oct. 31. Only barbless hooks may be used from Nov. 1 through March 31.	2 hatchery trout or 2 hatchery steelhead.**
(C) Mad River main stem, from the confluence with Cowan Creek to the confluence with Deer Creek, excluding tributaries.	Closed to all fishing all year.	
(D) Mad River main stem from the confluence with Deer Creek to Ruth Dam.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(E) Mad River and tributaries above Ruth Dam.	Last Saturday in May through Nov. 15.	5 per day 10 in possession
(109) Mammoth Pool (Fresno and Madera cos.).	June 16 through Apr. 30.	5 per day 10 in possession
(110) Mammoth Pool tributaries (Fresno and Madera Cos.) from their mouths to a point 300 feet upstream.	June 16 through Nov. 15	5 per day 10 in possession
(111) Martis Creek from the Martis Lake dam downstream to the confluence with the Truckee River (Nevada Co.)	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
(112) Martis Lake and tributaries (Nevada and Placer Cos.)		
(A) Martis Lake.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used	0
(B) Martis Lake tributaries.	Closed to all fishing all year	
(113) Mattole River (Humboldt Co.). Also see Section 8.00(a).		
(A) Mattole River main stem from the mouth to 200 yards upstream.	Closed to all fishing all year.	
(B)Mattole River main stem from 200 yards upstream of mouth to confluence with Stansberry Creek.	Jan. 1 through Mar. 31. Only artificial lures with barbless hooks may be used.	0

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(C) Mattole River main stem from confluence with Stansberry Creek to confluence with Honeydew Creek.	Jan. 1 through Mar. 31. and Fourth Saturday in May through Aug. 31. Only artificial lures with barbless hooks may be used.	0
(115) McCloud River and tributaries (Shasta and Siskiyou Cos.).		
(A) Moosehead Creek and all tributaries.	Closed to all fishing all year.	
(B) Sheepheaven Creek and all tributaries.	Closed to all fishing all year.	
(C) McCloud River from McCloud Dam downstream to confluence of Ladybug Creek.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	2
(D) McCloud River from confluence of Ladybug Creek downstream to lower boundary of the U.S. Forest Service loop (southern boundary of section 36, T38N, R3W).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(E) McCloud River from the lower boundary of the U.S. Forest Service loop (southern boundary of section 36, T38N, R3W) downstream to the upper boundary of the McCloud River Club (southern boundary of section 14, T37N, R3W).	Closed to all fishing all year.	
(115.2) McDonald Creek (Humboldt Co.).	Closed to fishing all year.	
(115.3) McGee Creek (Mono Co.).		
(A) McGee Creek downstream from Highway 395.	Last Saturday in April through Friday preceding Memorial Day and Oct. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
	Saturday preceding Memorial Day through Sept. 30.	5 per day 10 in possession.
(B) McGee Creek upstream from Highway 395.	Last Saturday in April through Nov. 15.	5 per day 10 in possession
(115.4) McLeod Lake (Mono Co.).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(115.5) Meiss Lake (Alpine Co.).	Closed to all fishing all year	
(116) Mendocino Lake tributaries (Mendocino Co.).	Last Saturday in Apr. through Nov. 15	5
(117) Merced River (Mariposa Co.).		
(A) From the Happy Isles footbridge downstream to the western boundary of Yosemite National Park at El Portal.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0 rainbow trout 5 brown per day 10 brown trout in possession
(B) From the western boundary of Yosemite National Park at El Portal boundary downstream to the Foresta bridge.	All year. Only artificial lures with barbless hooks may be used.	0 rainbow trout 5 brown trout per day 10 brown trout in possession
(C) From Foresta bridge downstream to Lake McClure.	Last Saturday in April through November 15. November 16 through the Friday preceding the last Saturday in April.	5 per day 10 in possession
(118) Merced River (Merced Co.).		
(A) From Crocker–Huffman Dam downstream to the Schaffer bridge on Oakdale Road.	Jan. 1 through Oct. 31. Only artificial lures with barbless hooks may be used.	0 trout 0 salmon
(B) From the Schaffer bridge on Oakdale Road downstream to the mouth.	Jan. 1 through Oct. 31. Bait may be used from Jan. 1 through Oct. 31. However, from April 1 through the Friday preceding the fourth Saturday in May, bait may be used only with single hooks having a gap between 1/2 and 1 inch, or with multiple hooks having a gap between 1/4 and 1/2 inch. Closed to fising all year.	0 trout 0 salmon
(118.2) Milk Ranch Creek and tributaries (Alpine Co.) above the confluence with the North Fork Mokelumne River.		
(118.5) Mill Creek (Mono Co. tributary to West Walker River) and tributaries upstream from confluence with Lost Cannon Creek.	Closed to all fishing all year	
(119) Mill Creek (Tehama Co.).		
(A) From the Lassen National Park boundary downstream to the U.S. Geological Survey gauging station cable crossing at the mouth of Mill Creek Canyon.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(B) From U.S. Geological Survey gauging station cable crossing at mouth of Mill Creek Canyon downstream to the mouth of Mill Creek.	June 16 through Sept. 30.	0
(120) Milton Lake and middle Fork Yuba River between Milton Lake and Jackson Meadows Dam (Nevada and Sierra cos.).	Last Saturday in Apr. through Nov. 15. Maximum size limit: 12 inches total length. Only artificial lures with barbless hooks may be used	2
(122) Mitchell Creek and tributaries (Contra Costa Co.).	Closed to all fishing all year	
(124) Mokelumne River (San Joaquin Co.).		
(A) From mouth to Peltier Road.	All year.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(B) From Peltier Road to Camanche Dam including Lodi Lake.	Jan. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Fourth Saturday in May through Oct. 15.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(C) Between the Woodbridge vehicle bridge and the Woodbridge Irrigation District Dam.	Closed to all fishing all year	
(125) Mono Creek (Fresno Co.) and tributaries from Edison Lake upstream to the confluence with the North Fork Mono Creek.	June 1 through October 15.	5 per day 10 in possession
(125.5) Moosehead Creek and tributaries (Shasta and Siskiyou cos.).	See McCloud River 7.50(b)(115).	
(126) Murray Canyon Creek and tributaries (Alpine Co.) upstream from the falls located about 1/4 mile above the confluence with the East Fork Carson River.	Closed to all fishing all year	
(128) Nacimiento River (Monterey and San Luis Obispo Cos.) from Nacimiento Reservoir.		

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(A) From the headwaters in the Los Padres National Forest, downstream to the southern border of Fort Hunter–Liggett Military Reservation and the main stem below Nacimiento Dam, downstream to its confluence with the Salinas River.	Last Saturday in Apr. through Nov. 15.	5
(B) Nacimiento Lake, and the main stem Nacimiento River upstream to the southern boundary of Fort Hunter–Liggett.	All year.	5
(129) Napa River and tributaries (Napa Co.). Also see Section 8.00(c).		
(A) Main stem above the Oakville Cross Road Bridge near Yountville and all Napa River tributaries.	Closed to all fishing all year.	
(B) Main stem from the Oakville Cross Road Bridge near Yountville to the Trancas Bridge. Note: The Napa River below the Trancas Bridge is tidewater, and is regulated by regulations for the Ocean and San Francisco Bay District (see Sections 1.53 and 27.00).	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Oct. 31. Only barbless hooks may be used from Nov. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(130) Navarro River and tributaries (Mendocino Co.). Also see Section 8.00(c).		
Main stem below the Greenwood Road bridge.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(130.5) Nelson Corral Reservoir and tributary (Lassen Co.).		
(A) Nelson Corral Reservoir.	All year.	2 trout
(B) Nelson Corral Reservoir tributary (the unnamed tributary entering the reservoir at the north end).	Closed to all fishing all year	
(131) Newlands Lake tributaries (Lassen Co.).	Closed to all fishing all year	
(132) Nicasio Lake tributaries (Marin Co.).	Last Saturday in Apr. through Nov. 15	5
(133) Noyo River and tributaries (Mendocino Co.). Also see Section 8.00(b).		
(A) Noyo River main stem from the mouth to the Georgia-Pacific logging road bridge one mile east of Highway 1.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(B) Noyo River from the Georgia–Pacific logging road bridge one mile east of Highway 1 to the confluence with the South Fork Noyo River.	Fourth Saturday in May through Oct. 1. Only artificial lures with barbless hooks may be used.	0
(C) Noyo River main stem from the confluence with the South Fork Noyo River to the Sonoma/Mendicino Boy Scout Council Camp.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(134) Owens River (Inyo and Mono Cos.), including Pleasant Valley and Tinemaha lakes, except (A), (B), (C), (D) and (E) below.	First Saturday in Mar. through Oct. 31.	5 per day 10 in possession
	Nov. 1 through the Friday preceding the first Saturday in Mar.	5
(A) Upper Owens River from Benton Bridge road crossing upstream to Big Springs. Above Big Springs, see Deadman Creek 7.50(b)(54.5).	Last Saturday in April through Nov. 15. Maximum size limit: 16 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(B) Upper Owens River from Benton Bridge road crossing downstream to upper Owens River fishing monument.	Saturday preceding Memorial Day through Sep. 30.	5 per day 10 in possession.
(C) Upper Owens River from fishing monument (located about 1/4 mile upstream from maximum lake level) to Crowley Lake.	Last Saturday in April through July 31.	5 per day 10 in possession.
	Aug. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
(D) From Pleasant Valley Dam downstream to footbridge at lower end of Pleasant Valley Campground.	Jan. 1 through Sept. 30.	2
	Oct. 1 through Dec. 31. Only artificial lures with barbless hooks may be used.	0
(E) From footbridge at lower end of Pleasant Valley Campground east (downstream) 3.3 miles along Chalk Bluffs Road to the redwood sport fishing regulations sign.	All year. Only artificial lures with barbless hooks may be used.	0
(135) Pajaro River (Monterey, Santa Clara, Santa Cruz and San Benito Cos.) from mouth to Uvas Creek. Also see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(135.5) Parker Creek (Mono Co.). from the Lee Vining Conduit to Rush Creek.	Last Saturday in Apr. though Nov. 15. Only artificial lures with barbless hooks may be used	0
	Closed to all fishing all year	
(135.8) Upper Penitencia Creek (Santa Clara Co.) a tributary to Coyote Ck. Also see Section 8.00(c).		
(136) Pescadero Creek (San Mateo Co.) from mouth to the Stage Road bridge at Pescadero. Also see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(137) Pescadero Creek tributaries and main stem above the Stage Road bridge at Pescadero (Santa Clara and San Mateo Cos.).	Closed to all fishing all year.	
(138) Pillsbury Lake tributaries (Lake Co.).	Last Saturday in Apr. 5 through Nov. 15.	5
(139) Pine Creek and Pine Creek Slough (Lassen Co.) See Eagle Lake 7.50(b)(61).		
(A) Pine Creek Slough and Pine Creek below State Highway 44.	Closed to fishing all year.	
(B) Pine Creek above State Highway 44.	Saturday preceding Memorial Day through Nov. 15.	5 per day 10 in possession
(139.5) Pine Creek (Goose Lake Tributary) and tributaries (Modoc Co.).	Saturday preceding Memorial Day through November 15. Only artificial lures with barbless hooks may be used.	5 brown trout per day. 10 in possession. No other species may be taken or possessed.
(139.7) Pinole Creek (Contra Costa Co.) and tributaries.	Closed to all fishing all year	
(140) Piru Creek (Los Angeles and Ventura cos.).		

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(A) Piru Creek and tributaries upstream of Pyramid Lake.	All year. Only artificial lures with barbless hooks may be used.	2
(B) From Pyramid Dam downstream to the bridge approximately 300 yards below Pyramid Lake.	Closed to all fishing all year.	
(C) From the bridge approximately 300 yards below Pyramid Lake downstream to the falls about 1/2 mile above the old Highway 99 bridge.	All year. Only artificial lures with barbless hooks may be used.	0
(141) Pit River (Shasta Co.).		
(A) From Pit No. 3 (Britton Dam) downstream to the outlet of the Pit No. 3 Powerhouse.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(B) Pit River, from Pit No. 3 Powerhouse downstream to Pit No. 7 dam.	Last Saturday in Apr. through Nov. 15.	5
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artifical lures with barbless hooks may be used.	0
(C) From Pit No. 7 dam downstream to Shasta Lake.	All year	5
(143) Pole Creek and tributaries (Placer Co.)	Closed to all fishing all year	
(144) Portuguese Creek, West Fork (Madera Co.) from headwaters downstream to confluence with the East Fork Portuguese Creek.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used	0
(145) Prosser Creek from the Prosser Reservoir dam downstream to the confluence with the Truckee River (Nevada Co.)	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
(146) Purisima Creek (San Mateo Co.).	Last Saturday in Apr. through Nov. 15	5 trout
(147) Putah Creek (Solano and Yolo Cos.) from Solano Lake to Monticello Dam.	Last Saturday in April through Nov. 16.	5
	Nov. 16 through the Friday preceding the last Saturday in April. Only artificial lures and barbless hooks may be used.	0
(148) Redwood Creek and tributaries (Alameda Co.).	Closed to all fishing all year	
(149) Redwood Creek and tidewaters (Marin Co.)	Closed to all fishing all year	
(150) Redwood Creek (Humboldt Co.). Also see Section 8.00(a).		
(A) Redwood Creek main stem, within a radius of 200 yards of its mouth.	Jan. 1 through Mar. 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(B) Redwood Creek main stem, from 200 yards above the mouth to the mouth of Prairie Creek.	Fourth Saturday in May through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(C) Redwood Creek main stem, from the mouth of Prairie Creek to the mouth of Bond Creek.	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(D) Redwood Creek and tributaries, above the mouth of Bond Creek.	Closed to all fishing all year.	
(150.5) Robinson Creek (Mono Co.).	Last Saturday in	5
(A) From the U.S. Forest Service boundary downstream to Upper Twin Lake.	April through Sept. 14 Sept. 15 through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(B) Between Upper and Lower Twin Lakes.	Last Saturday in April through Sept. 14.	5
(151) Rock Creek Diversion Channel (Mono Co.). Rock Creek Diversion Channel from its source below Tom's Place to its confluence with Crooked Creek.	Closed to all fishing all year.	
(152) Rock Creek (Shasta Co.) from its confluence with Pit River to Rock Creek Falls (about one mile upstream)	Closed to all fishing all year	
(152.5) Roosevelt Lake (Mono Co.).	Last Saturday in Apr. through Nov. 15.	2
(153) Rush Creek (Mono Co.) only from Grant Lake Dam downstream to Mono Lake.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used	0
(154) Russian Gulch and tributaries (Sonoma Co.). Main stem below the confluence of the East Branch. Also see Section 8.00(b).	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(155) Russian River and tributaries (Sonoma and Mendocino Cos.). Also see Section 8.00(b).		
(A) Russian River main stem below the confluence of the East Branch.	All year. Only artificial lures with barbless hooks may be used from April 1 through Oct. 31. Only barbless hooks may be used from Nov. 1 through March 31.	2 hatchery trout or 2 hatchery steelhead**
(B) Russian River main stem above the confluence of the East Branch and all River tributaries. (See Laguna de Santa Rosa 7.50(b)(93) and Santa Rosa Creek 7.50(b)(172) for non-salmonids only.)	Closed to all fishing all year.	
(C) Russian River within 250 feet of the Healdsburg Memorial Dam.	Closed to all fishing all year.	
(156) Sacramento River main stem and Sacramento River tributaries (Butte, Colusa, Contra Costa, Glenn, Sacramento, Shasta, Siskiyou, Solano, Sutter, Tehama and Yolo Cos.).	Also see Sierra District General Regulations (See Section 7.00(b)).	
(A) Sacramento River and tributaries from Box Canyon Dam downstream to the Scarlett Way bridge in Dunsmuir.	Open All Year. Only artificial lures with barbless hooks may be used.	0
(B) Sacramento River and tributaries excluding Soda Creek from Scarlett Way bridge downstream to the county bridge at Sweetbriar (See Soda Creek 7.50(b)(180.5)).	Last Saturday in Apr. through Nov. 15.	5 per day 10 in possession

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
(C) Sacramento River mainstem (excluding tributaries) from the Scarlett Way bridge downstream to the county bridge at Sweetbriar.	Nov. 16 through the Friday preceding the last Sat. in Apr. Only artificial lures with barbless hooks may be used.	0
(D) Sacramento River and tributaries excluding Castle Creek from the county bridge at Sweetbriar downstream to Shasta Lake (See Castle Creek 7.50(b)(39.3)).	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	2
(E) Sacramento River mainstem (excluding tributaries) from the county bridge at Sweetbriar downstream to Shasta Lake.	Nov. 16 through the Friday preceding the last Sat. in Apr. Only artificial lures with barbless hooks may be used.	0
(F) Sacramento River from Keswick Dam to 650 feet below Keswick Dam.	Closed to all fishing all year.	
(G) Sacramento River from 650 feet below Keswick Dam to the Deschutes Road bridge.	All year. Trout maximum size limit: 16 inches. Only barbless hooks may be used.	1 trout 0 salmon
(H) Sacramento River from the Deschutes Road Bridge to 500 feet upstream from Red Bluff Diversion Dam.	Jan. 1 through Mar. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Apr. 1 through Aug 30.	1 hatchery trout or 1 hatchery steelhead** and 1 wild trout ** 0 salmon
	Aug. 31 through Dec 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(I) Sacramento River from 500 feet upstream from Red Bluff Diversion Dam to 150 feet below the Lower Red Bluff (Sycamore) Boat Ramp.	Closed to all fishing all year.	
(J) Sacramento River from 150 feet below the Lower Red Bluff (Sycamore) Boat Ramp to the Hwy 113 bridge near Knights Landing.	Jan. 1 to Oct. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Nov. 1 to Dec. 31.	1 hatchery trout or 1 hatchery steelhead** 1 salmon
(K) Sacramento River from the Hwy 113 bridge near Knights Landing to the Carquinez Bridge (includes Suisun Bay, Grizzly Bay and all tributary sloughs).	Jan. 1 through Dec. 31.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(157) Sagehen Creek (Nevada Co.).		
(A) From the stream gauging station (located about one-eight mile below Sagehen Creek Station Headquarters) upstream to about one-eight of a mile above the station headquarters at a point where the stream splits into two sections.	Closed to all fishing all year	
(B) From the Highway 89 bridge upstream to the gauging station at the east boundary of the Sagehen Creek Station.	Last Saturday in Apr. through Nov. 15 Only artificial lures with barbless hooks may be used	0
(158) Salinas River and tributaries (Monterey and San Luis Obispo Cos.). Also see Section 8.00(c).		
(A) The main stem Salinas River.	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(B) All Salinas River tributaries upstream of Arroyo Seco River confluence (including the San Antonio River below San Antonio Reservoir and Dam, Paso Robles Creek and tributaries, Atascadero Creek, Santa Margarita Creek and tributaries but excluding the Nacimiento River) See 7.50(b)(128).	Last Saturday in Apr. through Nov. 15. Only barbless hooks may be used.	0 trout
(159) Salmon Creek and tributaries (Sonoma Co.). Also see Section 8.00(b).		
(A) Salmon Creek main stem below Highway 1.	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Oct. 31. Only barbless hooks may be used from Nov. 1 through Mar. 31.	0
(B) Salmon Creek main stem above Highway 1 and all Salmon Creek tributaries.	Closed to all fishing all year	
(160) Salmon Creek and tributaries above Highway 1 (Monterey Co.).	Last Saturday in Apr. through Nov. 15	5 trout
(161) Salmon River (Siskiyou Co.)	See Klamath River 7.50(b)(91.1).	
(163) San Benito River and tributaries (San Benito Co.).	Last Saturday in Apr. through Nov. 15	5 trout 0 salmon
(164) San Clemente Creek and tributaries (Monterey Co.) except for Trout Lake.	Last Saturday in Apr. through Nov. 15 Only artificial lures with barbless hooks may be used	0
(165) San Clemente Reservoir (Monterey Co.).	Closed to all fishing all year	
(165.2) San Diego Creek (Orange Co.). Downstream of the MacArthur Blvd. bridge only.	Saturday preceding Memorial Day through Nov. 30. Only artificial lures with barbless hooks may be used.	0 trout or steelhead
(166) San Francisquito Creek and tributaries (Santa Clara and San Mateo Cos.)	Closed to all fishing all year	
(167) San Gabriel River, West fork and tributaries (Los Angeles Co.).		
(A) Upstream of Cogswell Dam (including Cogswell reservoir and its tributaries).	All year. Only artificial lures with barbless hooks may be used.	2
(B) From Cogswell Dam downstream to the second bridge upstream from the Highway 39 bridge.	All year. Only artificial lures with barbless hooks may be used.	0
(167.2) San Gabriel River (Los Angeles and Orange Cos.) Upstream of the Highway 22 bridge to the start of concrete-lined portion of the river channel.	Saturday preceding Memorial Day through Nov. 30. Only artificial lures with barbless hooks may be used.	0 trout or steelhead
(168) San Gregorio Creek (San Mateo Co.) from the mouth to the Stage Road bridge at San Gregorio.	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(168.5) San Joaquin River (Fresno, Madera, Merced, San Joaquin, and Stanislaus Cos.).		
(A) From Friant Dam downstream to the Highway 140 bridge.	All year.	5 trout 0 salmon
(B) From the Highway 140 bridge downstream to the Highway 132 bridge.	Jan. 1 through Oct. 31.	0 trout 0 salmon
	Nov. 1 through Dec. 31.	0 trout 0 salmon

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(C) From the Highway 132 bridge downstream to the Interstate 5 bridge at Mossdale.	Jan 1 through October 31.	0 trout 0 salmon
	Nov. 1 through Dec. 31.	0 trout 0 salmon
(168.6) San Juan Creek main stem (Orange Co.).	Closed to all fishing all year.	
(169) San Lorenzo River (Santa Cruz Co.) from the mouth to the Lomond Street bridge in the town of Boulder Creek. Also see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(170) San Luis Obispo Creek (San Luis Obispo Co.) from mouth to the first and most southwestern highway 1/101 bridge (the first bridge upstream from the lagoon).	Dec. 1 through Mar. 7, but only Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(170.1) San Luis Rey River (San Diego Co.).	Closed to all fishing all year.	
(170.5) San Mateo Creek and tributaries downstream from the falls between the Tenaja Road crossing and Fisherman's Camp (San Diego and Riverside Co's.).	Closed to all fishing all year.	
(171) San Simeon Creek (San Luis Obispo Co.) from mouth to the pedestrian bridge in San Simeon Beach State Park.	Dec. 1 through Mar. 7, but only Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(171.6) Santa Margarita River and tributaries downstream from the Interstate 15 bridge (San Diego and Riverside Co's.).	Closed to all fishing all year.	
(171.7) Santa Paula Creek and tributaries above the falls located 3 miles upstream from the Highway 150 bridge (Ventura Co.).	All year.	5
(172) Santa Rosa Creek (Sonoma Co. tributary to Russian River) from Laguna de Santa Rosa to Highway 12 bridge.	Last Saturday in Apr. through Nov. 15. Open to fishing for non-salmonids only, no salmon or trout may be taken	0
(172.3) Santa Ynez River and tributaries downstream from Bradbury Dam (Santa Barbara Co.).	Closed to all fishing all year.	
(172.5) Santa Ynez River and tributaries upstream of Gibraltar Dam (Santa Barbara County).	All year	2
(172.7) Sausal Creek (Alameda Co.). and tributaries	Closed to all fishing all year.	
(173) Scott Creek (Santa Cruz Co.) from mouth to confluence with Big Creek.	Dec. 1 through Mar. 7, but only Sat., Sun.,Wed., legal holidays and opening and closing days. Only barbless hooks may be used	0
(174) Scott River (Siskiyou Co.).	See Klamath River 7.50(b)(91.1).	
(174.3) See Canyon Creek (San Luis Obispo Co.).	Closed to all fishing all year.	
(174.5) Sespe Creek and tributaries above Alder Creek confluence. (Ventura Co.).	All year. Only artificial lures with barbless hooks may be used.	0
(175) Shasta Lake (Shasta Co.).	All year	5
(176) Shasta River (Siskyou Co.).	See Klamath River 7.50(b)(91.1).	
(176.5) Sheepheaven Creek and all tributaries (Siskiyou Co.).	See McCloud River 7.50(b)(115).	
(177) Shovel Creek and tributaries (Siskiyou Co.).	See Klamath River 7.50(b)(91).	
(177.2) Silver Creek (Mono County) tributary to West Walker River and tributaries upstream from Silver Falls.	Closed to all fishing all year.	
(177.5) Silver Creek between Sworinger Lake and Lost Lake and all other tributaries to Sworinger Lake (Modoc and Lassen Cos.).	Closed to all fishing all year	
(178) Silver King Creek and tributaries including lakes (Alpine Co.) above Tamarack Lake Creek (within section 7 T7N R22E).	Closed to all fishing all year	
(178.5) Sisquoc River and tributaries (Santa Barbara Co.).	All year. Only artificial lures with barbless hooks may be used.	0
(179) Slinkard Creek and tributaries (Mono Co.) upstream from a Department of Fish and Game cable crossing located about 2.7 miles south of a point on Highway 89 two miles west of its junction with Highway 395 (the cable is located about 600 feet below a rock dam on Clinkard Creek within the south half of Section 21, T9N, R22E).	Aug. 1 through Nov. 15. Only artificial flies with barbless hooks may be used.	0
(180) Smith River Drainage Also see Section 8.00(a). Note: for tributaries not listed in (A) through (D) below, see subsection (a)(4) of Section 7.00, (General Regulations for the North Coast District).		
(A) Main stem from the mouth to confluence of Middle and South forks.	Fourth Saturday in May through Apr. 30. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Aug. 31.	1 wild trout or steelhead over 16 inches total length, or 1 hatchery trout or 1 hatchery steelhead**. No more than a total of 5 wild trout or steelhead ** over 16 inches total length may be kept from the Smith River per year. 2 cutthroat trout minimum size limit: 10 inches total length 1 king salmon
(B) Middle Fork Smith River 1. from mouth to Patrick Creek	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Aug. 31.	1 wild trout or steelhead over 16 inches total length, or 1 hatchery trout or 1 hatchery steelhead**. No more than a total of 5 wild trout or steelhead ** over 16 inches total length may be kept from the Smith River per year. 2 cutthroat trout minimum size limit: 10 inches total length 1 king salmon
2. above the mouth of Patrick Creek	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	2 cutthroat trout minimum size limit: 10 inches total length. No other salmonids may be taken.
(C) South Fork Smith River	Fourth Saturday in May	1 wild trout

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
1. from the mouth upstream approximately 1,000 feet to the County Road (George Tryon) bridge and Craigs Creek to Jones Creek.	through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Aug. 31.	or steelhead over 16 inches total length, or 1 hatchery trout or 1 hatchery steelhead**. No more than a total of 5 wild trout or steelhead ** over 16 inches total length may be kept from the Smith River per year. 2 cutthroat trout minimum size limit: 10 inches total length 1 king salmon
2. from the George Tryon bridge upstream to the mouth of Craigs Creek.	Closed to fishing all year.	
3. above the mouth of Jones Creek.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	2 cutthroat trout minimum size limit: 10 inches total length. No other salmonids may be taken.
(D) North Fork Smith River		
1. from the mouth to Stony Creek	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Aug. 31.	1 wild trout or steelhead** over 16 inches total length, or 1 hatchery trout or 1 hatchery steelhead**. No more than a total of 5 wild trout or steelhead ** over 16 inches total length may be kept from the Smith River per year. 2 cutthroat trout minimum size limit: 10 inches total length 1 king salmon
2. above the mouth of Stony Creek	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	2 cutthroat trout minimum size limit: 10 inches total length. No other salmonids may be taken.
(180.5) Soda Creek (Shasta Co.)	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(181) Sonoma Creek and tributaries (Sonoma Co.). Also see Section 8.00(c).		
(A) Sonoma Creek and tributaries above the Adobe Canyon road bridge.	Last Saturday in Apr. through Nov. 15.	5
(B) Sonoma Creek and tributaries between the Adobe Canyon Road bridge and the Highway 121 bridge. Note: Sonoma Creek below the Highway 121 Bridge is tidewater, and is regulated by regulations for the Ocean and San Francisco Bay District (see sections 1.53 and 27.00).	Closed to all fishing year.	
(182) Sonoma Lake tributaries (Sonoma Co.).	Last Saturday in April through Apr. 15.	5
(183) Soquel Creek (Santa Cruz Co.) from mouth to confluence of East and West branch. Also see Section 8.00(c).	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(184) Soulajoule Lake tributaries (Marin Co.).	Last Saturday in Apr. through Nov. 15	5
(185) Squaw Valley Creek and tributaries (Shasta Co.) only from the bridge crossing on U S Forest Service road (#39N21) located one-eighth mile upstream of the mouth of Cabin Creek (Northwest 1/4 of Section 14, T38N, R3W) downstream to an including Tom Dow Creek.	Last Saturday in Apr. through Nov. 15	2
(186) Stanislaus River (Calaveras, San Joaquin, Stanislaus and Tuolumne Cos.).		
(A) From Goodwin Dam downstream to the Highway 120 bridge in Oakdale.	Jan. 1 through Oct. 31. Only artificial lures with barbless hooks may be used.	0 trout 0 salmon
(B) From the Highway 120 bridge in Oakdale to the mouth.	Jan. 1 through Oct. 31. Bait may be used from Jan. 1 through Oct. 31. However, from April 1 through the Friday preceding the fourth Saturday in May, bait may be used only with single hooks having a gap between 1/2 and 1 inch, or with multiple hooks having a gap between 1/4 and 1/2 inch.	0 trout 0 salmon
(187) Stanislaus River, Middle Fork (Tuolumne Co.).		
(A) Beardsley Afterbay.	All year minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
(B) From Beardsley Dam downstream to the U. S. Forest Service footbridge at Spring Gap.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
(C) From the U.S. Forest Service footbridge at Spring Gap to New Melones Reservoir.	Last Saturday in Apr. through Nov. 15	2
(187.5) Stevens Creek (Santa Clara Co.) downstream of Stevens Reservoir.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0 trout 0 steelhead 0 salmon (See Article 4. Species Regulations for bag limits for other fish).
(188) Stone Lagoon (Humboldt Co.).	All year. Only artificial lures with barbless hooks may be used. Cutthroat trout minimum size limit: 14 inches.	2 cutthroat trout No other salmonids shall be taken.
(189) Stony Creek, and tributaries (Colusa, Glenn and Lake Cos.).		
(A) From the headwaters downstream to the diversion dam west of Stonyford in the center of Section 35, T18N, R7W, except the portion of Stony Creek Middle Fork from Red Bridge upstream.	Last Saturday in April through Nov. 15.	5 per day 10 in possession
	Nov. 16 through the Friday preceding the last Saturday in April. Only artificial lures with barbless hooks may be used.	0

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(B) Stony Creek Middle Fork from Red Bridge upstream.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in April. Only artificial lures with barbless hooks may be used.	0
(189.5) Susan River (Lassen County) from the confluence of Willard Creek and the Susan River, downstream to the Bizz Johnson trail bridge located approx. 1/4 mi. downstream from the 3 mi. marker on the Bizz Johnson trail. Also, see Section 8.10 for special open season for youths participating in Youth Fishing Derby.	Last Saturday in April through November 15. Only artificial lures with barbless hooks may be used.	0
(190) Sweetwater River and tributaries downstream from the Sweetwater Dam (San Diego Co.).	Closed to all fishing all year.	
(191) Sworinger Lake tributaries (Modoc and Lassen Cos.) upstream to the first lake	Closed to all fishing all year	
(192) Tahoe Lake and tributaries (Placer and El Dorado Cos.).		
(A) Tahoe Lake tributaries upstream to the first lake.	July 1 through Sept. 30	5 per day 10 in possession
(B) Tahoe Lake except (192)(C) below.	All year.	5, but no more than 2 mackinaw trout
(C) Tahoe Lake within 300 feet of the mouth of its tributaries.	July 1 through Sept. 30.	5, but no more than 2 mackinaw trout
(193) Ten Mile River and tributaries (Mendocino Co.). Also see Section 8.00(b).		
Ten Mile River main stem below the confluence with the Ten Mile River North Fork, and the Ten Mile River North Fork below the confluence with Bald Hill Creek.	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks maybe used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(193.5) Topanga Canyon Creek and tributaries (Los Angeles Co.).	Closed to all fishing all year.	
(194) Topaz Lake (Mono Co.).	Jan. 1 through Sept. 30	5
(194.5) Trabuco Creek (a.k.a. Arroyo Trabuco Creek)(Orange Co.). Downstream of the I–5 bridge to the confluence with San Juan Creek	Closed to all fishing all year.	
(195) Trinity River.	See Klamath River Regulations subsection (b)(91.1)(F)6.	
(195.5) Trout Lake (Siskiyou Co.).	Only Wednesdays and weekends from the last Saturday in April through Sept. 30. Only artificial lures may be used.	2
(196) Truckee River (Nevada, Placer and Sierra Cos.).		
(A) Truckee River for 1,000 feet below the Lake Tahoe outlet dam.	Closed to all fishing all year.	
NOTE: THE AREA FROM 1,000 FEET BELOW THE LAKE TAHOE OUTLET DAM DOWNSTREAM TO TROUT CREEK IS REGULATED BY THE DISTRICT GENERAL REGULATIONS.		
(B) Truckee River from the confluence of Trout Creek downstream to the Glenshire Bridge.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(C) Truckee River from the Glenshire Bridge downstream to the mouth of Prosser Creek.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial flies with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial flies with barbless hooks may be used.	0
(D) Truckee River from the mouth of Prosser Creek downstream to the Nevada State Line.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 14 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(197) Tule River and tributaries (Tulare Co.).		
(A) Tule River, North Fork (Tulare Co.), only in the North Fork Tule River and all its forks and tributaries above the confluence with Pine Creek (about 50 yards upstream from the Blue Ridge road bridge, about 12 1/4 miles north of Springville).	All year. Only artificial flies with barbless hooks may be used.	2
(B) All remaining portions of the Tule River and tributaries.	All year.	5 per day 10 in possession.
(198) Tuolumne River (Stanislaus and Tuolumne Cos.).		
(A) From O'Shaughnessy Dam (Hetch Hetchy Reservoir) downstream to Early Intake Dam.	Last Saturday in April through Nov. 15. Maximum size limit: 12 inches total length. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(B) From Early Intake Dam downstream to Lumsden Bridge.	Last Saturday in April through Nov. 15.	5
	Nov. 16 through the Friday preceding the last Saturday in April. Only artificial lures with barbless hooks may be used.	0

Body of Water	Open Season and Special Regulations	Daily Bag and Possession Limit
(C) From Lumsden Bridge downstream to Clavey River Falls.	Last Saturday in Apr. through Nov. 15. Maximum size limit: 12 inches total length Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(D) From La Grange Dam downstream to Hickman bridge.	Jan. 1 through Oct. 31. Only artificial lures with barbless hooks may be used.	0
(E) From Hickman bridge to the mouth.	Jan. 1 through Oct. 31. Bait may be used from Jan. 1 through Oct. 31. However, from April 1 through the Friday preceding the fourth Saturday in May, bait may be used only with single hooks having a gap between 1/2 and 1 inch, or with multiple hooks having a gap between 1/4 and 1/2 inch.	0 trout 0 salmon
(199) Upper Otay Lake (San Diego Co.).	All year. Only artificial lures with barbless hooks my be used.	0 for all species
(199.5) Upper Truckee River and tributaries upstream from confluence with Showers Creek (Alpine and El Dorado Cos.).	July 1 through Sept. 30. Only artificial lures with barbless hooks may be used.	0
(200) Usal Creek and tributaries (Mendocino Co.). Also see Section 8.00(b).	barbless hooks may be used.	
Usal Creek main stem below the Usal-Shelter Cove Road	Fourth Saturday in May through Oct. 31. Only artificial lures with barbless hooks may be used.	0
	Nov. 1 through Mar. 31. Only barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead**
(201) Uvas or Carnadero Creek (Santa Clara Co.) Also see Section 8.00(c).		
(A) From Highway 152 Bridge to Uvas Dam.	Closed to all fishing all year	
(B) From mouth to Highway 152 Bridge.	Dec. 1 through Mar. 7, but only on Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(202) Van Duzen River (Humboldt Co.).	See Eel River 7.50(b)(63) and Section 8.00(a).	
(203.5) Waddell Creek (Santa Cruz Co.) from mouth to Highway 1 bridge.	Dec. 1 through Mar. 7, but only Sat., Sun., Wed., legal holidays and opening and closing days. Only barbless hooks may be used.	0
(204) Walker Creek and tributaries (Marin Co.) Also see Section 8.00(b).		
(A) Walker Creek main stem below Highway 1.	Fourth Saturday in May through Mar. 31. Only artificial lures with barbless hooks may be used from the fourth Saturday in May through Oct. 31. Only barbless hooks may be used from Nov. 1 through Mar. 31.	0
(B) Walker Creek main stem above Highway 1 and all Walker Creek tributaries.	Closed to fishing all year.	
(204.5) Walker Creek (Mono Co.) from the Lee Vining Conduit to Rush Creek.	Last Saturday in April through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(205) Walker River, East Fork (Mono Co.) from Bridgeport Dam to Nevada State Line.	Last Saturday in Apr. through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used. NOTE: BOW AND ARROW FISHING FOR CARP ONLY IS PERMITTED DURING TROUT SEASON.	1
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used. NOTE: BOW AND ARROW FISHING FOR CARP ONLY IS PERMITTED DURING TROUT SEASON.	0
(206) Walnut Creek (Contra Costa Co.) .		
(A) Upstream of the confluence with Grayson Creek.	Fourth Saturday in May through Mar. 31. Only artificial lure with barbless hooks may be used.	0
(B) Downstream of the confluence with Grayson Creek.	All year.	0
(206.5) Whiskey Creek (Mono Co.).		
(A) Whiskey Creek downstream from Crowley Lake Drive (old Highway 395).	Last Saturday in April through the Friday preceding Memorial Day and Oct. 1 through Nov. 15. Minimum size limit: 18 inches total length. Only artificial lures with barbless hooks may be used.	2
	Saturday preceding Memorial Day through Sept. 30.	5 per day 10 in possession.
(B) Whiskey Creek upstream from Crowley Lake Drive.	Last Saturday in April through Nov. 15.	5 per day 10 in possession.
(207) Wildcat Creek and tributaries (Contra Costa Co.)	Closed all year to fishing	
(208) Willow Creek and tributaries (tributary to Goose Lake, Modoc Co.).	Saturday preceding Memorial Day through Nov. 15. Only artificial lures with barbless hooks may be used.	0
(208.5) Wolf Creek (tributary to West Walker River) and Wolf Creek Lake (Mono Co.).	Closed to fishing all year.	
(209) Yellow Creek (Plumas Co.) from Big Springs downstream to the marker at the lower end of Humbug Meadow.	Last Saturday in Apr. through Nov. 15 Maximum size limit: 10 inches total length. Only artificial lures with barbless hooks may be used.	2
(210) Yuba River, Middle Fork (Nevada and Sierra Cos.) from Jackson Meadows Dam downstream to Milton Lake.	See Milton Lake 7.50(b)(120).	
(211) Yuba River, North Fork (Sierra and Yuba cos.)		
(A) From the western boundary of Sierra City to the confluence with Ladies Canyon Creek.	Last Saturday in Apr. through Nov. 15. Only artificial lures with barbless hooks may be used.	2
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0

Body of Water	*Open Season and Special Regulations*	*Daily Bag and Possession Limit*
(B) From Ladies Canyon Creek downstream to New Bullards Bar Reservoir.	Last Saturday in Apr. through Nov. 15.	5
	Nov. 16 through the Friday preceding the last Saturday in Apr. Only artificial lures with barbless hooks may be used.	0
(212) Yuba River (Yuba and Nevada Cos.) from mouth to Englebright Dam.		
(A) From mouth to Daguerre Point Dam.	Jan. 1 through the last day in Feb. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Mar. 1 through July 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Aug. 1 through Oct. 15. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
	Oct. 16 through Dec. 31. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(B) From Daguerre Point Dam to Highway 20 Bridge.	All year. Only artificial lures with barbless hooks may be used.	1 hatchery trout or 1 hatchery steelhead** 0 salmon
(C) From Highway 20 bridge to Englebright Dam.	Dec. 1 through Aug. 31. Only artificial lures with barbless hooks may be used.	0

**Hatchery trout or steelhead are those showing a healed adipose fin clip (adipose fin is absent). Unless otherwise provided, all other trout and steelhead must be immediately released. Wild trout or steelhead are those not showing a healed adipose fin clip.

NOTE: Authority cited: Sections 200, 202, 205, 215, 220, 240, 315 and 316.5, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 316.5, Fish and Game Code.

HISTORY

1. New section filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsection (b)(91)(K)7 filed as an emergency; operative 9–19–90 (Register 90, No. 1). A Certificate of Compliance must be transmitted to OAL by 1–17–91 or emergency language will be repealed by operation of law on the following day.
3. New subsection (b)(68.5) filed 11–20–90 as an emergency; operative 11–20–90 (Register 91, No. 1). A Certificate of Compliance must be transmitted to OAL by 3–20–91 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsections (b)(56)(B), (b)(91)(K)7, (b)(119)(B), (b)(133), (b)(156)(F), (b)(190), (b)(203) and (b)(206) filed 1–17–91; operative 1–17–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 8).
5. Editorial correction reinserting text inadvertently omitted (Register 91, No. 8).
6. Certificate of Compliance including amendment as to 11–20–90 order transmitted to OAL 3–19–91 and filed 4–18–91 (Register 91, No. 20).
7. New subsections (b)(115.5) and (b)(199.5) filed 6–12–91; operative 7–12–91 (Register 91, No. 34).
8. Amendment to subsection (b)(156)(A) and (B) filed 7–24–91 as an emergency; operative 7–24–91 (Register 91, No. 48). A Certificate of Compliance must be transmitted to OAL by 11–21–91 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsection (b)(91) filed 7–31–91; operative 8–1–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 48).
10. New subsection (b)(118.5) filed 8–27–91 as an emergency; operative 8–27–91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 12–25–91 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (b)(113) filed 9–17–91 as an emergency; operative 9–17–91 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 1–15–92 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsection (b)(173) filed 12–18–91 as an emergency; operative 12–18–91 (Register 92, No. 20). A Certificate of Compliance must be transmitted to OAL 4–16–92 or emergency language will be repealed by operation of law on the following day.
13. Amendment of subsection (b)(5) filed 12–19–91 as an emergency; operative 12–19–91 (Register 92, No. 20). A Certificate of Compliance must be transmitted to OAL 4–17–92 or emergency language will be repealed by operation of law on the following day.
14. New subsection (b)(203.5) filed 12–18–91 as an emergency; operative 12–18–91 (Register 92, No. 20). A Certificate of Compliance must be transmitted to OAL 4–16–92 or emergency language will be repealed by operation of law on the following day.
15. Amendment filed 3–12–92; operative 3–12–92 pursuant to Fish and Game Code section 215 (Register 92, No. 20).
16. Amendment of subsection (b)(62) filed 7–14–92; operative 7–14–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 29).
17. Amendment of subsections (b)(91), (b)(118), (b)(186), and (b)(198) and new subsection (b)(168.5) filed 9–2–92; operative 9–2–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 36).
18. Repealer of emergency amendments filed 12–18–91 and reinstatement of subsections (b)(173) and (b)(203.5) filed 9–22–92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
19. Editorial correction of printing error in HISTORY 15 (Register 92, No. 40).
20. Amendment of subsections (b)(98) and (b)(208) filed 10–2–92 as an emergency; operative 10–2–92 (Register 92, No. 40). A Certificate of Compliance must be transmitted to OAL 2–1–93 or emergency language will be repealed by operation of law on the following day.
21. Amendment of subsection (b)(173) and new subsection (b)(203.5) filed 11–23–92; operative 11–23–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 48).
22. Repealer of subsection (b)(94) and amendment of subsections (b)(37) and (b)(95) filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
23. Repealer of emergency amendment filed 10–2–92 and reinstatement of prior text filed 3–16–93 by operation of Government Code section 11346.1(f) (Register 93, No. 12).
24. Amendment of subsections (b)(98) and (b)(208), and new subsections (b)(49.5), (b)(53.5) and (b)(139.5) filed 5–14–93; operative 5–14–93 (Register 93, No. 20).
25. Amendment of subsection (b)(91.1) filed 9–27–93; operative 9–27–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 40).
26. Editorial correction of printing error restoring previous changes to subsection (b)(91) (Register 93, No. 43).
27. Editorial correction of printing errors reinstituting amendments referenced in HISTORY 15 (Register 94, No. 10).
28. Amendment filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
29. New subsection (b)(118.2) and amendment of NOTE filed 4–26–94; operative 4–26–94 (Register 94, No. 17).
30. Amendment of subsections (b)(91.1)(C)–(C)3A, new subsections (b)(91.1)(C)3Ai–iii, amendment of subsections (b)(91.1)(B)–(C), (b)(91.1)(C)3B–C, (F), (I)5 and 8, new subsection (b)(91.1)(I)9, subsection renumbering, amendment of (b)(91.1)(I)14, (b)(161), (174), (176), (177) and (195) and NOTE filed 8–31–94; operative 8–31–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 35).
31. Editorial correction amending subsections (b)(91.1)(C)3.B. and (b)(91.1)(I)8 and 14. and HISTORY 30 (Register 94, No. 39).
32. Amendment of subsection (b)(76) and repealer of subsections (b)(76)(A)–(B) filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
33. Amendment of subsection (b)(63) filed 12–12–94; operative 12–12–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
34. Editorial correction inserting inadvertently omitted subsection (b)(115)(E) (Register 94, No. 51).
35. New subsections (b)(115)(A)–(B), subsection relettering, and new subsections (b)(125.5) and (b)(176.5) filed 12–23–94; operative 12–23–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 51).
36. Amendment of subsections (b)(62)–(b)(62)(B) and repealer of subsections (b)(127)–(b)(127)(B) filed 3–28–95; operative 3–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 13).
37. Certificate of Compliance as to 10–27–94 order transmitted to OAL 2–17–95 and filed 3–28–95 (Register 95, No. 13).
38. Amendment of subsections (b)(91.1)(C)3., (b)(91.1)(I)5., and (b)(91.1)(I)14., and new subsections (b)(91.1)(I)4.i). (I)6.i), (I)7.i), and (I)8.i) filed 7–28–95; operative 7–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 30).
39. New subsections (b)(76)(A)–(B) filed 8–25–95; operative 8–25–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 34).
40. Editorial correction of subsections (b)(188) and (b)(43.5) (Register 95, No. 48).
41. Amendment of subsection (b)(35) filed 11–28–95 as an emergency; operative 11–28–95 (Register 95, No. 48). A Certificate of Compliance must be transmitted to OAL by 3–27–96 or emergency language will be repealed by operation of law on the following day.
42. Editorial correction of subsection (b)(150)(B) (Register 96, No. 6).

43. Amendment of subsection (a)(1) and extensive amendment of multiple parts of subsection (b) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code Sections 202 and 205 (Register 96, No. 6).
44. Reinstatement of subsection (b)(35) as it existed prior to emergency amendment filed 11–28–96 by operation of Government Code section 11346.1(f) (Register 96, No. 30).
45. Change without regulatory effect adding subsection (b)(63)(A)2. and amending subsection (b)(63)(B)3. filed 5–20–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 21).
46. Amendment of subsection (b)(30) and repealer of subsections (b)(30)(A)–(B) filed 5–23–96 as an emergency; operative 5–23–96 (Register 96, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–20–96 or emergency language will be repealed by operation of law on the following day.
47. Editorial correction of printing errors in subsections (b)(91.1)(I)8.i and (b)(91.1)(I)11B. (Register 96, No. 29).
48. Amendment of subsection (b)(91.1) filed 7–18–96; operative 7–18–96 pursuant to sections 202 and 215, Fish and Game Code (Register 96, No. 29).
49. Editorial correction adding new HISTORY 44, and history renumbering (Register 96, No. 30).
50. Amendment of subsections (b)(35), (b)(63), (b)(63)(B)1. and (b)(63)(B)2., repealer of subsection (b)(63)(B)4., and amendment of subsections (b)(180) and (b)(180)(C) filed 7–25–96; operative 7–25–96 pursuant to Sections 202 and 215, Fish and Game Code (Register 96, No. 30).
51. Certificate of Compliance as to 5–23–96 order transmitted to OAL 9–18–96 and filed 9–25–96 (Register 96, No. 39).
52. Editorial correction of subsection (b)(156)(C) (Register 96, No. 52).
53. Amendment of subsections (b)(156)(G) and (I), (b)(158)(A) and (B) and (b)(163) filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).
54. Editorial correction of subsections (b)(2)(B), (b)(9), (b)(85), (b)(92) and (b)(138) (Register 97, No. 26).
55. Amendment of subsections (b)(91.1)(C)3. and (b)(91.1)(I)4. filed 7–7–97 as an emergency; operative 7–7–97 (Register 97, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–4–97 or emergency language will be repealed by operation of law on the following day.
56. Amendment of subsections (b)(63)(A)–(D)5. filed 7–24–97; operative 7–25–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 30).
57. New subsection (b)(53.9) filed 8–7–97 as an emergency; operative 8–7–97 (Register 97, No. 32). A Certificate of Compliance must be transmitted to OAL by 12–5–97 or emergency language will be repealed by operation of law on the following day.
58. Amendment of subsection (b)(63)(A)1. filed 10–27–97; operative 10–27–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 44).
59. Repealer of subsection (b)(30) and new subsections (b)(30)–(b)(30)(B) filed 12–17–97 as an emergency; operative 12–17–97 (Register 97, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–16–98 or emergency language will be repealed by operation of law on the following day.
60. Editorial correction restoring correct placement of subsection (b)(4) and providing correct capitalization in subsection (b)(134)(C) designator (Register 98, No. 4).
61. Amendment of subsections (b)(5)(A), (b)(5)(C)–(D) and (b)(37) (including new (b)(37)(A) designator and amendment of test therein) and new subsections (b)(5)(E) and (b)(37)(B) filed 2–5–98; operative 2–5–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
62. Amendment of multiple parts of subsection (b) filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
63. Amendment of multiple parts of subsection (b) filed 2–11–98 as an emergency; operative 2–11–98 (Register 98, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–11–98 or emergency language will be repealed by operation of law on the following day.
64. Editorial correction of subsections (b)(6)(B) and (b)(206.5)(A)–(B) (Register 98, No. 9).
65. Order of 2–11–98 amending multiple parts of subsection (b), including further amendments, refiled 3–13–98 as an emergency; operative 3–13–98 (Register 98, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–13–98 or emergency language will be repealed by operation of law on the following day.
66. New subsection (b)(68.1) filed 4–2–98 as an emergency; operative 4–2–98 (Register 98, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–31–98 or emergency language will be repealed by operation of law on the following day.
67. Reinstatement of section as it existed prior to 8–7–97 amendment filed 4–27–98 by operation of Government Code section 11346.1(f) (Register 98, No. 18).
68. Editorial correction of HISTORY 59 (Register 98, No. 19).
69. Certificate of Compliance as to 12–17–97 order transmitted to OAL 4–15–98 and filed 5–7–98 (Register 98, No. 19).
70. Certificate of Compliance as to 3–13–98 order, including additional amendment of multiple parts of subsection (b), transmitted to OAL 7–7–98 and filed 8–11–98 (Register 98, No. 33).
71. New subsection (b)(124)(A) and subsection relettering filed 10–16–98 as an emergency; operative 10–16–98 (Register 98, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–16–99 or emergency language will be repealed by operation of law on the following day.
72. New subsection (b)(23.5), amendment of subsections (b)(32)(A), (b)(56)(A) and (b)(61)(C), new subsection (b)(168.5)(A) and subsection relettering filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
73. Change without regulatory effect amending subsections (b)(156)(E)–(F) filed 1–12–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 3).
74. Certificate of Compliance as to 10–16–98 order transmitted to OAL 2–10–99 and filed 3–23–99 (Register 99, No. 13).
75. Amendment of subsection (b)(62)(A) filed 6–10–99; operative 6–10–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 24).
76. Amendment of subsection (b)(91.1) filed 8–5–99; operative 8–5–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 32).
77. Editorial correction of subsections (b)(119)(A)–(B) and (b)(205)(A) (Register 2000, No. 7).
78. Amendment filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
79. Amendment of subsection (b)(62)(A) filed 6–22–2000; operative 7–22–2000 (Register 2000, No. 25).
80. Amendment of subsections (b)(91.1)–(b)(91.1)(G)8B. filed 6–28–2000; operative 6–28–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 26).
81. Change without regulatory effect amending subsection (b)(189.5) filed 8–17–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 33).
82. Amendment of subsections (b)(19) and (b)(174.5) and repealer of subsections (b)(174.5)(A)–(B) filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).
83. Repealer of subsections (b)(91.1)–(b)(91.1)(G)11., new subsections (b)(91.1)–(b)(91.1)(F)7.i. and amendment of subsections (b)(161), (b)(174), (b)(176), (b)(177) and (b)(195) filed 4–30–2001; operative 5–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 18).
84. Amendment filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
85. Amendment of subsections (b)(91.1), (b)(176) and (b)(195) and amendment of NOTE filed 6–25–2002; operative 6–25–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
86. Amendment of subsection (b)(212)(A), new subsection (b)(212)(B) and subsection relettering filed 8–21–2002; operative 8–21–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 34).
87. Amendment of subsections (b)(5)(E) and (b)(156)(H) filed 11–7–2002 as an emergency; operative 11–7–2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–7–2003 or emergency language will be repealed by operation of law on the following day.
88. Amendment of subsections (b)(91.1)(A)2.–(b)(91.1)(F)5. filed 6–17–2003; operative 6–17–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 25).
89. Reinstatement of subsections (b)(5)(E) and (b)(156)(H) as they existed prior to 11–7–2002 emergency amendment by operation of Government Code section 113436.1(f) (Register 2003, No. 32).
90. Amendment of subsections (b)(5)(E) and (b)(156)(F)–(H) filed 8–7–2003; operative 8–7–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 32).
91. Amendment of subsection (b)(147) filed 12–26–2003 as an emergency; operative 12–26–2003 (Register 2003, No. 52). A Certificate of Compliance must be transmitted to OAL by 4–26–2004 or emergency language will be repealed by operation of law on the following day.
92. Amendment filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
93. Amendment of subsection (b)(91.1) filed 7–22–2004; operative 8–21–2004 (Register 2004, No. 30).
94. Reinstatement of subsection (b)(147) as it existed prior to 12–26–2003 emergency pursuant to Government Code section 11346.1(f) (Register 2004, No. 32).
95. Amendment of subsections (b)(180)(A)–(B)1., (b)(180)(C)1. and (b)(180)(D)1. filed 8–12–2004; operative 9–11–2004 (Register 2004, No. 33).
96. Amendment of subsection (b)(156)(A), new subsections (b)(156)(C) and (b)(156)(E) and subsection relettering filed 8–23–2004; operative 9–22–2004 (Register 2004, No. 35).
97. Amendment of subsections (b)(180)(A), (b)(180)(B)1. and (b)(180)(C)1., new subsection (b)(180)(C)2., subsection renumbering and amendment of subsection (b)(180)(D)1. filed 12–21–2004; operative 1–20–2005 (Register 2004, No. 52).
98. Amendment of subsection (b)(178) filed 8–23–2005 as an emergency; operative 8–23–2005 (Register 2005, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–21–2005 or emergency language will be repealed by operation of law on the following day.

99. Amendment of subsections within subsection (b)(91.1) filed 8–26–2005; operative 8–26–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 34).
100. Reinstatement of section as it existed prior to 8–23–2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 7).
101. Editorial correction restoring inadvertently omitted subsection (b)(77.5) (Register 2006, No. 26).
102. Amendment of subsection (b)(178) filed 7–28–2006; operative 7–28–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 30).
103. Amendment of subsection (b)(91.1), and subsections therein, filed 8–11–2006; operative 8–15–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 32).
104. Amendment filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
105. Editorial correction of subsection (b)(129)(B) (Register 2007, No. 10).
106. Amendment of subsections (b)(91.1)(D)1.a.(i) and (b)(91.1)(D)1.f.(i) filed 3–21–2007 as an emergency; operative 3–21–2007 (Register 2007, No. 12). A Certificate of Compliance must be transmitted to OAL by 9–17–2007 or emergency language will be repealed by operation of law on the following day.
107. New subsection (b)(53.8) and amendment of NOTE filed 5–10–2007; operative 5–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
108. Certificate of Compliance as to 3–21–2007 order, including further amendment of subsection (b)(91.1) and subsections therein, transmitted to OAL 5–18–2007 and filed 6–21–2007 (Register 2007, No. 25).
109. Amendment filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).
110. Amendment of subsection (b)(172.7) filed 2–19–2008; operative 3–20–2008 (Register 2008, No. 8).
111. Amendment of subsections (b)(5)(A)–(E), (b)(12.5), (b)(18.5)(B), (b)(43.5), (b)(59.5), (b)(68)(C)–(E), (b)(118)(B), (b)(124)(A)–(B), (b)(129)(B), (b)(156)(B), (b)(156)(H), (b)(156)(J), new subsection (b)(156)(K) and amendment of subsections (b)(168.5)–(b)(168.5)(C), (b)(186)(B), (b)(198)(E) and (b)(212)(A) filed 7–2–2008; operative 7–2–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 27).
112. Amendment of subsections with subsection (b)(91.1) filed 7–23–2008; operative 8–15–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 30).

Article 4. Supplemental Regulations

§ 8.00. Low–Flow Restrictions.

(a) Eel River, Mad River, Mattole River, Redwood Creek, Smith River and Van Duzen River. Stream closures: Special Low Flow Conditions. From October 1 through January 31, any of the stream reaches listed in subsection (1) through (7) below shall be closed to all angling on Tuesday and Wednesday when the department determines that the flow on the previous Monday at any of the designated gauging stations is less than the minimum flows set forth in subsections (1) through (7); any of the stream reaches listed in subsections (1) through (7) below shall be closed to all angling on Thursday and Friday when the department determines that the flow on the previous Wednesday at any of the designated gauging stations is less than the minimum flows set forth in subsections (1) though (7); any of the stream reaches listed in subsections (1) through (7) below shall be closed to all angling from Saturday through Monday when the department determines that the flow on the previous Friday at any of the designated gauging stations is less than the minimum flows set forth in subsections (1) through (7). Notwithstanding this provision, the department may close or keep a stream reach closed to fishing when the minimum flow is exceeded on the scheduled flow determination day if the department is reasonably assured that the stream flow is likely to decrease below the minimum flow as specified in subsections (a)(1)–(7) of Section 8.00 before the next flow–determination date. In addition, the department may reopen a stream at any time during a closed period if the minimum flow as specified in subsections (a)(1)–(7) of Section 8.00 is exceeded and the department is reasonably assured that it will remain above the minimum flow until the next scheduled Monday, Wednesday, or Friday flow determination. The department shall make information available to the public by a telephone recorded message updated, as necessary, no later than 1:00 p.m. each Monday, Wednesday, and Friday as to whether any stream will be open or closed to fishing. It shall be the responsibility of the angler to use the telephone number designated in the sport fishing regulations booklet to obtain information on the status of any stream.

(1) The main stem Eel River from the paved junction of Fulmor Road with the Eel River to the South Fork Eel River.

Minimum Flow: 350 cfs at the gauging station near Scotia.

(2) The South Fork of the Eel River downstream from Rattlesnake Creek and the Middle Fork Eel River downstream from the Black Butte River.

Minimum Flow: 340 cfs at the gauging station at Miranda.

(3) Van Duzen River: The main stem Van Duzen River from its junction with the Eel River to the Highway 36 bridge near Bridgeville.

Minimum Flow: 150 cfs at the gauging station near Grizzly Creek Redwoods State Park.

(4) Mad River: The main stem Mad River from the Hammond Trail Railroad Trestle to Cowan Creek.

Minimum Flow: 200 cfs at the gauging station at the Highway 299 bridge.

(5) Mattole River: The main stem of the Mattole River from the mouth to Honeydew Creek.

Minimum Flow: 320 cfs at the gauging station at Petrolia.

(6) Redwood Creek: The main stem of Redwood Creek from the mouth to its confluence with Bond Creek.

Minimum Flow: 300 cfs at the gauging station near the Highway 101 bridge.

(7) Smith River: The main stem Smith River from the mouth of Rowdy Creek, to its confluence with Patrick Creek; the South Fork Smith River from the mouth to its confluence with Jones Creek; and the North Fork Smith River from the mouth to its confluence with Stony Creek.

Minimum Flow: 400 cfs at the Jedediah Smith Redwoods State Park gauging station.

The number to call for information is (707) 442–4502.

(b) Central Coast Streams: Stream Closures: Special Low Flow Conditions.

From October 1 through April 1, any of the stream reaches listed in subsections (1) and (2) below shall be closed to all angling for a period of one week, commencing on any Thursday, when the Department determines that the flow on the previous Wednesday morning at the designated gauging station is less than the minimum flows set forth in subsections (1) and (2). Notwithstanding this provision, the Department may immediately reopen the streams to fishing if it determines that such flows exceed the minimum flows set forth in subsections (1) and (2) and no negative impact to the resource would result. The Department shall make information available to the public by telephone recorded message, updated no later than 1:00 p.m. each Wednesday, as to whether any stream will be open or closed to fishing. It shall be the responsibility of the angler to use the telephone number designated in the sport fishing regulations booklet to obtain information on the status of any stream.

THE NUMBER TO CALL FOR INFORMATION IS (707) 944–5533.

(1) The Sonoma Creek (Sonoma County), and all streams tributary to the Pacific Ocean (and its bays) in Mendocino, Sonoma, and Marin counties, except for the Russian River.

Minimum Flow: 500 cfs at the gauging station on the main stem Russian River near Guerneville (Sonoma County).

(2) The Napa River (Napa County) between Trancas Avenue in Napa and Oakville Cross Bridge near Yountville.

Minimum Flow: 15 cfs at the gauging station at the Oak Knoll Bridge on the main stem Napa River.

(c) South Central Coast Streams — Special Low Flow Closures: During December 1 through March 7 the following streams (subsections (1) through (7)) will be closed to fishing when the Department determines that stream flows are inadequate to provide fish passage for migrating steelhead trout and salmon. Closed streams will be reopened when the Department determines flows are adequate for fish passage. By December 2005, the Department will develop stream–flow values in cubic–

feet–per–second at the below U.S.G.S. gauging stations that indicate when fish passage is impeded and streams are to be closed to fishing.

(1) Upper Penitencia Ck. (Santa Clara Co.) and Lower Coyote Ck. below its confluence with Upper Penitencia Ck (U. S. G. S. gauging station on lower Coyote Ck. above St. Highway 237 in Milpitas).

(2) Pescadero Creek and all anadromous reaches of San Mateo Co. coastal streams normally open for fishing, from Elliot Ck. through Milagro Ck., shall be closed to all fishing when the department determines that the Pescadero Ck. flows are impeding fish passge. (U. S. G. S. gauging station is on Pescadero Ck.)

(3) The San Lorenzo River and all its tributarties, as well as all anadromous reaches of coastal streams normally open for fishing in Santa Cruz Co. from the San Lorenzo R. on North through Wadell Ck., shall be closed to all fishing when the department determines that the San Lorenzo flows are impeding fish passage. (U. S. G. S. gauging station in Henry Cowell Redwood State Park).

(4) Aptos and Soquel Creeks (Santa Cruz Co.) shall be closed to all fishing when the department determines that the Soquel Ck. flows are impeding fish passage. (U. S. G. S. gauging station on Soquel Ck.).

(5) The Pajaro River and Uvas, Llagas, and Corralitos Creeks, (Santa Cruz, Monterey, & Santa Clara Co.) shall be closed to all fishing when the department determines that the Pajaro R. flows are impeding fish passage. (U. S. G. S. gauging station on the lower Pajaro River).

(6) The main stem of the Salinas River (Monterey Co.), below its confluence with the Arroyo Seco River shall be closed to all fishing when the department determines that the flows are impeding fish passage (U. S. G. S. Spreckels gauging station on the Salinas R.).

(7) The Arroyo Seco River (MontereyCo.) shall be closed to all fishing when the department determines that the flows are impeding fish passage. (Flows to be evaluated at U. S. G. S. Spreckels gauging station on the Salinas R. and the U. S. G. S. gauging station near Geenfield on the Arroyo Seco R.).

(8) The Carmel River main stem , and the adjacent waters of San Jose, Gibson, Malpaso, Soberanes Creeks that are West of Highway 1 (Monterey Co.), shall be closed to all fishing when the department determines that the flow at the U. S. G. S. gauging station near Carmel is less than 80 cfs.

(9) The Big Sur River main stem west of the Highway 1 bridge, all of Limekiln Ck and its tributaries, and the anadromous portions of all other Big Sur Coast streams West of Highway 1 in Monterey Co., from Granite Ck. south to Salmon Ck., shall be closed to all fishing when the department determines that the flow at the U. S. G. S. gauging station on the Big Sur River is less than 40 cfs.

The stream flow gauges referred to above in subsections (8) and (9) will be checked on Tuesday and Friday of each week. The decision as to whether these rivers will be open or closed to fishing will take place only on Tuesday and Friday of each week. In the event that river flow differs later in the week, the fishing status for each specific river will not change until the day following the next scheduled reading. It shall be the responsibility of the angler to use the telephone number designated in the sport fishing regulations booklet to obtain information on the status of any of the rivers or creeks listed above in subsections (1) through (9). THE NUMBER TO CALL FOR INFORMATION IS (831) 649–2886. NOTE:

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY

1. Repealer and new section filed 3–1–90; operative 3–1–90 (Register 90, No. 10). For prior history, see Register 89, No. 46.
2. Amendment of subsection (c)(4) filed 9–17–91 as an emergency; operative 9–17–91 (Register 92, No. 13). A Certificate of Compliance must be transmitted to OAL 1–15–92 or emergency language will be repealed by operation of law on the following day.
3. Repealer of subsection (b) and subsection relettering filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
4. Editorial correction restoring inadvertently omitted subsection (now designated (c)) and correcting HISTORY notes (Register 92, No. 52).
5. Amendment of subsection (b)(2), (b)(4)–(5) and (b)(9) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
6. Amendment of subsection (b), repealer of subsections (b)(2), (b)(4) and (b)(5), subsection renumbering, and amendment of NOTE filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
7. Amendment of subsections (b)(2) and (b)(5) filed 7–24–97; operative 7–25–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 30).
8. Amendment of subsections (b) and (b)(7), new subsection (d) and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
9. Amendment of subsections (b), (b)(1) and (d) filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
10. Amendment of section heading, repealer of first paragraph and subsections (a)–(a)(3), subsection relettering and amendment of newly designated subsection (a)(2) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
11. Amendment of subsections (a) and (a)(4) and new subsections (d)–(d)(9) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
12. Amendment of subsection (b) and new subsections (b)(1)–(2) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
13. Repealer of subsection (c) and subsection relettering filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 8.01. Special Gear Provisions.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.05. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(2) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment filed 2–2–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.07. Carmel River Winter Trout and Salmon Season, Limit and Special Provision (Monterey Co.), Only from Mouth to the Bridge at Robles Del Rio/Esquiline Roads.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY

1. New section filed 12–31–84 as an emergency; effective upon filing (Register 85, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–30–85.
2. Repealer filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Amendment of subsection(c) filed 12–17–86; effective upon filing (Register 86, No. 51).
5. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.08. El Estero Lake Restrictions (Monterey Co.).

NOTE: Authority Cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.10. Youth Fishing Derby, Susan River (Lassen County).

The Susan River, from the second railroad tunnel (the westernmost) on the Biz Johnson Trail downstream to the Riverside Bridge in the City of Susanville, is open to fishing on the Saturday preceding the last Saturday in April, only to persons under 16 years of age who are registered for the fishing derby sponsored by the Lassen County Sportsmen's Club.

NOTE: Authority cited: Sections 200, 202, 205, 215, 220, 240 and 315, Fish and Game Code. Reference: Sections 200, 205, 206 and 215, Fish and Game Code.

HISTORY

1. New section filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52). For prior history, see Register 90, No. 10.

§ 8.15. Llagas Creek (Santa Clara Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former Section 8.15 to Section 8.16 and new Section 8.15 filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 8.16. Los Padres Reservoir Closure (Monterey Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former Section 8.15 to Section 8.16 filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.20. Special Provisions Affecting California Indians.

The department may issue permits (Permit to Take Fall–run Chinook Salmon in the Feather River Using Traditional Fishing Equipment and Methods of the Maidu Indian Tribe, Form FG 710 (4/01) which is incorporated by reference herein) to members of a Maidu Indian Tribe, allowing the take of fish in the Feather River for religious or cultural purposes, using traditional tribal fishing equipment and methods. The permits shall include any restrictions necessary to prevent damage to aquatic resources and to protect endangered or threatened species. All other fishing restrictions found in Chapters 1–3 of Subdivision 1 of Division 1, Title 14, CCR (Inland Sport Fishing Regulations) shall apply.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 220 and 12300, Fish and Game Code.

HISTORY

1. New section filed 6–18–2001; operative 7–18–2001 (Register 2001, No. 25). For prior history, see Register 85, No. 11.

§ 8.21. Mississippi Lake Trout Restrictions (Santa Clara Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1,205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 2–5–86; designated effective 3–1–86 (Register 86, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.25. Nacimiento River Season (Monterey and San Luis Obispo Cos.), Only from Nacimiento Reservoir to Hunter–Liggett Military Reservation.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.27. Pajaro River (Monterey, Santa Clara, Santa Cruz and San Benito Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.28. Pescadero Creek and Tributaries Closures (Santa Clara Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.29. Redwood Creek and Tributaries Closures (Alameda Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84. TEXT INADVERTENTLY NOT PRINTED IN REGISTER 84, NO. 8 DUE TO PRINTING ERROR (Register 86, No. 3).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.30. San Clemente Creek and Tributaries Trout Restrictions, Except for Trout Lake (Monterey Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Renumbering of former Section 8.30 to Section 8.31 and new Section 8.30 filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.31. San Clemente Reservoir Closure (Monterey Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Renumbering and amendment of former Section 8.30 to Section 8.31 filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.32. San Francisquito Creek and Tributaries Closures (Santa Clara and San Mateo Cos.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.35. Uvas or Carnadero Creek (Santa Clara Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 8.40. Whale Rock Reservoir Trout Restrictions (San Luis Obispo Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 8.42. Wildcat Creek and Tributaries Closures (Contra Costa Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210 of the Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.00. Definition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.10. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment of subsection (d)(1) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment of subsection (c) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Amendment of subsections (c) and (e) filed 12–31–85 as an emergency; designated effective 1–1–86. Certificate of Compliance included (Register 86, No. 1).
5. Amendment of subsection (c) and (e) refiled 1–22–86; effective upon filing (Register 86, No. 6).
6. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.11. Stream Closures: Special Low Flow Conditions.

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY
1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.12. Central Coast Streams: Stream Closures: Special Low Flow Conditions.

NOTE: Authority cited: Sections 200, 202, 205, 220, and 240, Fish and Game Code. Reference: Sections 200, 205 and 240, Fish and Game Code.

HISTORY
1. New section filed 3–10–89 as an emergency; operative 3–10–89 (Register 89, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–10–89.
2. Repealed by operation of Government Code Section 11346.1(g) (Register 89, No. 52).
3. New section filed 12–22–89 as an emergency; operative 12–22–89 (Register 89, No. 52). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation law on 4–23–90.
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.15. Berryessa Lake Trout and Salmon Limit (Napa Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.20. Eel River Main Stem (Mendocino and Lake Cos.), Only from Mendocino–Trinity County Line to Scott Dam. (See North Coast District Regulations for Eel River in Humboldt and Trinity Cos.).

NOTE: Authority cited: Sections 200, 202, and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. Amendment filed 12–15–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 51).
2. Repealer and new section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.21. Eel River, Middle Fork (Mendocino Co.), Only Main Stem from Mouth to Bar Creek.

(See Section 9.23 for Restrictions)

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.23. Eel River, Middle Fork Tributaries (Mendocino Co.), Only Those Portions of Middle Fork Eel River Tributaries Above the Indian Dick/Eel River Ranger Station Road.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.24. Eel River, North Fork (Mendocino Co.), Only Main Stem and Tributaries from Mouth to Trinity–Mendocino County Line.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.25. Eel River, South Fork (Mendocino Co.), Only Main Stem from Humboldt–Mendocino County Line to Rattlesnake Creek.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8). For prior history, see Register 83, No. 4.
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.26. Main Stem Eel River Restrictions (Mendocino and Lake Cos.), from Mendocino–Trinity County Line to Scott Dam.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200–202, 203.1, 205, 210 and 220, Fish and Game Code.

HISTORY
1. New section filed 12–15–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 51).
2. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 9.30. Main Stem Eel River Restrictions (Mendocino and Lake Cos.), Only Between Scott Dam and Cape Horn Dam.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment of section heading and subsection (b) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 9.35. Eel River, North Fork and Tributaries Trout and Salmon Restrictions (Mendocino Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).

§ 9.37. Gualala River Restrictions (Mendocino and Sonoma Cos.), Only from the Confluence of Wheatfield and South Forks to the Highway 1 Bridge.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.38. Lagunitas Creek Closure (Marin Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New section filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).

2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.39. Lagunitas Lake Trout Restrictions (Marin Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. New section filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.40. Noyo River Closure (Mendocino Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.45. Redwood Creek Closure (Marin Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.50. Russian River Closure (Sonoma Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.51. Russian River Tributaries (Sonoma Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New Section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.52. Sonoma Creek (Sonoma Co.).

NOTE: Authority cited: Sections 200, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.53. Sonoma Lake Closure (Sonoma Co.).

NOTE: Authority cited: Sections 200, 205, 210, 219, 220, 240 and 315.3, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 315.3, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Amendment filed 6–10–85 as an emergency; effective upon filing (Register 85, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–8–85.
4. Certificate of Compliance filed 10–4–85 (Register 85, No. 40).
5. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 9.54. Stafford Lake Closure (Marin Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
3. Editorial correction of NOTE (Register 97, No. 30).

§ 9.55. Ten Mile River (Mendocino Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

Article 5. Sierra District

§ 10.00. Definition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.03. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 307, Fish and Game Code. Reference: Sections 200, 202, 205, 207, 209 and 307, Fish and Game Code.

HISTORY

1. Editorial correction of subsection (b) filed 1–20–83 (Register 83, No. 4).
2. Amendment of subsection (d) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Amendment of subsection (d)(2)(C) filed 5–19–86 as an emergency; effective upon filing (Register 86, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–16–86.
4. Change without regulatory effect of NOTE filed 6–18–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 25).
5. Emergency language filed 5–19–86 repealed by operation of Government Code Section 11346.1 (Register 88, No. 6).
6. Amendment of subsection (d)(2) filed 1–22–88; operative 1–22–88 (Register 88, No. 6).
7. New subsection (b)(3) filed 9–8–89 as an emergency. A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–6–90. (Ed. NOTE: The text of the regulation filed 9–8–89 did not appear in print. See section 7.00(b)(6)).
8. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
9. Editorial correction of HISTORY No. 7 (Register 90, No. 20).

§ 10.06. Almanor Lake Tributaries Closure (Lassen, Plumas and Shasta Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.07. American River, North, Middle and South Forks Trout Season and Limit (El Dorado and Placer Cos.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.09. Battle Creek (Shasta and Tehama Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.10. Bear Creek and Tributaries Closures (Shasta and Siskiyou Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.12. Big Trees Creek Closure (Tuolumne Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.13. Boca Lake Special Trout Size and Bag Limit (Nevada Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 220, 240 and 307, Fish and Game Code. Reference: Sections 200–202, 205, 207, 209, 215, 216, 218, 220–222 and 307, Fish and Game Code.

HISTORY
1. New section filed 5–19–86 as an emergency; effective upon filing (Register 86, No. 21). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–16–86.
2. Change without regulatory effect of NOTE filed 6–18–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 25).
3. Repealed by operation of Government Code Section 11346.1(g)(Register 87, No.2).

§ 10.15. Bucks Lake Tributaries Closure (Plumas Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.18. Butt Creek and Butt Creek Estuary Closures (Plumas Co.).

NOTE: Authority cited: Sections 200–202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.19. Butt Valley Reservoir Trout Limit (Plumas Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.20. By–Day Creek and Tributaries Closures (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 315, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 315, Fish and Game Code.

HISTORY
1. New section filed 7–29–85 as an emergency; effective upon filing (Register 85, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–26–85.
2. Repealed by operation of Government Code Section 11346.1(g) (Register 86, No. 6).
3. New section filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.21. Calaveras River, North Fork Trout Season and Limit (Calaveras Co.), Only from Highway 49 Upstream to Ponderosa Way.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.24. Carson River, East Fork and Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.25. Carson River, East Fork Trout Restrictions (Alpine Co.), Only from Hangmans Bridge Downstream to Nevada State Line.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New section filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.27. Convict Creek Closure (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.30. Corral Valley Creek and Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.33. Cottonwood Creek Drainage Trout Restrictions (Inyo Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.34. Cottonwood Creek, North Fork and Tributaries Closures (White Mountains, Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.35. Cottonwood Lakes and Tributaries Closures (Inyo Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.38. Coyote Valley Creek and Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.40. Crooked Creek Closures (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY
1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.41. Crooked Creek Closures (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).

§ 10.42. Crowley Lake Tributaries Trout Restrictions (Mono Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New section filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Amendment of first paragraph only filed 1–26–88; operative 3–1–88 (Register 88, No. 6).

3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.44. Crowley Lake Seasons, and Special Restrictions and Tributaries Closures (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (d) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment of subsection (a) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Amendment filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
4. Amendment of subsection (a) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
5. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.45. Crowley Lake Trout Limit (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).

§ 10.48. Davis Lake Tributaries Closure (Plumas Co.).

NOTE: Authority cited: Section 315, Fish and Game Code. Reference: Sections 315 and 315.5, Fish and Game Code.

HISTORY

1. Amendment filed 5–26–83 as an emergency; effective upon filing (Register 83, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–23–83.
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.52. Diaz Lake Trout Season and Limit (Inyo Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.58. Eagle Lake and Tributaries Closures (Lassen Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–22, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.59. Eagle Lake Trout Limit (Lassen Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.60. Eagle Lake Tributaries Trout Restrictions (Lassen Co.).

HISTORY

1. New section filed 5–5–83 as an emergency; effective upon filing (Register 83, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–2–83.
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.62. Fall River Restrictions (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.65. Feather River, North Fork Trout Limits (Plumas Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.66. Golden Trout Wilderness Area Restrictions (Tulare Co.), All Waters Within the Golden Trout Wilderness.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 201.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).

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2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.68. Hat Creek No. 1 and Cassel Forebays Closures (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.69. Hat Creek Restrictions (Shasta Co.), Only from Lake Britton Upstream to Baum Lake, Exclusive of the Concrete Hat #2 Intake Canal Between Baum Lake and the Hat #2 Powerhouse.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New subsection (d) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.72. Heenan Lake Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.73. Heenan Lake Restrictions (Alpine Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.75. Hot Creek Trout Restrictions (Mono Co.), Only from the Upstream Property Line of the Hot Creek Ranch Downstream to Confluence with Owens River.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.78. Independence Lake and Tributaries Trout Restrictions (Nevada and Sierra Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.79. Independence Lake Lahontan Cutthroat Trout Limit (Nevada and Sierra Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.82. Indian Tom Lake Trout Limit (Siskiyou Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.83. Inyo County, Southwestern Portion, Trout Season and Limit.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.85. Junction Lake and Tributaries Closures (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.88. Kern Plateau (Sometimes Known as Tulare Plateau) Trout Restrictions (Tulare Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).

§ 10.91. Kern Lake Closure (Tulare Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.94. Kings River Gear Restrictions (Fresno Co.), Only from Garnet Dike Campground Upstream to Confluence of South and Middle Forks, South Fork Upstream to the Highway Crossing at Boyden Cave, and Middle Fork Upstream to the Western Boundary of Kings Canyon National Park.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.96. Kings River Trout Limit (Fresno Co.), Only from Pine Flat Lake Upstream to Confluence of South and Middle Forks, South Fork Upstream to Bubbs Creek, and Middle Fork Upstream to West Boundary of Kings Canyon National Park.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 10.98. Kirman (Carmen) Lake Trout Limit and Kirman Lake Tributaries Closure (Mono Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. New section filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.00. Lassen Creek and Tributaries Closures (Modoc Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).

2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.03. Macklin Creek Closure (Nevada Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.06. Mammoth Pool and Tributaries Closures (Fresno and Madera Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.09. Martis Lake Restrictions (Nevada and Placer Cos.).

NOTE: Reference cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.10. Martis Lake Tributaries Closure (Nevada and Placer Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.13. McCloud River Trout Restrictions (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.14. McCloud River Basin Dolly Varden (Bull Trout) Limit (Shasta and Siskiyou Cos.).

NOTE: Authority cited: Sections 200, 02, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.16. McCloud Lake Trout Restrictions (Mono Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Renumbering of former Section 11.17 to Section 11.16 filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.17. Merced River Trout Restrictions (Mariposa Co.) Only from the Yosemite National Park Boundary Downstream to the Foresta Bridge.

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Renumbering of former Section 11.17 to 11.16, and new Section 11.17 filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.18. Milton Lake and Middle Fork Yuba River Between Milton Lake and Jackson Meadows Dam Trout Restrictions (Nevada Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.19. Moccasin Creek Closure (Tuolumne Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.20. Mono Creek Closures (Fresno Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering of former Section 11.20 to Section 11.21 and new Section 11.20 filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.21. Murray Canyon Creek and Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering of former Section 11.20 to Section 11.21 filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.23. Owens River Trout Restrictions (Inyo and Mono Cos.), Only Downstream from Crowley Lake Dam, Including Pleasant Valley and Tinemaha Lakes.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.25. Pit River Trout Seasons and Limits (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210 Fish and Game Code.

HISTORY

1. New Section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.26. Pine Creek Closure (Lassen Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 11.29. Pleasant Valley Creek Trout Restrictions (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.32. Pole Creek and Tributaries Closures (Placer Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.33. Portuguese Creek, West Fork Trout Restrictions (Madera Co.), Only from Headwaters Downstream to Confluence with the East Fork Portuguese Creek.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.35. Rock Creek Diversion Channel Closure (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish an Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.36. Rock Creek Closure (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY
1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.38. Rush Creek Closure (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.41. Sacramento River Tributaries Salmon Spawning Areas (Shasta Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.42. Sacramento River Trout Limit (Shasta Co.), Only from Shasta Lake Upstream to Shotgun Creek.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.44. Sagehen Creek Closure (Nevada Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.47. Silver King Creek and Tributaries Closures (Alpine Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.48. Slinkard Creek Closure (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY
1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.50. Stanislaus River and Tributaries Closures (Alpine, Calaveras and Tuolumne Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.51. Stanislaus River, Middle Fork Trout Restrictions (Tuolumne Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New section filed 2–11–87, designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.53. Tahoe Lake and Tributaries Closures (Placer and El Dorado Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.54. Tahoe Lake Trout Limit (Placer and El Dorado Cos.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New section filed 1–22–88; operative 1–22–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.57. Topaz Lake Trout Season and Limit (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.63. Truckee River Closure (Placer Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.64. Truckee River Trout Restrictions (Nevada Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY
1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.66. Tule River, North Fork Trout Restrictions (Tulare Co.), Only in the North Fork Tule River and All Its Forks and Tributaries Above the Confluence with Pine Creek (Approximately 50 Yards Upstream from the Blue Ridge Road Bridge, About 12 1/4 Miles North of Springville).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.69. Tuolumne River and Tributaries Closures (Tuolumne Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.71. Walker River, East Fork Trout Restrictions (Mono Co.).

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.75. Willow Creek and Tributaries Closure (Tributary to Goose Lake, Modoc Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.80. Yellow Creek Trout Restrictions (Plumas Co.), Only from Big Springs Downstream to the Marker at the Lower End of Humbug Meadow.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 11.90. Yuba River, North Fork Trout Restrictions (Sierra Co.) from the Western Boundary of Sierra City to the Confluence with Ladies Canyon Creek.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. New section filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

Article 6. Valley District

§ 12.00. Definition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.03. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.06. American River Closure (Sacramento Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.07. American River Salmon Spawning Area (Sacramento Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.08. American River Trout and Salmon Season and Limit (Sacramento Co.), Only from Mouth to Nimbus Dam.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.11. Antelope Creek Trout Season and Limit (Tehama Co.), Only from Mouth to U.S. Geological Survey Gauging Station Cable Crossing at Mouth of Antelope Creek Canyon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.14. Battle Creek Trout Closures, Seasons and Limit (Shasta and Tehama Cos.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment filed 10–12–83 as an emergency; effective upon filing (Register 83, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–9–84.
2. Reinstatement of section as it existed prior to emergency amendment filed 10–12–83 by operation of Government Code Section 11346.1(f) (Register 85, No. 11).
3. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Amendment filed 2–11–87; effective upon filing (Register 87, No. 9).
5. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.15. Battle Creek Salmon Fish Closure (Shasta and Tehama Cos.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment filed 2–11–87, effective upon filing (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.17. Bear Creek Closure (Merced Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 240, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 11–5–85 as an emergency; effective upon filing (Register 85, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–5–86.
2. New section refiled 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.18. Big Chico Creek Salmon and Trout Restriction (Butte Co.).

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, and Fish and Game Code.

HISTORY

1. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.19. Black Butte River and Tributaries Closures (Glenn Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.21. Butte Creek Salmon Closure (Butte Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.22. Butte Creek Trout and Salmon Season and Limit (Butte Co.), Only from the Highway 99 Bridge South of Chico to the Centerville Head Dam.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.25. Calaveras River Closure and Restriction (Calaveras Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment filed 2–11–87; effective upon filing (Register 87, No. 9).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.26. Calaveras River Trout Season and Limit (Calaveras Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 12.27. Chowchilla River Closure (Madera and Mariposa Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 220, 240 and 307, Fish and Game Code. Reference: Sections 200, 205 and 307, Fish and Game Code.

HISTORY

1. New section filed 9–15–89 as an emergency; operative 9–15–89 (Register 89, No. 38). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–16–90.
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.29. Cosumnes River Salmon Spawning Area (Sacramento Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.33. Deer Creek Trout Season and Limit (Tehama Co.), Only from Mouth to U.S. Geological Survey Gauging Station Cable Crossing to Mouth of Deer Creek Canyon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.36. Don Pedro Lake Closure (Tuolumne Co.).

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. New section filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.37. Eastman Lake Closure (Madera and Mariposa Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 220 and 240, Fish and Game Code. Reference: Sections 200 and 205, Fish and Game Code.

HISTORY

1. New section filed 7–19–89 as an emergency; operative 7–19–89 (Register 89, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–16–89.
2. Certificate of Compliance transmitted to OAL 11–13–89 and filed 12–6–89 (Register 89, No. 50).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.39. Feather River Closure (Butte Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.40. Feather River Salmon Spawning Area (Butte Co.).

NOTE: Authority cited: Sections 200, 202, and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.41. Feather River Trout and Salmon Season and Limit (Butte, Sutter and Yuba Cos.), Only from Mouth to Thermalito Bicycle Bridge in Oroville.

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment of subsection (b) filed 2–11–87; designated effective 3–1–87 (Register 87, No.9).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.42. Feather River, North Fork Trout Season and Limit (Butte Co.), Only Upstream from Poe Dam.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.43. Kern River Trout Limit (Kern Co.), Only from Lake Isabella Upstream to the Tulare–Kern County Line.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.43.5. Kings River, South Fork at Empire Weir #1 and Adjacent Pumping Station Bypass Closure (Kings County).

NOTE: Authority cited: Section 315, Fish and Game Code. Reference: Section 315, Fish and Game Code.

HISTORY

1. New section filed 9–14–83 as an emergency; effective upon filing (Register 83, No. 40). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–12–84.
2. Repealed by operation of Government Code Section 11346.1(g) (Register 84, No. 5).
3. New section filed 1–12–84 as an emergency; effective upon filing (Register 84, No. 5). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–12–84.
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.44. Kings River, South Fork at Empire Weir #1 and Adjacent Pumping Station Bypass Closure (Kings Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former Section 12.44 to Section 12.45 and new Section 12.44 filed 2–3–84; designated effective tenth day thereafter (Register 84, No. 5).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.45. Merced River Closure (Merced Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former Section 12.44 to Section 12.45 filed 2–3–84; designated effective tenth day thereafter (Register 84, No. 5).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.47. Mill Creek Trout Season and Limit (Tehama Co.), Only from Mouth to Howell Cable Crossing in Mouth of Mill Creek Canyon.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1 Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.50. Mokelumne River Closure (San Joaquin Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.51. Mokelumne River Salmon Spawning Area (San Joaquin Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.52. Mokelumne River Trout and Salmon Season and Limit (San Joaquin Co.), Only from Highway 99 Bridge to Camanche Dam.

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment of subsection (b) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.55. Putah Creek Special Flyfishing Restrictions (Solano and Yolo Cos.), Only from Solano Lake Diversion Dam to Monticello Dam.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.58. Sacramento River Closures (Shasta and Tehama Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.59. Sacramento River and Sacramento Tributaries Salmon Spawning Area Closures (Butte, Colusa, Glenn, Shasta, Sutter and Tehama Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 240, 315 and 315.3, Fish and Game Code. Reference: Sections 200, 202, 205–210, 240, 315 and 315.3, Fish and Game Code.

HISTORY

1. Amendment filed 2–6–87 as an emergency; effective upon filing (Register 87, No. 6). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–8–87.
2. Certificate of Compliance transmitted to OAL 4–21–87 and filed 5–21–87 (Register 87, No. 22).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.60. Sacramento River Trout and Salmon Season and Limit.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200 and 205, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. New subsection (c) filed 10–18–88 as an emergency; operative 10–18–88 (Register 88, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–15–89.
3. Certificate of Compliance filed 2–14–89 (Register 89, No. 8).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.61. Sacramento River Special Maximum Size Limit.

NOTE: Authority cited: Sections 200, 202, 205, 220, 240 and 307, Fish and Game Code. Reference: Sections 200, 205 and 307, Fish and Game Code.

HISTORY

1. New section filed 10–18–88 as an emergency; operative 10–18–88 (Register 88, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–15–89.
2. Certificate of Compliance filed 2–14–89 (Register 89, No. 8).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.63. Secret Ravine Creek and Tributaries Salmon Spawning Area (Placer Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.65. Stanislaus River Special Trout Limit.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. New section filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.66. Stanislaus River Salmon Spawning Area (Calaveras, San Joaquin, Stanislaus and Tuolumne Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.69. Stony Creek Salmon Spawning Area (Glenn Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.72. Tulare, Kings and Kern Counties Special Limit.

NOTE: Authority cited: Section 315, Fish and Game Code. Reference: Sections 315 and 315.5, Fish and Game Code.

HISTORY

1. New section filed 10–12–83 as an emergency; effective upon filing (Register 83, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–9–84.
2. Emergency language filed 10–12–83 allowed to expire (Register 84, No. 5).
3. New section filed 1–30–84; designated effective 2–9–84 (Register 84, No. 5).
4. Repealer filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).

§ 12.76. Tuolumne River Salmon Spawning Area (Stanislaus Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.79. Willow Slough Closure (Sutter Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).

§ 12.82. Yuba River and Tributaries Salmon Spawning Area (Nevada and Yuba Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 310, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 12.83. Yuba River Trout and Salmon Season and Limit (Nevada and Yuba Cos.), Only from Mouth to Englebright Dam and Tributaries As Listed in Section 12.82.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

Article 7. North Coast District

§ 13.00. Definition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.05. Trout and Salmon.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 240, Fish and Game Code. Reference: Sections 200, 202, 205–210 and 240, Fish and Game Code.

HISTORY

1. Amendment of subsection (d)(1) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment of subsections (b)(7), (b)(16) and (b)(17) filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
3. Amendment filed 6–1–87; operative 6–1–87 (Register 87, No. 24).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.10. Stream Closures: Special Low Flow Conditions.

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.15. Balm of Gilead Creek Closure (Trinity Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.20. Bogus Creek and Tributaries Closures (Siskiyou Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.25. Eel River System Closures (Humboldt and Trinity Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.30. Eel River, Middle Fork Trout Restrictions (Trinity Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.35. Klamath River Closures (Siskiyou and Humboldt Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 315, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 315, Fish and Game Code.

HISTORY

1. New subsections (c) and (d) filed 5–30–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–27–84.
2. Certificate of Compliance including new subsection (e) transmitted to OAL 9–13–84 and filed 10–12–84 (Register 84, No. 41).
3. New subsections (f) and (g) filed 9–11–85 as emergency; effective upon filing (Register 85, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–9–86.
4. Subsections (f) and (g) expired by own terms (Register 86, No. 21).
5. Repealer of former subsections (c) and (d), and relettering of former subsection (e) to subsection (c) filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
6. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.36. Klamath River Salmon Restrictions (Siskiyou and Humboldt Cos.).

NOTE: Authority cited: Sections 200, 202, 205, 210, and 240, Fish and Game Code. Reference: Sections 200, 202, 205–210, 240 and 315, Fish and Game Code.

HISTORY

1. New section filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
2. Amendment filed 6–1–87; operative 6–1–87 (Register 87, No. 24).
3. Amendment of subsection (a)(1) filed 5–10–89; operative 5–10–89 (Register 89, No. 19).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.37. Klamath River Trout Restrictions (Siskiyou Co.), Only from the Klamath River Copco Lake Bridge Upstream to the Oregon Border.

NOTE: Authority cited: Sections 200, 202, 205, and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.38. Klamath River Tributary Trout Restrictions (Humboldt, Siskiyou and Trinity Cos.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202 and 205–210, Fish and Game Code.

HISTORY

1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment of section heading filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Amendment of first paragraph filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
4. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.39. Klopp Lake Trout Restrictions (Humboldt Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.40. Mad River Closure (Humboldt Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.45. Mattole River Closure (Humboldt Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.50. Prairie Creek and Tributaries Closures (Humboldt Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.55. Redwood Creek Closure (Humboldt Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish an Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.60. Salmon River System Winter Trout Season and Limit (Siskiyou Co.), Only from Mouth to and Including the North and South Forks.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.65. Scott River Winter Trout Season and Limit (Siskiyou Co.), Only from Mouth to the Fort Jones–Greenview Bridge.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.70. Shasta River Closure (Siskiyou Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.71. Shasta River Winter Trout Season and Limit (Siskiyou Co.), Only from Mouth Upstream to Interstate 5 Bridge.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.75. Shovel Creek and Tributaries Closures (Siskiyou Co.).

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, and 205–210, Fish and Game Code.

HISTORY
1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.80. Smith River, South Fork Closure (Del Norte Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.85. Trinity River Closures (Trinity Co.).

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. New subsection (f) filed 9–11–85 as an emergency; effective upon filing (Register 85, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–9–86. For prior history, see Register 84, No. 41.
2. Repealer of subsection (e) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Subsection (f) expired by own terms (Register 86, No. 21).
4. Repealer of former subsection (c) and relettering of former subsection (d) to subsection (c) filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
5. Amendment of subsection (a) filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).
6. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.86. Trinity River and South Fork Trinity River Salmon Restrictions (Trinity Co.).

NOTE: Authority cited: Sections 200, 202, 205, 210, and 240, Fish and Game Code. Reference: Sections 200, 202, 205–210, 240, and 315, Fish and Game Code.

HISTORY
1. New section filed 5–21–86; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 86, No. 21).
2. Amendment filed 6–1–87; operative 6–1–87 (Register 87, No. 24).
3. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.90. Trinity River Special Flyfishing Restrictions (Trinity Co.), Only from the Old Lewiston Bridge to a Point 250 Feet Below the Lewiston Dam.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment of subsection (a) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

§ 13.95. Van Duzen River Trout Restrictions (Humboldt Co.), Only Between the Highway 36 Bridge at Bridgeville and the Confluence with the South Fork.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY
1. Amendment of subsection (a) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Repealer filed 3–1–90; operative 3–1–90 (Register 90, No. 10).

Chapter 4. Ocean Fishing

Article 1. Ocean and San Francisco Bay District

§ 27.00. Definition.

The Ocean and San Francisco Bay District consists of the open seas adjacent to the coast and islands or in the waters of those open or enclosed bays contiguous to the ocean, and including San Francisco and San Pablo bays plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries between Golden Gate Bridge and Carquinez Bridge, and the waters of Elkhorn Slough, west of Elkhorn Road between Castroville and Watsonville. Also see Section 1.53.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY
1. Renumbering of Chapter 4 to Chapter 6 and new Chapter 4 (§§ 27.00 through 31.35, not consecutive) filed 1–16–74; designated effective 3–1–74 (Register 74, No. 3).

2. Repealer of Chapter 4 (§§ 27.00–31.35, not consecutive) and new Chapter 4 (§§ 27.00–29.90, not consecutive) filed 12–20–74; designated effective 3–1–75 (Register 74, No. 51).
3. Amendment filed 12–31–80; effective thirtieth day thereafter (Register 81, No. 1).
4. Repealer of Chapter 4 (Article 1, Sections 27.00–29.90, not consecutive) and new Chapter 4 (Article 1, Sections 27.00–29.90, not consecutive) filed 2–17–82; designated effective 3–1–82 (Register 82, No. 8). For prior history, see Registers 80, No. 2; 79, No. 1; 78, No. 4; 78, No. 2; 77, No. 51; 76, No. 52; 75, No. 52; and 75, No. 8.
5. Amendment of section and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 27.05. Chumming.

Chumming, including chumming with live bait, is permitted.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 27.10. Live Bait Restrictions.

Tilapia may not be used or possessed for use as bait in ocean waters.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New section filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).

§ 27.15. Multi–Day Fishing Trips.

The following provisions apply to anglers and to boat owners and operators when a Declaration for a Multi–Day Fishing Trip has been filed with the department.

(a) Provisions related to the angler: Up to three daily bag and possession limits of saltwater fin fish, lobster and rock scallops and up to two daily bag and possession limits of abalone are allowed for a person fishing during a multi–day trip in ocean waters from a boat whose owner or operator has filed a Declaration for Multi–Day Fishing Trip, pursuant to the provisions of subsection (b) below.

(1) The provisions of this section do not authorize any person to take more than one daily bag limit of fish during one calendar day.

(2) The provisions of this section do not apply to the taking and possession of salmon, steelhead, striped bass and sturgeon.

(b) Provisions related to the boat owner or operator who has filed for a Declaration for a Multi–Day Fishing Trip:

(1) The owner or operator of a boat shall submit to the nearest department office a Declaration for Multi–Day Fishing Trip and payment as specified in Section 701. The Declaration for Multi–Day Fishing Trip shall include the following information:

(A) Place, date and time of departure of the boat.

(B) Place, date and estimated time of return of the boat.

(C) Name of the boat.

(D) Date and hour Declaration mailed or delivered to the department.

(F) Additional requirements for Commercial Passenger Fishing Vessels:

1. The Commercial Boat Registration Number issued pursuant to Fish and Game Code Section 7880.

2. Copy of passenger manifest if fishing within 10 miles of the mainland shore of California.

(2) The Declaration for Multi–Day Fishing Trip must be submitted to the nearest department office in order for any person aboard such boat to possess more than one bag limit of saltwater fin fish, abalone, lobster and rock scallops. If mailed, the Declaration for Multi–Day Fishing Trip must be received at least 48 hours prior to the date of the boat's departure. If the 48–hours advance notice is not met, the original copy of the form signed by an authorized department representative must be aboard the vessel during the trip. Forms will be accepted for authorization only during business hours of 8:00 a.m. to 5:00 p.m.

(3) A Declaration for Multi–Day Fishing Trip may not be filed for a trip unless the trip is continuous and extends for a period of 12 hours or more on the first and last days of the trip and no berthing or docking is permitted within five miles of the mainland shore.

(4) The owner or operator of a boat filing a Declaration for Multi–Day Fishing Trip shall prepare such form in duplicate, and shall require the duplicate to be posted in full view of the passengers aboard the boat.

(5) All passengers must disembark at place of return as stated on the Declaration for Multi–Day Fishing Trip.

NOTE: Authority cited: Sections 200, 202, 205, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 220 and 7880, Fish and Game Code.

HISTORY

1. Amendment filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
3. Amendment of subsections (a), (b)(2), and (b)(3) filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
4. Amendment of section and NOTE filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).

OCEAN WATERS WITH RESTRICTED FISHING

§ 27.20. Groundfish Management Areas, Seasons, Depths, Exceptions, and Fishery Closure/Rule Change Process Described.

Regulations that follow in sections 27.25 through 27.50 define fishing seasons and depth constraints that are effective within each Groundfish Management Area. These sections apply to take and possession of all 90 species of federally–managed groundfish as defined in Section 1.91. (These species include but are not limited to rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish). Special closures and exceptions to these regulations are also specified. All regulations of sections 27.25 through 27.50 also apply for California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*, which are state–managed species known to associate with federal groundfish.

(a) Depth Constraints: A depth constraint means that during the open season, the aforementioned species may only be taken or possessed in water depths shallower than the specified general depth contour lines, or alternatively, in waters shoreward of lines approximating a particular depth contour, defined by connecting the appropriate set of waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(b) Open Season — Take, Possession and Transit: During any open season in any Groundfish Management Area, in waters deeper than where fishing is authorized, it is unlawful to take or possess the aforementioned species unless a special exception is provided. However, this regulation does not apply in cases where these species are possessed aboard vessels in transit with no fishing gear in the water.

(c) Closed Season: During any closed season in any Groundfish Management Area, it is unlawful to take or possess the aforementioned species regardless of depth, unless a special exception is provided.

(d) California Rockfish Conservation Area: Within any Groundfish Management Area, waters that are closed for these species during specified times and/or closed in specified depths shall be known as the California Rockfish Conservation Area. See Section 27.51.

(e) Fishery closure and/or rule change: When the department determines, based on the best available scientific information, that an annual harvest limit [optimum yield (OY), recreational harvest guideline, or recreational harvest target] established in regulation by the NOAA Fisheries (National Marine Fisheries Service) for any species of federally–managed groundfish or aggregate group of federal groundfish species has been exceeded or is projected to be exceeded prior to the end of the year or that catches are less than predicted, the following rule changes may occur:

(1) The department may modify the seasons and/or depth constraints for any species of federally–managed groundfish or aggregate group of federal groundfish species, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. Season and/or depth modifications may differ by Groundfish Management Area, mode of fishing, or gear utilized.

(2) The department may adjust existing bag or sub–bag limits or establish additional bag or sub–bag limits as needed for any species of federally–managed groundfish or aggregate group of federal groundfish spe-

cies, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. Bag limits may differ by Groundfish Management Area, time of year, mode of fishing, or gear utilized.

(3) The department may adjust existing size limits or establish additional size limits as needed for any species of federally–managed groundfish or aggregate group of federal groundfish species, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*. Size limits may differ by Groundfish Management Area, time of year, mode of fishing, or gear utilized.

(f) Notice of closure and/or rule change: The department shall give the public and the National Marine Fisheries Service no less than 10 calendar days' notice of any fishery closure or rule change implemented pursuant to this Section via a department news release. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/ marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 1802, 7071 and 8586, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history of sections 27.20–27.53, see Register 83, No. 4; Register 87, No. 9 and Register 2005, No. 10.
2. Amendment of section and NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 27.25. Northern Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Northern Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Northern Groundfish Management Area means ocean waters between 42°00′ N. lat. (the Oregon/California border) and 40°10′ N. lat. (near Cape Mendocino, Humboldt County).

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January through April: Closed.

(2) May through November: Open for all species only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(3) December: Open for all species, except for lingcod, only in waters shallower than 20 fathoms in depth as described by general depth contour lines. Lingcod may not be taken or possessed.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Humboldt Bay all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.
2. Amendment of subsections (b)(2) and (b)(3) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 27.30. North–Central Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the North–Central Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The North–Central Groundfish Management Area means ocean waters between 40°10′ N. lat. (near Cape Mendocino, Humboldt County) and 37°11′ N. lat. (at Pigeon Point, San Mateo County).

(b) Seasons, depth constraints, and special closure areas (except as provided in (c) below):

(1) January through May: Closed.

(2) June through November: Open for all species only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(3) December: Closed.

(4) Farallons Closure Area: Waters shallower than 10 fathoms in depth as described by general depth contour lines around the Farallon Islands (off San Francisco and San Mateo counties), including Southeast Farallon Island, Middle Farallon Island, North Farallon Island and Noon Day Rock are closed to fishing for these species at all times. Special exceptions provided for "other flatfish" in subsection (c)(1), shore–based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.

(5) Cordell Bank Closure Area: Waters of the Cordell Bank (off Marin County) shallower than 100 fathoms in depth as approximated by the 100–fathom depth contour that is defined by connecting the set of 100–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G), are closed to fishing for these species at all times. Special exceptions provided for "other flatfish" in sub–section (c)(1) below apply to this closure area. Special exceptions provided for shore–based angling in subsection (c)(3) and spearfishing/diving in subsection (c)(4) below do not apply in this closure area.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), all species may be taken or possessed all year, except lingcod may

not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.
2. Amendment of subsections (b)(2), (b)(4) and (b)(5) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 27.35. Monterey South–Central Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Monterey South–Central Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Monterey South–Central Groundfish Management Area means ocean waters between 37°11′ N. lat. (at Pigeon Point, San Mateo County) and 36°00′ N. lat. (near Lopez Point, Monterey County).

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January through April: Closed.

(2) May through November: Open for all species only in waters shoreward of lines approximating the 40–fathom depth contour, defined by connecting the set of 40–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(3) December: Closed.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Elkhorn Slough all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.

§ 27.40. Morro Bay South–Central Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Morro Bay South–Central Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Morro Bay South–Central Groundfish Management Area means ocean waters between 36°00′ N. lat. (near Lopez Point, Monterey County) and 34°27′ N. lat. (at Point Conception, Santa Barbara County).

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January through April: Closed.

(2) May through November: Open for all species only in waters shoreward of lines approximating the 40–fathom depth contour, defined by connecting the set of 40–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(3) December: Closed.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(3) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.

§ 27.45. Southern Groundfish Management Area.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Southern Groundfish Management Area. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Southern Groundfish Management Area means ocean waters between 34°27′ N. lat. (at Point Conception, Santa Barbara County) and

the U.S./Mexico border, except for waters of the Cowcod Conservation Areas, which are specified in Section 27.50. The Cowcod Conservation Areas are not part of the Southern Groundfish Management Area.

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January and February: Closed, except California scorpionfish may be taken or possessed only in waters shoreward of lines approximating the 40–fathom depth contour, defined by connecting the set of 40–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(2) March: Open for all species, except for lingcod, only in waters shoreward of lines approximating the 60–fathom depth contour, defined by connecting the set of 60–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G). Lingcod may not be taken or possessed.

(3) April through November: Open for all species only in waters shoreward of lines approximating the 60–fathom depth contour, defined by connecting the set of 60–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G).

(4) December: Open for all species, except for lingcod, only in waters shoreward of lines approximating the 60–fathom depth contour, defined by connecting the set of 60–fathom waypoints adopted in Federal regulations (50 CFR Part 660, Subpart G). Lingcod may not be taken or possessed.

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) Leopard shark may be taken or possessed in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay all year.

(3) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to assist in taking or possessing these species while angling from shore under this provision.

(4) When diving or spearfishing, as authorized in Section 28.90, all species may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.

§ 27.50. Cowcod Conservation Areas.

This Section applies to take and possession of all 90 species of federally–managed groundfish, California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos* in the Cowcod Conservation Areas. The Cowcod Conservation Areas are special Groundfish Management Areas where sport fishing regulations for these species are designed to minimize interaction with cowcod. Federal groundfish include, but are not limited to, rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. For specific definitions, applicability, and procedures, see sections 1.91 and 27.20. For size limits, possession limits, and other regulations that apply to individual species, see specific sections beginning with Section 27.60.

(a) The Cowcod Conservation Areas are defined as ocean waters off southern California within each of the following two areas. Area 1 is an area south of Point Conception that is bound by straight lines connecting the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 119°30′ W. long.; and Area 2 is a smaller area west of San Diego that is bound by straight lines connecting the following points in the order listed:

32°42′ N. lat., 118°02′ W. long.;
32°42′ N. lat., 117°50′ W. long.;
32°36′ 42″ N. lat., 117°50′ W. long.;
32°30′ N. lat., 117°53′ 30″ W. long.;
32°30′ N. lat., 118°02′ W. long.;
32°42′ N. lat., 118°02′ W. long.;

(b) Seasons and depth constraints (except as provided in (c) below):

(1) January and February: Closed, except California scorpionfish may be taken or possessed only in waters shallower than 20 fathoms in depth, as described by general depth contour lines.

(2) March: Open for only the species or species groups listed in (A) through (F) below, and only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(A) Nearshore rockfish, as defined in subsection 1.91(a)(1)
(B) Cabezon
(C) California scorpionfish
(D) Greenlings of the genus *Hexagrammos*
(E) California sheephead
(F) Ocean whitefish

(3) April through November: Open for only the species or species groups listed in (A) through (G) below, and only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(A) Nearshore rockfish, as defined in subsection 1.91(a)(1)
(B) Cabezon
(C) California scorpionfish
(D) Greenlings of the genus *Hexagrammos*
(E) California sheephead
(F) Ocean whitefish
(G) Lingcod

(4) December: Open for only the species or species groups listed in (A) through (F) below, and only in waters shallower than 20 fathoms in depth as described by general depth contour lines.

(A) Nearshore rockfish, as defined in subsection 1.91(a)(1)
(B) Cabezon
(C) California scorpionfish
(D) Greenlings of the genus *Hexagrammos*
(E) California sheephead
(F) Ocean whitefish

(c) Special exceptions to subsection (b) above:

(1) "Other Flatfish" as defined in subsection 1.91(a)(10), which include Pacific sanddabs, may be taken or possessed in all depths all year, except that when fishing in times or areas closed under subsection (b) above, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) When angling from shore (includes beaches, banks, piers, jetties, breakwaters, docks, and other man–made structures connected to the shore), only the species identified in (b)(3) above may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March and December. No vessel or watercraft (motorized or non–motorized) may be used to as-

sist in taking or possessing these species while angling from shore under this provision.

(3) When diving or spearfishing, as authorized in Section 28.90, only the species identified in (b)(3) above may be taken or possessed all year, except lingcod may not be taken or possessed under this provision during the months of January, February, March, and December. Except for spearfishing gear, all other types of fishing gear are prohibited to be aboard the vessel or watercraft (motorized or non–motorized) while spearfishing for the purpose of taking or possessing these species under this provision.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code; and 50 CFR Part 660, Subpart G.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history, see Register 2005, No. 10.

§ 27.51. California Rockfish Conservation Area.

California Rockfish Conservation Area (CRCA) means the ocean waters that are closed to recreational groundfish fishing at specified times, or closed in specified depths or areas. CRCAs serve to minimize interaction with particular species of overfished groundfish that cannot be selectively avoided and thus must be protected from overharvest by closing times, depths or areas to recreational fishing for all federally–managed groundfish and associated species (limited to California sheephead, greenlings of the genus *Hexagrammos*, and ocean whitefish) managed by California. See Section 27.20.

(a) In the CRCA, take and possession is prohibited for all 90 species of federally–managed groundfish as defined in Section 1.91. These species include but are not limited to rockfish, cabezon, lingcod, California scorpionfish, kelp greenling, and some species of sharks, skates and flatfish. Take and possession of California sheephead, ocean whitefish, and all greenlings of the genus *Hexagrammos*, which are state–managed species known to associate with federal groundfish, is also prohibited.

(b) This regulation does not apply in cases where these species are possessed aboard vessels in transit with no fishing gear in the water.

NOTE: Authority: Section 205, Fish and Game Code. Reference: Sections 200, 202 and 215, Fish and Game Code; and 50 CFR Part 660, Subpart G.

HISTORY

1. Renumbering of former section 27.83 to section 27.51, including amendment of section and NOTE, filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3). For prior history of section 27.51, see Register 2005, No. 10.

FIN FISH—GENERAL

§ 27.56. Take General.

Except as otherwise provided, there are no closed season, closed hours or minimum size limits on fin fish in the Pacific Ocean including all saltwater bays except that in San Francisco Bay between the Golden Gate Bridge and the Carquinez Bridge and in saltwater tributaries to the bay within the area bounded by Interstate 80 and Highways 17, 101 and 37 fin fish may not be taken between one hour after sunset to one hour before sunrise except from shore or piers.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

FIN FISH—MINIMUM SIZE LIMITS, BAG AND POSSESSION LIMITS AND SEASONS

§ 27.60. Limit.

(a) General. No more than 20 finfish in combination of all species with not more than 10 of any one species, may be taken or possessed by any one person except as otherwise provided or as defined in subsection (c) below or in Section 195. See sections 27.70 through 28.62 for special bag limits, minimum size limits and poundage restrictions for certain species that apply in addition to the general bag limit.

(b) There is no limit on the following species: anchovy, grunion, jacksmelt, topsmelt, Pacific butterfish (pompano), queenfish, sanddabs, skipjack, jack mackerel, Pacific mackerel, Pacific staghorn sculpin, round herring, Pacific herring, Pacific sardine, petrale sole and starry flounder.

(c) Boat limit. When two or more persons that are licensed or otherwise authorized to sport fish in ocean waters off California or in the San Francisco Bay District, defined in Section 27.00, are angling for finfish aboard a vessel in these waters, fishing by all authorized persons aboard may continue until boat limits of finfish are taken and possessed aboard the vessel as authorized under this section or Section 195, Title 14, CCR.

(1) The authorization for boat limits aboard a vessel does not apply to fishing trips originating in California where fish are taken in other jurisdictions.

(2) A boat limit for a species or species group is the number of persons aboard a vessel that are licensed or otherwise authorized to sport fish in ocean waters off California, or in waters of the San Francisco Bay District, (see special conditions of Section 195, Title 14, CCR, applicable to operator and crew members of vessels licensed pursuant to Fish and Game Code 7920) multiplied by the individual daily bag limit authorized for a species or species group in those waters. With the exception of species listed in subsection (b) above, the total fish aboard a boat may not exceed the aggregate per–person daily bag limit of 20–finfish in combination of all species times the number of anglers licensed or otherwise authorized to sport fish aboard the vessel. It is unlawful to exceed the boat limit at any time.

(3) All persons aboard a vessel may be cited where violations involving boat limits are found, including, but not limited to the following violations:

(A) Over limits

(B) Possession of prohibited species

(C) Violation of size limits

(D) Fish taken out of season or in closed areas.

(4) Upon completion of a fishing trip aboard a vessel, each licensed angler or person otherwise authorized to sport fish may not possess more than the individual daily bag and possession limits. For purposes of this section, a trip is completed at the time a person disembarks from a vessel and individual possession limits apply. Special boat limit provisions apply to persons fishing aboard commercial passenger fishing vessels reporting pursuant to Section 195, Title 14, CCR.

(5) Species for which no daily bag limit exists are not counted as part of a boat limit.

(6) Boat limits are not authorized for sturgeon fishing and shall not apply to the take, possession or retention of sturgeon.

NOTE: Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 7071 and 7120, Fish and Game Code.

HISTORY

1. Amendment filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
2. Amendment of subsection (c) filed 1–26–88; operative 3–1–88 (Register 88, No. 6).
3. Amendment of subsections (b) and (c) and NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
4. Amendment of subsection (b) and NOTE filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
5. Amendment of subsections (b) and (c) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
6. Editorial correction of subsection (b) (Register 98, No. 52).
7. Amendment of subsection (b) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
8. Change without regulatory effect amending subsection (b) filed 7–13–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 29).
9. Amendment of subsection (b) filed 12–30–99; operative 12–30–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
10. Amendment of section and NOTE filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
11. Amendment filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

12. Amendment of subsection (b) and new subsections (b)(1)–(b)(3) filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
13. Amendment of subsections (b)(1)–(3) filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
14. Amendment of subsection (a), new subsections (e)–(e)(5) and amendment of NOTE filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
15. Amendment of subsections (b)(1)–(2) and NOTE filed 3–30–2004 as an emergency; operative 4–1–2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–30–2004 or emergency language will be repealed by operation of law on the following day.
16. Amendment of subsection (b)(1) filed 4–29–2004 as an emergency; operative 5–1–2004 (Register 2004, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–30–2004 or emergency language will be repealed by operation of law on the following day.
17. Repealer of subsections (b)–(b)(3), new subsections (b)–(b)(2) and amendment of table filed 4–28–2004; operative 5–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
18. Certificate of Compliance as to 3–30–2004 order transmitted to OAL 7–28–2004 and filed 9–9–2004 (Register 2004, No. 37).
19. Amendment of section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
20. Amendment of subsection (b)(2) and NOTE filed 3–20–2006 as an emergency; operative 3–20–2006 (Register 2006, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–18–2006 or emergency language will be repealed by operation of law on the following day.
21. Amendment of subsection (b)(2), repealer and new subsection (c) and new subsection (c)(1) filed 4–21–2006; operative 5–21–2006 (Register 2006, No. 16).
22. Reinstatement of section as it existed prior to 3–20–2006 amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 33).
23. Amendment of subsections (a) and (b)(1)(A)–(b)(2) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
24. Amendment of subsection (b)(2) and new subsection (e)(6) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
25. Amendment filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 27.65. Filleting of Fish on Vessels.

(a) Definition of Fillet: For the purpose of this section a fillet is the flesh from one side of a fish extending from the head to the tail which has been removed from the body (head, tail and backbone) in a single continuous piece.

(b) Fish That May be Filleted: No person shall fillet on any boat or bring ashore as fillets any fish, except in accordance with the following requirements:

(1) Kelp bass, sand bass, spotted bass, and ocean whitefish: All fillets shall be a minimum of six and one–half inches in length. Each fillet shall bear intact a one–inch square patch of skin.

(2) Barracuda: Fillets must be a minimum of 17 inches in length. Each fillet shall bear intact a one–inch square patch of silver skin.

(3) Lingcod. Lingcod fillets must be a minimum of 16 inches in length. Each fillet shall bear intact a one–inch square patch of skin. The minimum size and minimum fillet size for lingcod may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 days in advance of a change to the minimum size and minimum fillet size for lingcod made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(4) White sea bass: Fillets must be a minimum of 19 inches in length. Each fillet shall bear intact a one–inch square patch of silver skin.

(5) Pacific bonito: No more than 10 fillets of any length may be possessed. All bonito fillets possessed shall be considered a part of the allowable undersized tolerance of five bonito per day less than 24 inches fork length or weighing less than five pounds as provided in Section 28.32 of these regulations. All fillets shall bear intact a one–inch square patch of skin.

(6) California halibut taken from or possessed aboard a vessel south of Point Arena (Mendocino County): Fillets must be a minimum of 16 and three–quarter inches in length and shall bear the entire skin intact. A fillet from a California halibut (flesh from one entire side of the fish with the entire skin intact) may not be cut in half fillets. However, a fillet may be cut lengthwise in a straight line along the midline of the fillet where the fillet was attached to the vertebra (backbone) of the fish only if the two pieces of a fillet remain joined along their midline for a length of at least two inches at one end of the fillet.

(7) Yellowtail: Fillets must be a minimum of 17 inches in length, except not more than 10 fillets may be less than 17 inches. Each fillet shall bear intact a one–inch square patch of skin.

(8) Rockfish: Fillets must have the entire skin attached. Bocaccio fillets must be a minimum of five inches in length. The minimum size and minimum fillet size for rockfish may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change to the minimum size and minimum fillet size for rockfish made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(9) California scorpionfish (commonly termed "sculpin"): Fillets must be a minimum of 5 inches. Each fillet shall bear intact a one–inch square patch of skin. The minimum size and minimum fillet size for California scorpionfish may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 days in advance of a change to the minimum size and minimum fillet size for California scorpionfish made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/mrd/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(10) All other species except those listed in subsection (c) of this section: Each fillet shall bear intact a one–inch square patch of skin. The fillets may be of any size.

(c) Fish That May Not be Filleted: No person shall fillet on any boat or bring ashore as fillets the following fish: cabezon, greenlings of the genus Hexagrammos, salmon, striped bass, sturgeon, and any species of flatfish, except California halibut may be filleted or brought ashore as fillets south of Point Arena (Mendocino County).

NOTE: Authority cited: Sections 200 and 202, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 220, 240, 5508 and 5509, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment of subsections (a) and (b) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
3. Amendment filed 10–16–91; operative 10–16–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 5).
4. Amendment of subsection (b)(3) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
5. Editorial correction of subsection (b)(7) (Register 98, No. 47).
6. New subsection (b)(7) and subsection renumbering filed 11–20–98; operative 12–20–98 (Register 98, No. 47).
7. Change without regulatory effect amending subsection (c) filed 7–13–99 pursuant to section 100, title 1, California Code of Regulations (Register 99, No. 29).
8. Amendment of subsections (b)(1) and (b)(3), new subsections (b)(8) and (b)(9), subsection renumbering, and amendment of subsection (c) filed 12–30–99; operative 12–30–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
9. Amendment of subsection (b)(3) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
10. Amendment of subsection (b)(3) and NOTE filed 3–30–2004 as an emergency; operative 4–1–2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–30–2004 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 3–30–2004 order transmitted to OAL 7–28–2004 and filed 9–9–2004 (Register 2004, No. 37).

12. Amendment of subsections (b)(3), (b)(8) and (b)(9) and amendment of NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
13. Amendment of subsections (b)(3), (b)(8) and (b)(9) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
14. Amendment of subsections (b)(8) and (c) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 27.67. Transport of Recreational Fishing Vessel Through Areas Closed to Fishing.

NOTE: Authority cited: Sections 200, 202, 205, 7071, 7923 and 8587.1, Fish and Game Code. Reference: Sections 200, 202, 205, 7071, 7923, 8585.5 and 8587.1, Fish and Game Code.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Amendment of section and NOTE filed 4–10–2002; operative 4–10–2002 pursuant to Fish and Game Code sections 205 and 215 (Register 2002, No. 15).
3. Amendment filed 4–28–2004; operative 5–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
4. Amendment of section heading and section filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
5. Repealer filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).

§ 27.70. Trout in the Ocean.

(a) Methods of take: The trout must voluntarily take the bait or lure in its mouth.

(b) Limit: Three, except the take of steelhead rainbow trout in the ocean is prohibited.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 8–11–98; operative 8–11–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 33).
2. Editorial correction restoring inadvertently deleted section (Register 2007, No. 16).

§ 27.75. Salmon Closures.

(a) No salmon may be taken in ocean waters at the mouth of the Smith and Klamath rivers within three nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of each of said rivers.

(b) No salmon may be taken during the months of August and September in ocean waters at the mouth of the Eel River within two nautical miles north and south of a line drawn due west for two nautical miles from the center of the mouth of said river.

(c) No salmon may be taken during the month of August in ocean waters at the mouth of the Klamath River within six nautical miles north and south of a line drawn due west for three nautical miles from the center of the mouth of said river.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. New subsection (c) filed 5–30–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–27–84.
2. Certificate of Compliance as to 5–30–84 order transmitted to OAL 9–13–84 and filed 10–12–84 (Register 84, No. 41).

§ 27.80. Salmon.

(a) Methods of take:

(1) General Provisions. Only by angling as defined in Section 1.05. No sinkers or weights exceeding four pounds may be used, except that a fishing line may be attached to a sinker or weight of any size if such sinker or weight is suspended by a separate line and the fishing line is released automatically by a mechanical device from the sinker or weight when any fish is hooked. See sections 28.65 and 28.70.

(2) Barbless Hooks. No more than two (2) single point, single shank barbless hooks shall be used in the ocean north of Point Conception (34°27′ 00″ N. lat.) when salmon fishing or fishing from any boat or floating device with salmon on board.

(3) Other Hook Restrictions. When fishing with bait in the ocean between Horse Mountain (40°05′ 00″ N. lat.) and Point Conception, if angling by any means other than trolling, then no more than two (2) single point, single shank, barbless circle hooks shall be used. The distance between the two hooks must not exceed five inches when measured from the top of the eye of the top hook to the inner base of the curve of the lower hook, and both hooks must be permanently tied in place (hard tied). A circle hook is defined as a hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle. Trolling is defined as angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions. See Section 28.65(g).

(4) One Rod Restriction north of Point Conception. Salmon may be taken by angling with no more than one rod in ocean waters north of Point Conception. See Section 28.65(e).

(b) Season:

(1) North of Horse Mountain (40°05′ 00″ N. lat.) and Humboldt Bay. All waters of the ocean north of Horse Mountain and in Humboldt Bay are closed to salmon fishing for 2008. (Note: In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.)

(2) Between Horse Mountain and Point Arena (38°57′ 30″ N. lat.). All waters of the ocean between Horse Mountain and Point Arena are open to salmon fishing from February 16 through April 4, 2008. (Note: In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.)

(3) South of Point Arena. All waters of the ocean south of Point Arena are closed to salmon fishing for 2008. (Note: In 2009, the season will be decided in April by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.)

(c) Limit:

(1) Two salmon per day. See subsection (c)(2) below and Section 1.17.

(2) Statewide Silver (coho) Salmon Restrictions: No silver (coho) salmon may be retained.

(d) Minimum size:

(1) North of Horse Mountain: Twenty–four inches total length.

(2) South of Horse Mountain: Twenty inches total length.

NOTE: Authority cited: Sections 200, 202, 205, 220, 240, 316.5 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 316.5 and 2084, Fish and Game Code.

HISTORY

1. Amendment of subsection (c)(1), new subsection (e) and relettering of former subsection (e) to subsection (f) filed 3–1–90; operative 3–1–90 (Register 90, No. 10). For prior history, see Register 89, No. 19.
2. Amendment of subsections (b) and (c) filed 5–31–90; operative 5–31–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 29).
3. Change without regulatory effect amending subsections (a), (b) and (e) filed 2–22–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 13).
4. Amendment of subsections (b), (c) and (e) filed 5–1–91 as an emergency; operative 5–1–91 (Register 91, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–29–91 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (b) and (e) filed 7–24–91 as an emergency; operative 7–24–91 (Register 91, No. 47). A Certificate of Compliance must be transmitted to OAL by 11–12–91 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (b) and (c) filed 8–2–91 as an emergency; operative 8–2–91 (Register 92, No. 4). A Certificate of Compliance must be transmitted to OAL 12–2–91 or emergency language will be repealed by operation of law on the following day.
7. Amendment filed 5–4–92 as an emergency; operative 5–4–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–1–92 or emergency language will be repealed by operation of law on the following day.
8. Amendment filed 11–24–92; operative 11–24–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 48).

9. Amendment of section and NOTE filed 5–4–93; operative 5–4–93 (Register 93, No. 19).
10. Amendment of subsection (b)(3) and (d) EXCEPTION filed 7–6–93 as an emergency; operative 7–6–93 (Register 93, No. 28). A Certificate of Compliance must be transmitted to OAL by 11–3–93 or emergency language will be repealed by operation of law on the following day.
11. Amendment filed 4–29–94; operative 4–29–94 (Register 94, No. 17).
12. Order filed 7–6–93 repealed by operation of Government Code section 11349.6(d) (Register 94, No. 21).
13. Amendment filed 4–24–95; operative 4–24–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
14. Amendment of subsection (d) filed 4–9–96 as an emergency; operative 4–9–96 (Register 96, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–8–96 or emergency language will be repealed by operation of law on the following day.
15. Amendment of section and Certificate of Compliance as to 4–9–96 order including amendment transmitted to OAL 4–26–96 and filed 4–30–96; operative 4–30–96 pursuant to Fish and Game Code section 202 (Register 96, No. 18).
16. Amendment of subsections (a)(2), (a)(3), (b)(1) and (d)(3) filed 6–28–96; operative 6–28–96 pursuant to Fish and Game Code sections 202 and 215. (Register 96, No. 26).
17. Amendment filed 5–13–97; operative 5–13–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 20).
18. Amendment of subsections (a)(3), (b)(1)–(4), (c)(2) and (d)(2) filed 4–27–98; operative 4–27–98 pursuant to Government Code section 11343.4(d) and Fish and Game Code sections 202 and 215 (Register 98, No. 18).
19. Amendment of subsections (a)(3), (a)(4) and (c)(2) filed 5–14–98 as an emergency; operative 5–14–98 (Register 98, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–11–98 or emergency language will be repealed by operation of law on the following day.
20. Certificate of Compliance as to 5–14–98 order transmitted to OAL 9–9–98 and filed 10–20–98 (Register 98, No. 43).
21. Amendment of subsections (b)(1)–(4), (c)(2) and (d)(2) filed 4–28–99; operative 4–28–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 18).
22. Amendment of subsections (b)(1)–(b)(4), (c)(2) and (d)(2) filed 2–29–2000; operative 2–29–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 9).
23. Amendment filed 4–27–2000; operative 4–27–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 17).
24. Amendment of subsections (b)(1)–(4), (c)(1) and (d)(2) and new subsection (d)(3) filed 4–23–2001; operative 5–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 17).
25. Amendment filed 4–29–2002; operative 5–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 18).
26. Amendment of subsections (b)(1)–(4), (c)(1) and (d)(2) filed 5–1–2003; operative 5–1–2003 pursuant to Fish and Game Code section 202 and 215 (Register 2003, No. 18).
27. Amendment of subsections (b)(1)–(4) and (c)(1), repealer of subsection (c)(2), subsection renumbering and amendment of subsection (d)(2) filed 5–13–2004; operative 5–15–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).
28. Amendment of subsections (b)(1)–(4) and (d)(1)–(2) filed 6–8–2005; operative 6–8–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 23). Because the season in the region described in subsection (b)(4) had not previously been set in regulation in 2005 and began prior to the effective date of this regulation, the minimum size of salmon that may be taken under this section in the region North of Horse Mountain is 20 inches from May 21, 2005 to June 9, 2005.
29. Repealer of subsections (b)(1)–(4), new subsections (b)(1)–(5) and amendment of subsection (d)(2) and NOTE filed 5–11–2006 as an emergency; operative 5–11–2006 (Register 2006, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–2006 or emergency language will be repealed by operation of law on the following day.
30. Certificate of Compliance as to 5–11–2006 order, including new EXCEPTION to subsection (b)(3), transmitted to OAL 7–28–2006 and filed 8–31–2006 (Register 2006, No. 35).
31. Amendment of subsections (b)(1)–(3), repealer of subsection (b)(4), subsection renumbering and amendment of newly designated subsection (b)(4) filed 5–10–2007; operative 5–10–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 19).
32. Amendment of subsections (b)(2)–(4) filed 4–4–2008 as an emergency pursuant to Fish and Game Code section 240; operative 4–4–2008 (Register 2008, No. 14). A Certificate of Compliance must be transmitted to OAL by 10–1–2008 or emergency language will be repealed by operation of law on the following day.
33. Amendment superseding 4–4–2008 emergency action filed 7–1–2008 pursuant to Fish and Game Code section 220, subdivision (a); operative 7–31–2008 (Register 2008, No. 27).

§ 27.82. Groundfish Management Areas, Seasons, Depths, Exceptions, and Fishery Closure/Rule Change Process Described.

NOTE: Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code; and 50 C.F.R. 660.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Amendment of subsection (b) filed 10–17–2001 as an emergency; operative 10–29–2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–26–2002 or emergency language will be repealed by operation of law on the following day.
3. Repealer of subsection (b) and new subsections (b)–(i) filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
4. Amendment of subsections (c) and (d), new subsections (d)(1)–(d)(2), amendment of subsections (e) and (g), repealer of subsection (i) and amendment of NOTE filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
5. Amendment of subsection (a) filed 4–15–2003; operative 4–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).
6. Amendment of subsections (a), (b) and (d)(1)–(2), new subsections (d)(3)–(4) and amendment of subsection (f) filed 8–13–2003 as an emergency; operative 9–1–2003 (Register 2003, No. 33). A Certificate of Compliance must be transmitted to OAL by 12–30–2003 or emergency language will be repealed by operation of law on the following day.
7. Reinstatement of section as it existed prior to 8–13–2003 emergency amendment by operation of Government Code section 11346.1(f) (Register 2004, No. 4).
8. Amendment of section heading and section filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
9. Amendment of subsection (b)(1), new subsections (b)(1)(A)–(B) and (E), subsection relettering, new subsection (b)(3)(D) and amendment of NOTE filed 3–30–2004 as an emergency; operative 4–1–2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7–30–2004 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsection (e) filed 4–28–2004; operative 5–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
11. Certificate of Compliance as to 3–30–2004 order transmitted to OAL 7–28–2004 and filed 9–9–2004 (Register 2004, No. 37).
12. Amendment of section heading, section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
13. Amendment of subsections (b)(2)(D) and (b)(5)(B)–(E) filed 3–20–2006; operative 3–20–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 12).
14. Repealer filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).

§ 27.83. California Rockfish Conservation Area.

NOTE: Authority: Section 205, Fish and Game Code. Reference: Sections 200, 202 and 215, Fish and Game Code.

HISTORY

1. New section filed 4–15–2003; operative 4–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 16).
2. Amendment of first paragraph and subsection (a)(1), repealer of subsection (a)(2), renumbering and amendment of former subsection (a)(3) to (a)(2) and amendment of subsections (d)–(e) and (e)(4) filed 8–13–2003 as an emergency; operative 9–1–2003 (Register 2003, No. 33). A Certificate of Compliance must be transmitted to OAL by 12–30–2003 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of section as it existed prior to 8–13–2003 emergency amendment by operation of Government Code section 11346.1(f) (Register 2004, No. 4).

4. Amendment filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
5. Amendment filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
6. Renumbering of former section 27.83 to section 27.51 filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).

§ 27.85. Striped Bass.

(a) Open season: All year.

(b) Limit: Two.

(c) Minimum size:

(1) North of Pt. Conception, 18 inches total length.

(2) South of Pt. Conception, no minimum size limit.

(d) Methods of take: No striped bass may be taken while using a sinker weighing over four pounds, or while using any power driven gurdy or winch. Striped bass may only be taken by angling as defined in Section 1.05, Title 14, CCR; snagging is an illegal method of take.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200–202, 203.1, 205 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (d) and amendment of NOTE filed 8–1–2001; operative 8–1–2001 pursuant to Fish and Game Code sections 202 and 205 (Register 2001, No. 31).

§ 27.90. White Sturgeon.

(a) Open season: All year.

(b) Daily and annual bag limit: One fish per day. Three fish per year statewide.

(c) Size limit: No fish less than 46 inches total length or greater than 66 inches total length may be taken or possessed.

(d) Methods of take: The sturgeon must voluntarily take the bait or lure in its mouth. No sturgeon may be taken by trolling, snagging or by the use of firearms. Sturgeon may not be gaffed, nor shall any person use any type of firearm to assist in landing or killing any sturgeon.

(e) Report card required: Any person fishing for or taking sturgeon shall have in their possession a nontransferable Sturgeon Fishing Report Card issued by the department and shall adhere to all reporting and tagging requirements for sturgeon defined in Sections 1.74 and 27.92, Title 14, CCR.

(f) For regulations on take and possession of sturgeon in inland waters as defined in Section 1.53, see Section 5.80 and Section 5.81.

(g) Boat limits, as defined in Subsection 27.60(c) and Section 195, are not authorized for sturgeon fishing and shall not apply to the take, possession or retention of white sturgeon.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. Amendment of subsections (b)–(d) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsection (c) and NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. Amendment of subsection (c) filed 12–22–92; operative 12–22–92 pursuant to sections 202 and 215, Fish and Game Code (Register 92, No. 52).
4. Amendment of section heading and subsection (c), new subsection (e) and amendment of NOTE filed 3–20–2006 as an emergency; operative 3–20–2006 (Register 2006, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–18–2006 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of section as it existed prior to 3–20–2006 amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 33).
6. Amendment of subsections (b) and (c) and new subsections (e)–(h) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
7. Amendment of subsection (h) filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).
8. Amendment of subsection (e), repealer of subsections (e)(1)–(f)(2) and subsection relettering filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 27.91. Green Sturgeon.

(a) Green sturgeon may not be taken or possessed.

(b) Green sturgeon taken and released incidentally to white sturgeon fishing shall be reported on a Sturgeon Fishing Report Card issued by the department, in accordance with procedures defined in Sections 1.74 and 27.92, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
2. Amendment of subsection (b) filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 27.92. White Sturgeon Report Card and Tagging Requirements for Ocean Waters (FG 683, See Section 701).

(a) Sturgeon Fishing Report Card Required. All anglers must have a Sturgeon Fishing Report Card in their possession while fishing for or taking sturgeon. Anglers must complete and return the card pursuant to regulations in this Section and in Section 1.74.

(b) Tagging and Recording Requirements for Retained Fish. A Sturgeon Fishing Report Card includes detachable tags that shall be used to tag any white sturgeon that is taken and retained in the sport fishery. Any white sturgeon possessed by any person shall be tagged.

(1) Upon taking and retaining a white sturgeon, the cardholder shall immediately record the following information:

(A) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the tag. Tags shall be used in sequential order.

(B) The month, day, fishing location and length of the fish shall be recorded in the appropriate spaces on the Sturgeon Fishing Report Card which corresponds to the number on the tag.

(2) Immediately after recording the information above, the cardholder shall remove and completely detach the tag from the card and affix it to the white sturgeon. Cardholders shall not wait until completion of fishing activity to tag any white sturgeon in possession.

(3) The tag shall be securely fastened to the fish. To affix the tag, a "zip tie", string, line or other suitable material shall be passed through the tag at the location specified on the sturgeon tag and attached to the fish.

(4) Tags shall not be removed from the report card until immediately prior to affixing to a white sturgeon. Any tags detached from the report card and not affixed to a white sturgeon shall be considered used and therefore invalid. No person shall possess any used or otherwise invalid sturgeon tags.

(5) Records of Prior Activity. All tags must be accounted for at all times by entry of a record on the Sturgeon Fishing Report Card corresponding to all tags that are not in possession. Any tag that was lost or destroyed shall be recorded as such on the corresponding line on the Sturgeon Fishing Report Card.

(c) Reporting Requirements for Released Fish.

(1) Whenever the cardholder catches and releases a sturgeon, the cardholder shall immediately record the month, day, location code, and species of sturgeon.

(2) If all lines in the "sturgeon released" field of the report card are filled, any additional sturgeon caught and released need not be recorded on the card.

(d) Sturgeon tags must be left affixed to the fish in place, including while stored at a residence or non–transient location, until the fish is processed for immediate consumption.

(e) The annual fee for the Sturgeon Fishing Report Card is specified in Section 701, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11). For prior history, see Register 2006, No. 33.

§ 27.95. Sturgeon Closure.

Green sturgeon and white sturgeon may not be taken in the following described area between January 1 and March 15: That portion of San Francisco Bay included within the following boundaries: A direct line between Pt. Chauncy (National Marine Fisheries Laboratory) and Pt.

Richmond, the San Francisco–Oakland Bay Bridge and a direct line between Pt. Lobos and Pt. Bonita.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of section and NOTE filed 3–20–2006 as an emergency; operative 3–20–2006 (Register 2006, No. 12). A Certificate of Compliance must be transmitted to OAL by 7–18–2006 or emergency language will be repealed by operation of law on the following day.
2. Reinstatement of section as it existed prior to 3–20–2006 amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 33).
3. Amendment filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 28.00. Grunion, California.

May be taken June 1 through March 31.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.05. Garibaldi.

May not be taken or possessed.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.06. White Shark.

White shark may not be taken, except under permit issued by the Department pursuant to Section 1002 of the Fish and Game Code for scientific or educational purposes.

NOTE: Authority cited: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 210, 1002 and 5517, Fish and Game Code.

HISTORY

1. New section filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).

§ 28.10. Giant (Black) Sea Bass.

(a) May not be taken off California. All fish taken incidental to other fishing activity shall be immediately returned to the water where taken.

(b) Limit: Two per angler per trip when fishing south of United States–Mexico border. A valid fishing permit or license from the Mexican government constitutes proof that fish were taken legally.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220, 7891 and 7923, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222, 7891 and 7923, Fish and Game Code.

§ 28.12. Gulf Grouper and Broomtail Grouper.

May not be taken or possessed.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.15. Halibut, California.

(a) Limit: Five in waters south of a line extending due west magnetic from Point Sur, Monterey County, and three in waters north of a line extending due west magnetic from Point Sur, Monterey County.

(b) Minimum size: Twenty–two inches total length.

NOTE: Authority cited: Sections 200, 202, 205, 206 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 209, 215 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) and NOTE filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).

§ 28.20. Halibut, Pacific.

(a) Season: Pacific halibut may be taken only from May 1 through October 31.

(b) Limit: One.

(c) Minimum size: None.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215 and 217.5–222, Fish and Game Code.

HISTORY

1. Amendment of subsections (a)–(c) filed 5–18–89; operative 5–18–89 pursuant to Government Code section 11346.2(d) (Register 89, No. 20).
2. Amendment of subsection (a) and NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. Amendment of subsection (a) filed 12–12–94; operative 12–12–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 50).
4. Amendment of subsections (a) and (c) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 28.25. Barracuda, California.

Minimum size: Twenty–eight inches total length or seventeen inches alternate length.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.26. California Sheephead.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms.

(b) Limit: Five.

(c) Minimum size: 12 inches total length.

(d) Fishing rules for California sheephead may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e) or Section 52.10. Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/ marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 1802, 7071 and 8586, Fish and Game Code; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Repealer and new subsection (a) filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
3. Amendment of subsection (a), new subsection (d) and amendment of NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
4. Amendment of subsection (a), new subsections (a)(1)–(6) and amendment of subsection (d) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
5. Amendment of subsections (a)(1), (a)(2) and (d) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.27. Lingcod.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through November, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open April through November, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open April through November, in waters shallower than 20 fathoms.

(b) Limit: Two.

(c) Minimum size: 24 inches total length.

(d) Method of take: Not more than two hooks and one line. For purposes of this section, a hook is a single hook, or double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for lingcod may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 220, 702 and 8587.1, Fish and Game Code. Reference: Sections 205, 1802 and 8586, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. Amendment of section and NOTE filed 2-5-98; operative 3-1-98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
2. Amendment of subsection (a) filed 12-22-98; operative 12-22-98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).
3. Amendment filed 12-30-99; operative 12-30-99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
4. Amendment of subsection (a) and amendment of NOTE filed 10-30-2000 as an emergency; operative 11-1-2000 (Register 2000, No. 44). A Certificate of Compliance must be transmitted to OAL by 3-1-2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a) and (d) filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
6. Amendment of subsections (a) and (c) filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
7. Amendment of subsection (a) filed 1-3-2003; operative 1-3-2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
8. Amendment of subsection (a) filed 1-23-2004; operative 1-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
9. Amendment of subsections (a)-(c) filed 3-30-2004 as an emergency; operative 4-1-2004 (Register 2004, No. 14). A Certificate of Compliance must be transmitted to OAL by 7-30-2004 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 3-30-2004 order transmitted to OAL 7-28-2004 and filed 9-9-2004 (Register 2004, No. 37).
11. Amendment of section and NOTE filed 12-27-2004; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
12. Amendment of subsection (a), new subsections (a)(1)-(6) and amendment of subsection (e) and NOTE filed 1-18-2007; operative 1-18-2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
13. Amendment of subsections (a)(1), (a)(2) and (e) and amendment of NOTE filed 5-9-2008 as an emergency; operative 5-9-2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11-5-2008 or emergency language will be repealed by operation of law on the following day.

§ 28.28. Cabezon.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North-Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms.

(b) Limit: One fish, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish.

(c) Minimum size: 15 inches total length.

(d) Fishing rules for cabezon may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 1802, 7071 and 8586, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 12-30-99; operative 12-30-99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
2. New subsection (a), subsection relettering, amendment of newly designated subsection (c) and amendment of NOTE filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
3. Amendment of subsections (a) and (b) and new subsections (b)(1) and (b)(2) filed 1-3-2003; operative 1-3-2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
4. Amendment of subsection (a) filed 1-23-2004; operative 1-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
5. Amendment of subsections (a) and (b) and repealer of subsections (b)(1)-(2) filed 4-28-2004; operative 5-1-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
6. Amendment of section and NOTE filed 12-27-2004; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
7. Amendment of subsection (a), new subsections (a)(1)-(6) and amendment of subsection (d) and NOTE filed 1-18-2007; operative 1-18-2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
8. Amendment of subsections (a)(1), (a)(2) and (d) and amendment of NOTE filed 5-9-2008 as an emergency; operative 5-9-2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11-5-2008 or emergency language will be repealed by operation of law on the following day.

§ 28.29. Kelp Greenling. Rock Greenling.

(a) Open areas, seasons, and depth constraints for greenlings of the genus *Hexagrammos* (including kelp and rock greenlings): See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North-Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms.

(b) Limit: For greenlings of the genus *Hexagrammos*, within a Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish, two fish.

(c) Minimum size: 12 inches total length.

(d) Fishing rules for greenlings of the genus *Hexagrammos* may be changed during the year or in-season by the department under the authority of subsection 27.20(e) or Section 52.10. The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 1802, 7071 and 8586, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 12-30-99; operative 12-30-99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
2. New subsection (a), subsection relettering and amendment of NOTE filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).

3. Amendment of subsections (a) and (b) and new subsections (b)(1) and (b)(2) filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
4. Amendment of subsection (a) filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
5. Amendment of subsections (a) and (b) and repealer of subsections (b)(1)–(2) filed 4–28–2004; operative 5–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
6. Amendment of section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
7. Amendment of subsection (a), new subsections (a)(1)–(6) and amendment of subsections (b) and (d) and NOTE filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
8. Amendment of subsections (a)(1), (a)(2) and (d) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.30. Kelp Bass, Barred Sand Bass and Spotted Sand Bass.

(a) Minimum size: Twelve inches total length or eight and one–half inches alternate length.

(b) Limit: Ten in any combination of species.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.32. Pacific Bonito.

(a) Limit: Ten.

(b) Minimum size: Twenty–four inches fork length or five pounds except that:

Five fish less than twenty–four inches fork length or weighing less than five pounds may be taken and possessed.

(c) The provisions of this section shall only remain operative if the provisions of Section 8377 of the Fish and Game Code, pertaining to the commercial take of Pacific bonito, become operative on March 1, 1982 and remain operative.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).

§ 28.35. White Seabass.

(a) Minimum size: Twenty–eight inches total length or twenty and one–half inches alternate length.

(b) Season: Open all year.

(c) Limit: Three, except that only one fish may be taken in waters south of Pt. Conception between March 15 and June 15.

NOTE: Authority cited: Sections 200, 202, and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).

§ 28.37. Yellowtail.

(a) Limit: Ten

(b) Minimum size: Twenty–four inches fork length except that:

Five fish less than twenty–four inches fork length may be taken or possessed.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 28.38. Tunas.

The following daily bag limits apply:

(a) Albacore:

(1) South of a line running due west true from 34°27′ N. lat. (at Point Conception, Santa Barbara County) — The special limit for albacore is 10, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

(2) North of a line running due west true from 34°27′ N. lat. (at Point Conception, Santa Barbara County) — The special limit for albacore is 25, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

(b) Bluefin tuna — The special limit for bluefin tuna is 10, which may be taken or possessed in addition to the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

(c) There is no limit on skipjack tuna.

(d) For yellowfin tuna, bigeye tuna, and other tunas not listed above, the limit is 10. Unlike albacore and bluefin tuna, fish taken under this limit shall apply toward the overall general daily bag limit of 20 finfish specified in subsection 27.60(a).

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 28.40. Broadbill Swordfish.

Limit: Two.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.41. Sixgill Shark, Sevengill Shark.

Limit: One of each species.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 28.42. Shortfin Mako Shark, Thresher Shark, and Blue Shark.

Limit: Two of each species.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 28.45. Surf Smelt (Night Smelt, Day Fish, Whitebait Smelt).

Limit: Twenty–five pounds in combination.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.48. Pacific Sanddab, Rock Sole, Sand Sole, Butter Sole, Curlfin Sole, Rex Sole, and Flathead Sole.

Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. These species are also known in the aggregate as "other flatfish" pursuant to subsection 1.91(a)(10). Regulations of this Section do not apply to other species of sanddabs, flounders, or sole.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open year–round, except gear restrictions apply as follows:

(A) January through April — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May through December — In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(2) North–Central Groundfish Management Area: Open year–round, except gear restrictions apply as follows:

(A) January through May — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) June through November — In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(3) Monterey South–Central Groundfish Management Area: Open year–round, except gear restrictions apply as follows:

(A) January through April — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May through November — In waters deeper than 40 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(4) Morro Bay South–Central Groundfish Management Area: Open year–round, except gear restrictions apply as follows:

(A) January through April — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) May through November — In waters deeper than 40 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(C) December — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(5) Southern Groundfish Management Area: Open year–round, except gear restrictions apply as follows:

(A) January and February — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) March through December — In waters deeper than 60 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(6) Cowcod Conservation Areas: Open year–round, except gear restrictions apply as follows:

(A) January and February — In all depths, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(B) March through December — In waters deeper than 20 fathoms, anglers are limited to not more than 12 No. 2 or smaller hooks and up to 2 pounds of weight. A No. 2 hook means a fishing hook with a gap not greater than 7/16 inch between the hook point and the shank.

(b) Fishing rules for Pacific sanddab, rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: There is no limit on Pacific sanddab. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to rock sole, sand sole, butter sole, curlfin sole, rex sole, and flathead sole.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1)(B), (a)(2)(B) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.49. Dover Sole, English Sole, Petrale Sole, Arrowtooth Flounder, and Starry Flounder.

Dover sole, English sole, Petrale sole, arrowtooth flounder and starry flounder are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations of this Section do not apply to other species of flounders or sole.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Closed.

(b) Fishing rules for Dover sole, English sole, Petrale sole, arrowtooth flounder and starry flounder may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: There is no limit on Petrale sole or starry flounder. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to Dover sole, English sole, and arrowtooth flounder.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.50. Marlin.

Limit: One.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Editorial correction filed 1–20–83 (Register 83, No. 4).

§ 28.51. Spiny Dogfish, Soupfin Shark.

Spiny dogfish and soupfin shark are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Closed.

(b) Fishing rules for spiny dogfish and soupfin shark may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: Soupfin shark — one. The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to spiny dogfish.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.385; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.52. Big Skates, California Skates, and Longnose Skates.

Big skates, California skates, and longnose skates are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations in this Section do not apply to other skate species.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Closed.

(b) Fishing rules for big skates, California skates, and longnose skates may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to big skates, California skates, and longnose skates.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.382; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.53. Ratfish, Rattails and Codlings.

Ratfish, Pacific rattail and finescale codling are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows. Regulations in this Section do not apply to other rattail or codling species.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Closed.

(b) Fishing rules for ratfish, Pacific rattail and finescale codling may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to ratfish, Pacific rattail and finescale codling.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.54. California Scorpionfish (Sculpin).

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open January and February in waters shallower than 40 fathoms, and March through December in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open January through December, in waters shallower than 20 fathoms.

(b) Limit: Five.

(c) Minimum size: 10 inches total length.

(d) Fishing rules for California scorpionfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 210, 220, 1802, 7071 and 8586, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 12-30-99; operative 12-30-99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
2. New subsection (a), subsection relettering and amendment of NOTE filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
3. Amendment of subsection (a) filed 10-17-2001 as an emergency; operative 10-29-2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-26-2002 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
5. Amendment of subsections (a) and (b) filed 1-3-2003; operative 1-3-2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
6. Amendment of subsection (a) filed 1-23-2004; operative 1-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
7. Amendment of section and NOTE filed 12-27-2004; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
8. Amendment of subsection (a), new subsections (a)(1)-(6) and amendment of subsection (d) and NOTE filed 1-18-2007; operative 1-18-2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
9. Amendment of subsections (a)(1), (a)(2) and (d) and amendment of NOTE filed 5-9-2008 as an emergency; operative 5-9-2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11-5-2008 or emergency language will be repealed by operation of law on the following day.

§ 28.55. Rockfish (*Sebastes*).

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North-Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms, except that only Nearshore Rockfish, as defined in subsection 1.91(a)(1) may be taken and possessed.

(b) Limit: Ten, within the Rockfish, Cabezon, and Greenling complex (RCG complex, as defined in Section 1.91) bag limit of 10 fish, in any combination of species, except as provided below.

(1) The limit on canary rockfish, cowcod, and yelloweye rockfish is zero. These species shall not be taken or possessed as part of the RCG limit.

(2) In the Northern Groundfish Management Area (see Section 27.25), the limit on bocaccio rockfish is two fish, within the RCG limit.

(3) In the North-Central, Monterey South-Central, Morro Bay South-Central, and Southern Groundfish Management Areas (see sections 27.30 through 27.45), the limit on bocaccio rockfish is one fish, within the RCG limit.

(4) In the Cowcod Conservation Areas (see Section 27.50), the limit on bocaccio and other shelf and slope rockfish, as defined in subsections 1.91(a)(3) and 1.91(a)(4), is zero. These species shall not be taken or possessed as part of the RCG limit in this Management Area.

(c) Size limit: None, except no bocaccio may be taken or possessed that is less than 10 inches in total length.

(d) Method of take: Not more than two hooks and one line. For purposes of this section, a hook is a single hook, or a double or treble hook with multiple points connected to a common shank.

(e) Fishing rules for rockfish may be changed during the year or in-season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649-2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 215, 220, 702, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 215, 220, 1802, 7071 and 8585.5, Fish and Game Code; 50 CFR 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. Amendment of section and NOTE filed 2-5-98; operative 3-1-98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
2. Amendment filed 12-30-99; operative 12-30-99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
3. Amendment of subsection (b) filed 6-12-2000; operative 6-12-2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 24).
4. Amendment of section and NOTE filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
5. Amendment of subsection (a)(1) and new subsection (d)(3) filed 10-17-2001 as an emergency; operative 10-29-2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-26-2002 or emergency language will be repealed by operation of law on the following day.
6. Amendment filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
7. Amendment of subsection (a), repealer of subsections (a)(1) and (a)(2), amendment of subsection (b) and new subsections (b)(1) and (b)(2) filed 1-3-2003; operative 1-3-2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
8. Amendment of subsections (a) and (b)(1)-(2) filed 1-23-2004; operative 1-23-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
9. Amendment of subsection (b)(1) filed 4-29-2004 as an emergency; operative 5-1-2004 (Register 2004, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-30-2004 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsections (a) and (b) and repealer of subsections (b)(1)-(2) filed 4-28-2004; operative 5-1-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 19).
11. Amendment of section and NOTE filed 12-27-2004; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
12. Amendment of subsections (a) and (b), new subsections (a)(1)-(6) and (b)(1)-(4) and amendment of subsection (e) filed 1-18-2007; operative 1-18-2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
13. Amendment of subsections (a)(1), (a)(2) and (e) and amendment of NOTE filed 5-9-2008 as an emergency; operative 5-9-2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11-5-2008 or emergency language will be repealed by operation of law on the following day.

§ 28.56. Leopard Shark.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms, except that take and possession is authorized year-round in Humboldt Bay.

(2) North-Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms, except that take and possession is authorized year-round in Drake's Estero Bay, Bolinas Bay, Tomales Bay, Bodega Harbor, and San Francisco Bay.

(3) Monterey South-Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms, except that take and possession is authorized year-round in Elkhorn Slough.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms, except that take and possession is authorized year–round in Newport Bay, Alamitos Bay, Mission Bay, and San Diego Bay.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms.

(b) Limit: three.

(c) Minimum size: 36 inches total length.

(d) Fishing rules for leopard shark may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

NOTE: Authority cited: Sections 200, 202, 205, 210 and 702, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 210 and 1802, Fish and Game Code; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Amendment filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
3. Amendment of subsection (a), new subsections (a)(1)–(6) and amendment of subsection (d) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
4. Amendment of subsections (a)(1), (a)(2) and (d) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.57. Pacific Cod, Pacific Whiting, Sablefish, and Thornyheads.

Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead are federal groundfish, as defined in Section 1.91, and thus are subject to special regulations as follows.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Closed.

(b) Fishing rules for Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for these species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to Pacific cod, Pacific whiting, sablefish, longspine thornyhead, and shortspine thornyhead.

NOTE: Authority cited: Sections 200, 202, 205 and 702, Fish and Game Code. Reference: Sections 200, 202, 205 and 1802, Fish and Game Code; 50 CFR Part 660, Subpart G; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
2. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.58. Ocean Whitefish.

(a) Open areas, seasons, and depth constraints: See Section 27.20 through Section 27.50 for definitions, special closure areas, and exceptions. Take and possession is authorized as follows:

(1) Northern Groundfish Management Area: Open May through December, in waters shallower than 20 fathoms.

(2) North–Central Groundfish Management Area: Open June through November, in waters shallower than 20 fathoms.

(3) Monterey South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(4) Morro Bay South–Central Groundfish Management Area: Open May through November, in waters shallower than 40 fathoms.

(5) Southern Groundfish Management Area: Open March through December, in waters shallower than 60 fathoms.

(6) Cowcod Conservation Areas: Open March through December, in waters shallower than 20 fathoms.

(b) Fishing rules for ocean whitefish may be changed during the year or in–season by the department under the authority of subsection 27.20(e). The department will provide a news release notifying the public 10 calendar days in advance of a change for this species made under the authority of subsection 27.20(e). Anglers and divers are advised to check the current rules before fishing. The latest fishing rules may be found on the department's website at: www.dfg.ca.gov/marine/, or by calling (831) 649–2801 for recorded information, or by contacting a department office.

(c) Limit: The general bag limit of not more than 20 finfish in combination of all species with not more than 10 of any one species applies to ocean whitefish.

NOTE: Authority cited: Sections 200, 202, 205, 210, 215, 220 and 702, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215, 220 and 1802, Fish and Game Code; 50 CFR 660.384; and 14 CCR 27.20.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Amendment filed 1–3–2003; operative 1–3–2003 pursuant to Fish and Game Code sections 202 and 215 (Register 2003, No. 1).
3. Amendment filed 1–23–2004; operative 1–23–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 4).
4. Amendment of section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
5. Amendment of subsection (a), new subsections (a)(1)–(6), amendment of subsection (b) and new subsection (c) filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
6. Amendment of subsections (a)(1), (a)(2) and (b) and amendment of NOTE filed 5–9–2008 as an emergency; operative 5–9–2008 (Register 2008, No. 19). A Certificate of Compliance must be transmitted to OAL by 11–5–2008 or emergency language will be repealed by operation of law on the following day.

§ 28.59. Surfperch.

(a) For purposes of this Section, the term "surfperch" refers to all species of the family *Embiotocidae*, in any combination.

(b) Open season: Open all year, except surfperch may not be taken or possessed by a person in San Francisco Bay and San Pablo Bay between April 1 and July 31, inclusive. Shiner surfperch (*Cymatogaster aggregata*) are exempt from this seasonal closure and may be taken and possessed up to their daily bag limit in these areas during the closure period.

(c) Daily bag limits.

(1) In San Francisco Bay and San Pablo Bay, the aggregate limit is five surfperch, not including shiner surfperch. For all other areas, the aggregate limit is 20 surfperch, not including shiner surfperch. Not more than 10 surfperch may be of any one species.

(2) The special limit for shiner surfperch is 20, which may be taken or possessed in addition to the overall daily bag limit of 20 finfish specified in subsection 27.60(a).

(d) Minimum size: redtail surfperch, ten and one–half inches total length. All other surfperch, none.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
2. Amendment of subsections (a) and (b) filed 3–26–2002 as an emergency; operative 3–29–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–29–2002 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–26–2002 order, including amendment of subsections (a) and (b), transmitted to OAL 6–28–2002 and filed 8–6–2002 (Register 2002, No. 32).
4. Amendment filed 4–21–2006; operative 5–21–2006 (Register 2006, No. 16).
5. Amendment of subsection (c)(2) filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 28.60. Herring Eggs.

Limit: Twenty–five pounds (including plants) wet weight.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.62. Herring.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Repealer filed 1–26–88; operative 3–1–88 (Register 88, No. 6).

FIN FISH—GEAR RESTRICTIONS

§ 28.65. General.

Except as provided in this article, fin fish may be taken only on hook and line or by hand. Any number of hooks and lines may be used in all ocean waters and bays except:

(a) San Francisco and San Pablo bays between the Golden Gate Bridge and the west Carquinez Bridge, where only one line with not more than three hooks may be used.

(b) On public piers, no person shall use more than two rods and lines, two hand lines, or two nets, traps or other appliances used to take crabs.

(c) When rockfish (genus *Sebastes*) or lingcod (*Ophiodon elongatus*) are aboard or in possession, where only one line with not more than two hooks may be used pursuant to sections 28.55 or 28.27, respectively.

(d) No gaff hook shall be used to take or assist in landing any fin fish shorter than the minimum size limit. For the purpose of this section a gaff hook is any hook with or without a handle used to assist in landing fish or to take fish in such a manner that the fish does not take the hook voluntarily in its mouth. No person shall take fin fish from any boat or other floating device in ocean waters without having a landing net in possession or available for immediate use to assist in landing undersize fish of species having minimum size limits; the opening of any such landing net shall be not less than eighteen inches in diameter.

(e) North of Point Conception (34°27′ 00″ N. lat.), where only one rod and line may be used by each angler fishing for salmon, or fishing from any boat or floating device with salmon on board.

(f) Mousetrap gear prohibited: It is unlawful to use, assist in using, or to possess aboard any vessel, hook–and–line gear commonly termed "mouse traps" constructed of a hook(s) or lure(s), attached to one end of a line that is attached to a float, or floats at the other end, and that when fished, is not attached directly to a person or vessel. Possession of such gear aboard a vessel shall be prima facie evidence that the gear is being used in violation of this regulation.

(g) North of Point Conception to Horse Mountain, Section 27.80(a)(3) applies to each angler fishing for salmon or fishing from any boat or floating device with salmon on board.

NOTE: Authority cited: Sections 200, 202, 205, 215, 220, 240 and 7071, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215, 220, 240 and 8585.5, Fish and Game Code.

[The next page is 46.5.]

HISTORY
1. New subsection (d) filed 6–28–96; operative 6–28–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 26).
2. Editorial correction of subsection (d) (Register 97, No. 19).
3. Amendment of subsection (d) and NOTE filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 5–9–97 order transmitted to OAL 9–3–97 and filed 10–15–97 (Register 97, No. 42).
5. New subsection (e) and amendment of NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
6. New subsection (f) filed 5–14–98 as an emergency; operative 5–14–98 (Register 98, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–11–98 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 5–14–98 order transmitted to OAL 9–9–98 and filed 10–20–98 (Register 98, No. 43).
8. Amendment of subsection (c) and subsection relettering filed 12–30–99; operative 12–30–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 53).
9. Amendment of subsection (b) filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
10. Amendment of subsection (c) and NOTE filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).

§ 28.70. Weight, Power Driven Gurdies or Power Driven Winches.

(a) No sinker or weight weighing more than four pounds, nor any power driven gurdy or power driven winch, may be used in any ocean waters or saltwater bays north of Point Arguello. This regulation does not apply to

(1) power gurdies or power winches used solely for handling crab nets or traps.

(2) the use of downriggers where the downrigger line is not used as a fishingline but us attached to the fishing line by a breakaway line; or

(3) the use of electric fishing reels manufactured for sport fishing use.

NOTE: Authority: Sections 200, 202, 205 and 210, Fish and Game Code. Reference: Sections 200, 202, 205–210, Fish and Game Code.

HISTORY
1. Amendment of section heading filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
2. Amendment filed 2–11–87; designated effective 3–1–87 (Register 87, No. 9).

§ 28.75. Baited Traps for Shiner Surfperch, Pacific Staghorn Sculpin and Longjaw Mudsuckers.

In San Francisco and San Pablo bays and their saltwater tributaries, and in the open ocean and the contiguous bays of Mendocino, Sonoma and Marin counties, traps not over three feet in greatest dimension may be used to take shiner surfperch, Pacific staghorn sculpin and longjaw mudsuckers. Any other species taken shall be returned to the water immediately.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.80. Dip Nets and Hawaiian Type Throw Nets.

Dip nets of any size and baited hoop nets not greater than 36 inches in diameter may be used to take herring, Pacific staghorn sculpin, shiner surfperch, surf smelt, topsmelt, anchovies, shrimp and squid. Hawaiian type throw nets may be used north of Point Conception to take such species.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY
1. Amendment filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. Amendment filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).

§ 28.85. Beach Nets.

Beach nets not over 20 feet in length with meshes at least 7/8 of an inch *in length may be used to take* surf smelt north of Point Conception.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.90. Diving, Spearfishing.

Persons who are floating or swimming in the water may use spearfishing gear and skin or SCUBA diving equipment to take fin fish other than giant (black) sea bass, garibaldi, gulf grouper, broomtail grouper, trout, salmon, striped bass or broadbill, except that:

(a) No person may possess or use a spear within 100 yards of the mouth of any stream in any ocean waters north of Ventura County.

(b) When spearfishing for or in possession of federal groundfish or associated species as authorized pursuant to subsections 27.25(c)(4), 27.30(c)(4), 27.35(c)(4), 27.40(c)(3), 27.45(c)(4) or 27.50(c)(3), *in an* area or during a season closed to the take of these species, no fishing gear except spearfishing gear may be aboard the vessel or watercraft.

NOTE: Authority cited: Sections 200, 202, 7071 and 8587.1, Fish and Game Code. Reference: Sections 205, 7071 and 8586, Fish and Game Code; and 50 CFR 660, Subpart G.

HISTORY
1. Amendment of section and NOTE filed 12–27–2004; operative 1–1–2005 pursuant to Government Code section 11343.4 (Register 2004, No. 53).
2. Amendment of subsection (b) and NOTE filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).

§ 28.91. Slurp Guns.

Slurp guns may be used to take fin fish except that bag and possession limits shall not be exceeded wherever they apply and no species of fin fish may be taken for which a minimum size limit has been established (see Sections 27.60 and 28.00–28.55).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 28.95. Spears, Harpoons and Bow and Arrow Fishing Tackle.

Spears, harpoons and bow and arrow fishing tackle may be used for taking all varieties of skates, rays, and sharks, except white sharks. Such gear may not be possessed or used within 100 yards of the mouth of any stream in any ocean waters north of Ventura County, nor aboard any vessel on any day or on any trip when broadbill swordfish or marlin have been taken. Bow and arrow fishing tackle may be used to take fin fish other than giant (black) sea bass, garibaldi, gulf grouper, broomtail grouper, trout, salmon, striped bass, broadbill and white shark.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219, 220 and 5517, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210, 215–222 and 5517, Fish and Game Code.

HISTORY
1. Amendment of section and NOTE filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).

§ 29.00. Gear Used in Taking Grunion.

No appliances of any kind may be used to take grunion, and no holes may be dug in the beach to entrap them.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

INVERTEBRATES

§ 29.05. General.

(a) Except as provided in this article there are no closed seasons, closed hours or minimum size limits for any invertebrate. The bag limit on all invertebrates for which the take is authorized and for which there is not a bag limit otherwise established in this article is 35. In San Francisco and San Pablo bays and saltwater tributaries east of the Golden Gate Bridge invertebrates may not be taken at night except from the shore.

(b) Take of all invertebrates is prohibited within state marine reserves. Take of certain invertebrates may be prohibited within state marine parks and state marine conservation areas as per subsection 632(b). In addition, tidal invertebrates may not be taken in any tidepool or other areas between the high tide mark (defined as Mean Higher High Tide) and 1,000 feet seaward and lateral to the low tide mark (defined as Mean Lower Low Water) except as follows:

(1) Except where prohibited within state marine reserves, state marine parks, state marine conservation areas, or other special closures only the following may be taken: red abalone, limpets, moon snails, turban snails, chiones, clams, cockles, mussels, rock scallops, native oysters, octo-

puses, squid, crabs, lobsters, shrimp, sand dollars, sea urchins and worms except that no worms may be taken in any mussel bed, unless taken incidental to the harvesting of mussels.

(c) Measuring Devices. Every person while taking invertebrates which have a size limit shall carry a device which is capable of accurately measuring the minimum legal size of the species taken.

(d) In all ocean waters skin and Self Contained Underwater Breathing Apparatus (SCUBA) divers may take invertebrates as provided in this article except that in all ocean waters north of Yankee Point (Monterey Co.), SCUBA may be used only to take sea urchins, rock scallops and crabs of the genus *Cancer*. For the purpose of this section, breathing tubes (snorkels) are not SCUBA.

NOTE: Authority cited: Sections 200, 202 and 210, Fish and Game Code. Reference: Sections 200, 202, 205 and 210, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(2) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment to subsection (b)(3) filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment of subsection (b) filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).
4. Amendment of subsection (b)(1) filed 1–22–86; designated effective 3–1–86 (Register 86, No. 6).
5. Amendment filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 29.10. General.

(a) Except as otherwise provided in this article, saltwater mollusks, including octopus, may be taken only on hook and line or with the hands.

(b) The size of a mollusk is measured in greatest shell diameter.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.15. Abalone.

(a) Geographic Area: Abalone may only be taken north of a line drawn due west magnetic from the center of the mouth of San Francisco Bay. No abalone may be taken, landed, or possessed if landed south of this line.

(b) Open Season and Hours: Abalone may be taken only during the months of April, May, June, August, September, October and November from one–half hour before sunrise to one–half hour after sunset.

(c) Bag Limit and Yearly Trip Limit: Three red abalone, *Haliotis rufescens*, may be taken per day. No more than three abalone may be possessed at any time. No other species of abalone may be taken or possessed. Each person taking abalone shall stop detaching abalone when the limit of three is reached. No person shall take more than 24 abalone during a calendar year.

(d) Minimum Abalone Size: All red abalone must be seven inches or greater measured along the longest shell diameter. All legal size abalone detached must be retained. No undersized abalone may be brought ashore or aboard any boat, placed in any type of receiver, kept on the person, or retained in any person's possession or under his control. Undersize abalone must be replaced immediately to the same surface of the rock from which detached. Abalones brought ashore shall be in such a condition that the size can be determined.

(e) Special Gear Provisions: The use of SCUBA gear or surface supplied air to take abalone is prohibited. Abalone may not be taken or possessed aboard any boat, vessel, or floating device in the water containing SCUBA or surface supplied air. Abalone may be taken only by hand or by devices commonly known as abalone irons. Abalone irons must be less than 36 inches long, straight or with a curve having a radius of not less than 18 inches, and must not be less than 3/4 inch wide nor less than 1/16 inch thick. All edges must be rounded and free of sharp edges. Knives, screwdrivers and sharp instruments are prohibited.

(f) Measuring Device. Every person while taking abalone shall carry a fixed caliper measuring gauge capable of accurately measuring seven inches. The measuring device shall have fixed opposing arms of sufficient length to measure the abalone by placing the gauge over the shell.

(g) Abalone Possession and Transportation: Abalones shall not be removed from their shell, except when being prepared for immediate consumption.

(h) Report Card Required: Any person fishing for or taking abalone shall have in their possession a nontransferable Abalone Report Card issued by the department and shall adhere to all reporting and tagging requirements for abalone defined in Sections 1.74 and 29.16, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205, 210, 220, 240, 5521 and 7149.8, Fish and Game Code. Reference: Sections 200, 202, 205, 220, 5521, 7145 and 7149.8, Fish and Game Code.

HISTORY

1. New subsection (f) filed 1–20–83; designated effective tenth day thereafter (Register 83, No. 4).
2. Amendment of subsection (d) filed 2–21–84; designated effective 3–1–84 (Register 84, No. 8).
3. Amendment of subsections (a) and (b) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
4. Amendment of subsection (a) and new subsection (a)(1) and NOTE filed 8–2–93; operative 9–1–93 (Register 93, No. 32).
5. Amendment of subsection (a), repealer of subsection (a)(1), and amendment of NOTE filed 6–5–95; operative 6–5–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
6. Amendment of subsection (a) and NOTE filed 2–1–96; operative 3–1–96 (Register 96, No. 5).
7. Amendment of subsection (a), new subsection (b), subsection relettering, and amendment of NOTE filed 5–22–97 as an emergency; operative 5–22–97 (Register 97, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–19–97 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsection (a), new subsection (b), subsection relettering, and amendment of NOTE refiled 9–8–97 as an emergency; operative 9–8–97 (Register 97, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–6–98 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section and NOTE as they existed prior to 5–22–97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 17).
10. Amendment of subsections (a) and (b), repealer of subsection (b)(1) and amendment of NOTE filed 4–22–98; operative 4–22–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 17).
11. Amendment of section and NOTE filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
12. Amendment of subsections (f) and (h) and amendment of NOTE filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).
13. Amendment filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).
14. Amendment of subsections (c) and (h) and new subsection (i) filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
15. Amendment of subsections (h)–(i) filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).
16. Amendment of subsection (g), repealer of subsections (h)–(i) and new subsection (h) filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 29.16. Abalone Report Card and Tagging Requirements (FG 2915, See Section 701).

(a) Abalone Report Card Required. All individuals including divers must have an Abalone Report Card in their immediate possession while fishing for or taking red abalone. Individuals must complete and return the card pursuant to regulations in this Section and in Section 1.74.

(b) Tagging Requirements. An Abalone Report Card includes detachable tags that shall be used to tag any abalone that is taken and retained in the sport fishery. Any red abalone possessed by any person shall be tagged.

(1) Cardholders shall tag any red abalone either immediately upon exiting the water or immediately upon boarding a vessel, whichever occurs first. For the purposes of this section a vessel is defined as any watercraft used or capable of being used as a means of transportation on water (reference Section 9840(a) CVC). Cardholders shall not wait to return to their vehicle, beach site or other location to tag any abalone in possession.

EXCEPTION: Cardholders who dive from a non–motorized vessel such as a kayak that is in the water may wait until immediately after disembarking from the non–motorized vessel to tag and record any abalone in possession, but shall not transfer any abalone from his or her immediate possession unless they are first tagged and recorded on the report card.

(2) The cardholder shall fill in the month, day, time of catch, and fishing location on the abalone tag, remove and completely detach the tag from the card, and affix it to the shell of the abalone.

(3) The tag shall be securely fastened to the shell of the abalone. To affix the tag, a "zip tie", string, line or other suitable material shall be passed through a siphon hole on the abalone shell and through the tag at the location specified on the abalone tag.

(4) Tags shall be used in sequential order, and shall not be removed from the report card until immediately prior to affixing to an abalone. Any tags detached from the report card and not affixed to an abalone shall be considered used and therefore invalid.

(5) No person shall possess any used or otherwise invalid abalone tags not attached to an abalone shell.

(c) Reporting Requirements. Immediately upon tagging all abalone in possession, the cardholder shall record the month, day, time of catch, and fishing location in the appropriate spaces on the numbered line on the Abalone Report Card which corresponds to the number on the tag attached to the abalone.

(d) Records of Prior Activity. All tags must be accounted for at all times by entry of a record on the Abalone Report Card corresponding to all tags that are not in possession. Any tag that was lost or destroyed shall be recorded as such on the corresponding line on the Abalone Report Card. Any tag that was inadvertently removed and is still in possession shall be recorded as void on both the tag and the corresponding line on the Abalone Report Card.

(e) Abalone tags must be left affixed to the shell, including while stored at a residence or non–transient location, until the abalone is processed for immediate consumption.

(f) The annual fee for the Abalone Report Card is specified in Section 7149.8 of the Fish and Game Code.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 29.20. Clams General.

(a) Except as provided in this article, there are no closed seasons, bag limits or size limits on saltwater clams.

(b) Fishing hours: one–half hour before sunrise to one–half hour after sunset.

(c) Special gear provisions: Spades, shovels, hoes, rakes or other appliances operated by hand, except spears or gaff hooks, may be used to take clams. No instrument capable of being used to dig clams may be possessed between one–half hour after sunset and one–half hour before sunrise, on any beach of this state, except tools and implements used in the work of cleaning, repairing or maintaining such beach when possessed by a person authorized by appropriate authority to perform such work.

(d) Clams ashore: Clams which have a size limit when being taken must be brought ashore above the high water mark in such a condition that the size can be determined. Such clams not in the shell may not be transported or possessed, except when being prepared for immediate consumption. Clams which have a size limit and are not retained shall be immediately reburied in the area from which dug.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Editorial correction of printing error in subsection (c) (Register 91, No. 31).

§ 29.25. Gaper Clams and Washington Clams.

Limit: Ten of each species, except in Humboldt Bay the limit is fifty in combination; however, no more than 25 gaper clams may be taken or possessed. In Elkhorn Slough the limit is twelve in combination. All gaper clams and Washington clams dug, regardless of size or broken condition, must be retained until the bag limit is reached. For purposes of this section, clams commonly termed horse clams or horseneck clams are gaper clams, not geoduck clams regulated pursuant to Section 29.30, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).

§ 29.30. Geoduck Clams.

Limit: Three. The first three geoduck clams dug must be retained as the bag limit regardless of size or broken condition. For purposes of this section, clams commonly termed horse clams or horseneck clams are not geoduck clams.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).

§ 29.35. Littleneck Clams, Soft–Shell Clams, Chiones, Northern Quahogs, and Cockles.

(a) Limit: Fifty in combination.

(b) Minimum size: One and one–half inches in greatest diameter, except there is no size limit for soft–shell clams. All soft–shell clams dug, regardless of size or broken condition, must be retained until the bag limit is reached.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.40. Pismo Clams.

(a) Open season: May be taken in Santa Cruz and Monterey counties September 1 through April 30. In all other counties, except in state marine reserves or other marine protected areas which prohibit the take of clams (see Section 632), Pismo clams may be taken at any time of the year.

(b) Limit: Ten.

(c) Minimum size: Five inches in greatest shell diameter north of the boundary between San Luis Obispo and Monterey counties; four and one–half inches in greatest shell diameter south of the boundary, between San Luis Obispo and Monterey counties.

(d) Clam preserves: No clams shall be taken within state marine reserves or other marine protected areas which prohibit the take of clams (see Section 632).

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (d) and repealer of subsections (d)(1)–(3) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 29.45. Razor Clams.

(a) Open season:

(1) Little River Beach in Humboldt County: Between Mad River and Strawberry Creek open only during even–numbered years; between Strawberry Creek and Moonstone Beach open only during odd–numbered years.

(2) In Del Norte County: North of Battery Point open only during odd–numbered years; south of Battery Point open only during even–numbered years.

(3) All other areas: Open all year.

(b) Limit: Twenty. The first twenty clams dug must be retained as the bag limit regardless of size or broken condition.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.55. Mussels.

Limit: Ten pounds (in the shell) of California sea mussels and bay mussels in combination.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment filed 2–28–85 as an emergency; designated effective 3–1–85. Certificate of Compliance included (Register 85, No. 11).

§ 29.60. Rock Scallops.

(a) Limit: Ten.

(b) Methods of take: Rock scallops may be taken only by hand, by the use of dive knives, or by devices commonly known as abalone irons in compliance with provisions of Section 29.15(e) of these regulations.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.65. Speckled (Bay) Scallops.

May not be taken or possessed.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.70. Market Squid, Jumbo Squid.

Squid may be taken with hand–held dip nets. There is no limit.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

HISTORY

1. Amendment of section heading filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 29.71. Moon Snails.

(a) Limit: Five.

(b) Open season: All year except that moon snails may not be taken north of the Golden Gate Bridge.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

CRUSTACEANS

§ 29.80. Gear Restrictions.

(a) General Provisions.

(1) Saltwater crustaceans may be taken by hand.

(2) Nets, traps or other appliances may be not used except as provided in this Section.

(3) It is unlawful to disturb, move, or damage any trap; or remove any saltwater crustacean from a trap, that belongs to another person without written permission in possession from the owner of the trap.

(b) Baited hoop nets may be used to take spiny lobsters and all species of crabs. Between Point Arguello, Santa Barbara County, and the United States–Mexico border, not more than five baited hoop nets may be fished by a person to take spiny lobster and crab, not to exceed a total of 10 baited hoop nets fished from any vessel.

(c) Crab traps shall have at least two rigid circular openings of not less than four and one–quarter inches inside diameter so constructed that the lowest portion of each opening is no lower than five inches from the top of the trap.

(d) Crab loop traps may have up to six loops.

(e) Crab trap areas: Crab traps, including crab loop traps, may be used north of Point Arguello to take all species of crabs (see regulations for take of Dungeness crabs in traps from commercial passenger fishing vessels in Section 29.85, Title 14, CCR).

(f) Shrimp and prawn traps may be used to take shrimp and prawns only. Trap openings may not exceed 1/2 inch in any dimension on traps used south of Point Conception nor five inches in any dimension on traps used north of Point Conception.

(g) Diving for crustaceans: In all ocean waters, except as provided in Section 29.05, skin and SCUBA divers may take crustaceans by the use of the hands only. Divers may not possess any hooked device while diving or attempting to dive.

(h) Hand operated appliances: Spades, shovels, hoes, rakes or other appliances operated by hand may be used to take sand crabs and shrimp.

(i) Dip nets and Hawaiian type throw nets: Shrimp may be taken with dip nets and Hawaiian type throw nets north of Point Conception.

(j) Shrimp trawls: Shrimp beam trawls may be used to take shrimp only in San Francisco Bay waters east of the Golden Gate Bridge, and in San Pablo Bay. The beam trawl frame from which the net is hung may not exceed 24 inches by 18 inches. The trawl may be towed by motorized vessels but may not be retrieved by mechanical devices. Any fish, other than shrimp, caught in the trawl must be returned immediately to the water.

NOTE: Authority cited: Sections 200, 202, 205, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 215 and 220, Fish and Game Code.

HISTORY

1. New subsection (d), subsection redesignation and amendment of subsection (e) and NOTE filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
2. Amendment of subsection (c) filed 10–20–94; operative 10–20–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).
3. Amendment of subsection (b) and NOTE filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
4. Amendment of subsections (b) and (e) filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
5. Repealer and new subsection (a), new subsections (a)(1)–(3) and amendment of subsection (g) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).

§ 29.85. Crabs.

(a) Dungeness crabs (*Cancer magister*):

(1) Closure: Dungeness crab may not be taken from or possessed if taken from San Francisco Bay and San Pablo Bay, plus all their tidal bays, sloughs and estuaries between the Golden Gate Bridge and Carquinez Bridge.

(2) Open season:

(A) Del Norte, Humboldt and Mendocino counties: From the last Saturday in November through July 30.

(B) All other counties: From the first Saturday in November through June 30.

(3) Limit: Ten, except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the limit is six.

(4) Not more than 60 crab traps are authorized to be used to take Dungeness crab from a vessel operating under authority of a Commercial Passenger Fishing Vessel License issued pursuant to Fish and Game Code Section 7920.

(5) Traps and trap buoys by a commercial passenger fishing vessel to take Dungeness crab under authority of this Section and Section 29.80 shall have the commercial boat registration number of that vessel affixed to each trap and buoy.

(6) No vessel that takes Dungeness crabs under authority of this section, or Section 29.80, shall be used to take Dungeness crabs for commercial purposes.

(7) Minimum size: Five and three–quarter inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines); except in Sonoma, Marin, San Francisco, San Mateo, Santa Cruz, and Monterey counties, when fishing aboard a commercial passenger fishing vessel required to be licensed pursuant to Section 7881 and/or Section 7920, Fish and Game Code, the minimum size is six inches measured by the shortest distance through the body from edge of shell to edge of shell directly in front of and excluding the points (lateral spines).

(b) All crabs of the *Cancer* genus except Dungeness crabs, but including: yellow crabs, rock crabs, red crabs and slender crabs:

(1) Open season: All year.

(2) Limit: Thirty–five.

(3) Minimum size: Four inches measured by the shortest distance through the body, from edge of shell to edge of shell at the widest part, except there is no minimum size in Fish and Game districts 8 and 9.

(c) All crabs of the genus *Cancer*, including Dungeness crabs, yellow crabs, rock crabs, red crabs and slender crabs, may be brought to the surface of the water for measuring, but no undersize crabs may be placed in any type of receiver, kept on the person or retained in any person's possession or under his direct control; all crabs shall be measured immediately and any undersize crabs shall be released immediately into the water.

(d) Sand crabs (*Emerita analoga*): Limit: Fifty.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 206 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (a)(4) filed 3–1–90; operative 3–1–90 (Register 90, No. 10).
2. Amendment of subsections (a)(2)(A)–(B) and (b)(3) and filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
3. New subsection (d) and amendment of subsection (a) filed 3–7–94; operative 3–7–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
4. Amendment of subsections (a)(3)–(4) filed 10–20–94; operative 10–20–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 42).
5. New subsections (a)(4)–(a)(6) and subsection renumbering filed 2–18–2000; operative 3–1–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 7).
6. Amendment of subsections (a)(2)(A)–(B) and amendment of NOTE filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
7. Amendment of subsection (a)(1) and amendment of NOTE filed 10–9–2007; operative 11–8–2007 (Register 2007, No. 41).

§ 29.86. Bay Shrimp (Grass Shrimp).

Limit: Five pounds.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.87. Ghost Shrimp and Blue Mud Shrimp.

Limit: Fifty in combination.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200–202, 203.1, 205–210 and 215–222, Fish and Game Code.

§ 29.88.

Coonstripe shrimp (*Pandalus danae*): Twenty pounds (in the shell, heads on) per day. The first 20 pounds taken, regardless of size or condition, shall constitute a daily bag and possession limit.

NOTE: Authority cited: Sections 200, 202, 205 and 215, Fish and Game Code. Reference: Sections 200, 202, 205 and 206, Fish and Game Code.

HISTORY

1. New section filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).

§ 29.90. Spiny Lobsters.

(a) Open season: From the Saturday preceding the first Wednesday in October through the first Wednesday after the 15th of March.

(b) Limit: Seven.

(c) Minimum size: Three and one–fourth inches measured in a straight line on the mid–line of the back from the rear edge of the eye socket to the rear edge of the body shell. Any lobster may be brought to the surface of the water for the purpose of measuring, but no undersize lobster may be brought aboard any boat, placed in any type of receiver, kept on the person or retained in any person's possession or under his direct control; all lobsters shall be measured immediately upon being brought to the surface of the water, and any undersize lobster shall be released immediately into the water.

(d) Report Card Required: Any person fishing for or taking spiny lobster shall have in their possession a nontransferable Spiny Lobster Report Card issued by the department and shall adhere to all reporting requirements for lobster defined in Sections 1.74 and 29.91, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202, 205, 219 and 220, Fish and Game Code. Reference: Sections 200, 202, 205, 210 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) and NOTE filed 3–12–92; operative 3–12–92 (Register 92, No. 20).
2. New subsection (d) filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 29.91. Spiny Lobster Report Card Requirements for Ocean Waters (FG 685, See Section 701).

(a) Spiny Lobster Report Card Required. All individuals must have a Spiny Lobster Report Card in their possession while fishing for or taking lobster. In the case of a person diving from a boat, the report card may be kept in the boat, or in the case of a person diving from the shore, the report card may be kept within 500 yards from the point of entry. Individuals must complete and return the card pursuant to regulations in this Section and in Section 1.74.

(b) Prior to beginning fishing activity, the cardholder must record the month, day, location, and gear code on the first available line on the report card.

(c) When the cardholder moves to another location code, or finishes fishing for the day, he or she must immediately record on the card the number of lobster kept from that location.

(d) In the event an individual fills in all lines and returns a Spiny Lobster Report Card, an additional card may be purchased. See Section 1.74.

(e) The annual fee for the Spiny Lobster Report Card is specified in Section 701, Title 14, CCR.

NOTE: Authority cited: Sections 200, 202 and 205, Fish and Game Code. Reference: Sections 200, 202 and 205, Fish and Game Code.

HISTORY

1. New section filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

NON–COMMERCIAL USE OF MARINE PLANTS

§ 30.00. Kelp General.

(a) Except as provided in this section and in Section 30.10 there is no closed season, closed hours or minimum size limit for any species of marine aquatic plant. The daily bag limit on all marine aquatic plants for which the take is authorized, except as provided in Section 28.60, is 10 pounds wet weight in the aggregate.

(b) Marine aquatic plants may not be cut or harvested in state marine reserves. Regulations within state marine conservation areas and state marine parks may prohibit cutting or harvesting of marine aquatic plants per subsection 632(b).

NOTE: Authority cited: Section 6750, Fish and Game Code. Reference: Section 6750, Fish and Game Code.

HISTORY

1. New section filed 5–9–84; effective thirtieth day thereafter (Register 84, No. 19).
2. Amendment of subsection (b) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 30.10. Prohibited Species.

No eel grass (*Zostera*), surf grass (*Phyllospadix*) or sea palm (*Postelsia*) may be cut or disturbed.

NOTE: Authority cited: Section 6750, Fish and Game Code. Reference: Section 6750, Fish and Game Code.

HISTORY

1. New section filed 5–9–84; effective thirtieth day thereafter (Register 84, No. 19).

Chapter 5. Native Reptiles and Amphibians

(See Species Regulations Regarding Bullfrogs)

§ 40. General Provisions Relating to Native Reptiles and Amphibians.

(a) General Prohibition It is unlawful to capture, collect, intentionally kill or injure, possess, purchase, propagate, sell, transport, import or export any native reptile or amphibian, or part thereof, except as provided in this chapter, Chapter 2 of this subdivision relating to sportfishing and frogging, sections 650, 670.7, or 783 of these regulations, or as otherwise provided in the Fish and Game Code or these regulations.

(b) For the purposes of this section, "intentionally kill or injure" does not include death or injury that occurs incidental to an otherwise lawful activity. This section does not prohibit the capture, temporary collection or temporary possession of native reptiles and amphibians done to avoid mortality or injury in connection with such activities. The live capture and release of native reptiles and amphibians done to avoid such death or injury may occur only with the department's written approval.

(c) Except for dried or processed reptile skins, it is unlawful to display, in any place of business where pets or other animals are sold, native reptiles or amphibians which cannot lawfully be sold.

(d) Progeny resulting from pregnant native reptiles or amphibians collected from the wild must be transferred to another person or to a scientific or educational institution within 45 days of birth or hatching. Persons

receiving such progeny shall comply with the bag and possession limits specified in sections 5.05 and 5.60.

(e) Reptiles or amphibians which have been in captivity, including wild-caught and captively-bred individuals or offspring, shall not be released into the wild without the written approval of the department.

(f) Biological Supply Houses and Exempt Organizations.

(1) Biological Supply Houses. The department may issue permits to owners of biological supply houses to sell native reptiles and amphibians to scientific or educational institutions, pursuant to Section 651.

(2) Organizations and Schools Exempt from Permit. Institutions or organizations engaged in bona fide scientific study of native wildlife, whose specimens are readily available for use or viewing by the public at large on a regular basis, and government accredited schools that are open to the public may possess, accept donations of, or exchange, purchase or sell between organizations, native reptiles and amphibians without a permit.

NOTE: Authority cited: Sections 5061 and 6896, Fish and Game Code. Reference: Sections 5061 and 6896, Fish and Game Code.

HISTORY

1. New section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
2. Amendment filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 40.00. Protected Amphibians.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205-210 and 220, Fish and Game Code.

HISTORY

1. Renumbering of chapter 5 to chapter 7 and new chapter 5 (sections 40.00 through 40.15, not consecutive) filed 1-16-74; designated effective 3-1-74 (Register 74, No. 3).
2. Amendment of NOTE filed 12-31-80; effective thirtieth day thereafter (Register 81, No. 1).
3. Repealer of chapter 5 (sections 40.00-40.15, not consecutive) and new chapter 5 (sections 40.00-40.15, not consecutive) filed 2-17-82; designated effective 3-1-82 (Register 82, No. 8). For prior history, see Register 79, No. 1.
4. Amendment of chapter 5 heading and repealer and new section 40.00 filed 1-20-83; designated effective tenth day thereafter (Register 83, No. 4).
5. Amendment of undesignated introductory paragraph and NOTE filed 4-18-91; operative 5-18-91 (Register 91, No. 21).
6. Editorial correction of printing error in first paragraph (Register 91, No. 31).
7. Amendment of section and NOTE filed 3-7-94; operative 3-7-94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
8. Repealer filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 40.05. Amphibians Except Protected Amphibians.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205-210, 215 and 218-221 and 2050-2055, Fish and Game Code.

HISTORY

1. Amendment of subsections (a), (c) and (e) filed 1-20-83; designated effective tenth day thereafter (Register 83, No. 4).
2. New subsection (f) filed 2-21-84; designated effective 3-1-84 (Register 84, No. 8).
3. New subsection (e)(3) and amendment of subsection (e)(1) and NOTE filed 3-7-94; operative 3-7-94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
4. Repealer filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 40.10. Protected Reptiles.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205-210, 215 and 218-221, Fish and Game Code.

HISTORY

1. Repealer and new section filed 1-20-83; designated effective tenth day thereafter (Register 83, No. 4).
2. Editorial correction of subsection (r) filed 3-15-83 (Register 83, No. 12).
3. Amendment of subsection (b) filed 3-12-92; operative 3-12-92 (Register 92, No. 20).
4. Amendment of section and NOTE filed 3-7-94; operative 3-7-94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
5. Repealer filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 40.15. Reptiles Except Protected Reptiles.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205-210, 215 and 218-221, Fish and Game Code.

HISTORY

1. Repealer and new section filed 1-20-83; designated effective tenth day thereafter (Register 83, No. 4).
2. Editorial correction of subsection (e)(2) filed 3-15-83 (Register 83, No. 12).
3. Amendment of subsection (e)(2) filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).
4. Amendment of subsections (a)(1) and (e)(2) filed 2-28-85 as an emergency; designated effective 3-1-85. Certificate of Compliance included (Register 85, No. 11).
5. Amendment of subsection (e)(2) filed 1-22-86; designated effective 3-1-86 (Register 86, No. 6).
6. Amendment of subsection (c)(9) filed 3-12-92; operative 3-12-92 (Register 92, No. 20).
7. Amendment of section and NOTE filed 3-7-94; operative 3-7-94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 10).
8. Repealer filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 41. Protected Amphibians.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205, 206, 209, 210 and 220, Fish and Game Code.

HISTORY

1. New section filed 7-1-83; effective thirtieth day thereafter (Register 83, No. 27).
2. Amendment of subsection (b) and NOTE filed 4-18-91; operative 5-18-91 (Register 91, No. 21).
3. Repealer and new section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
4. Repealer filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 41.5. Amphibians Except Protected Amphibians.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205 and 220, Fish and Game Code.

HISTORY

1. New section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
2. Repealer filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 41.7. Commercial Take and Use of Frogs for Human Consumption.

No person shall for commercial purposes take, possess, sell, transport or export frogs for human consumption. This section shall not apply to frogs raised by registered aquaculturists or frogs imported into this state. Any person possessing frogs for human consumption, whether imported or purchased from a registered aquaculturist, shall maintain and keep receipts, waybills, or bills of lading dealing with the importation, purchase, or sale of frogs for a period of one year from the date of receipt of the frogs, and shall exhibit these on demand to any official of the department.

NOTE: Authority cited: Sections 6851 and 15005, Fish and Game Code. Reference: Sections 6850, 6851, 6852, 6854, 6855 and 15005, Fish and Game Code.

HISTORY

1. New section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 42. Protected Reptiles.

NOTE: Authority cited: Sections 200, 202, 205, 210, 219 and 220, Fish and Game Code. Reference: Sections 200-202, 205, 206, 210, 215, 219 and 220, Fish and Game Code.

HISTORY

1. New section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
2. Repealer filed 1-10-2002; operative 1-1-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 42.5. Reptiles Except Protected Reptiles.

NOTE: Authority cited: Sections 200, 202, 205 and 220, Fish and Game Code. Reference: Sections 200, 202, 205 and 220, Fish and Game Code.

HISTORY

1. New section filed 9-10-96; operative 9-10-96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

2. Repealer filed 1–10–2002; operative 1–1–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 2).

§ 43. Captive Propagation and Commercialization of Native Reptiles.

(a) Native Reptile Propagation Permit.

(1) Permit Required. Except for pet shops as provided in subsection 43(f), every person, who, for commercial purposes, sells, possesses, transports, imports, exports or propagates native reptiles pursuant to subsection 43(c), or who propagates native reptiles for noncommercial purposes pursuant to subsection 43(b), shall have a native reptile propagation permit that has not been revoked or suspended issued to that person. The permit or a legible copy of the permit shall be in the immediate possession of the permittee while native reptiles are being displayed to the public, taken, transported, or sold. The permit or a legible copy of the permit shall be kept where native reptiles are maintained. No permit is required for the purchase of subspecies of native reptiles authorized pursuant to subsection 43(c).

(2) Application. Application for a permit shall be made on Native Reptile Propagation Permit Application, FG 391B (8/02), which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, License and Revenue Branch, 3211 S Street, Sacramento, California 95816; Telephone (916) 227–2244. The application form shall be completed in its entirety, including information on the species and/or subspecies proposed for propagation, the location of the rearing facility and other related information.

(3) Term of Permit. Permits issued under the provisions of this section shall be valid from January 1 through December 31 or, if issued after the beginning of such term for the remainder thereof.

(4) Denial. The department may deny a permit to any person who fails to comply with the provisions of a permit or any regulations pertaining to native reptiles. Any person denied a permit may request a hearing before the commission to show cause why his/her permit should be issued.

(5) Revocation. The commission, after proper notice and providing for an opportunity to be heard, may revoke or suspend a permit for a violation of the Fish and Game Code, or Title 14, CCR, or any federal law or regulation pertaining to reptiles.

(6) Permit Fee. The permit fee shall be the basic fee set forth in subsection 699(b), Title 14, California Code of Regulations. This fee shall be annually adjusted pursuant to Sections 713 of the Fish and Game Code.

(7) Albino Native Reptiles. Albino reptiles are defined as individual native reptiles lacking normal body pigment and having red or pink eyes. No permit is required for the possession, propagation, importation, exportation, transportation, purchase or sale of captively–bred native albino reptiles or amphibians. The provisions of section 5.60 apply to the taking and possession of albino native reptiles from the wild.

(b) Non–commercial Propagation. The department may authorize the possession and propagation of no more than three species and no more than 30 individuals in the aggregate including progeny under a native reptile propagation permit. Within the overall limit of 30 individuals, the department may authorize no more than four of any one species to be taken from the wild. Individuals may be taken only by the methods authorized by section 5.60. Native reptiles possessed pursuant to this subsection may not be purchased or sold.

(c) Propagation and Possession for Commercial Purposes. Native reptiles may not be sold, possessed, transported, imported, exported or propagated for commercial purposes, except as provided in Section 40(f) and except as follows:

(1) Subspecies Authorized. Pursuant to the provisions of this section, only the following subspecies may be sold, possessed, transported, imported, exported or propagated for commercial purposes:

(A) California common kingsnake (*Lampropeltis getulus californiae*);

(B) California subspecies of the gopher snake (*Pituophis melanoleucus*): Great Basin gopher snake (*Pituophis melanoleucus deserticola*), Pacific gopher snake (*Pituophis melanoleucus catenifer*), San Diego gopher snake (*Pituophis melanoleucus annectens*), and Sonora gopher snake (*Pituophis melanoleucus affinis*);

(C) California subspecies of the rosy boa (*Lichanura trivirgata*); Coastal rosy boa (*Lichanura trivirgata roseofusca*) and Desert rosy boa (*Lichanura trivirgata gracia*).

(2) Bill of Sale. All animals sold pursuant to this section must be accompanied by a numbered bill of sale which shall contain the name and permit number of the permittee, the complete scientific name of each native reptile sold and the name and address of the buyer. A copy of the bill of sale shall be retained by the buyer.

(d) Addition or Removal of reptiles authorized for commercial propagation. The following information shall accompany a request to add or remove a reptile to the list that may be commercially propagated:

A review of scientific literature documenting the population status of the species in California

(1) Caging and care guidelines for the animal in captivity.

(2) Analysis of the effects of broodstock collection methods on wild populations.

(3) Analysis of the effects on wild reptile populations of released or escaped reptiles bred under this program.

(4) Evaluation of the commercial market for the proposed species.

(e) Limits. except as otherwise authorized, no person shall take or possess native reptiles taken from the wild in excess of the bag and possession limits specified in section 5.60. There are no possession limits for captively–bred native reptiles authorized by subsection 43(c) for persons possessing a native reptile propagation permit or for which the person has a bill of sale as required in subsection 43(c)(2).

(f) Pet Shops.

(1) Defined. A "pet shop" means a permanent place of business, licensed by a city or county, that is open to the public and maintains normal business hours, where pet animals are kept for retail sale. An "owner or operator" means the person who owns or is in charge of the pet shop.

(2) Exemption. Pet shop owners or operators or their employees or agents, are not required to obtain a native reptile propagation permit to purchase, transport directly from the point of purchase to the pet shop, possess or resell native reptiles purchased from a permittee pursuant to subsection 43(c). This exemption applies only to native reptiles sold by the pet shop from the premises of the pet shop.

(3) Records of Purchases. The owner or operator of a pet shop shall retain a legible copy of the bill of sale at the pet shop for each native reptile acquired while the animal is at the pet shop and for two years thereafter. The bill of sale shall contain the name and permit number of the native reptile and amphibian permittee from which the animals were purchased or acquired, the date acquired and the scientific name and number of each subspecies of animals acquired.

(4) Records of Sales. Each native reptile sold by pet shops shall be accompanied by a numbered bill of sale which shall contain the name and address of the pet shop, the date sold and the scientific name and number of each subspecies sold. A copy of the bill of sale shall be retained at the pet shop for two years from the date of sale.

(5) Effect of Violation. No native reptiles shall be sold from any pet shop whose owner or operator, or any employee or agent selling native reptiles from the pet shop, has been convicted of a violation pertaining to native reptiles within the previous three years.

(g) Humane Care and Treatment. Permittees shall comply with the following provisions:

(1) Enclosures. The perimeter of the enclosure for snakes 33 inches or less shall be 1.5 times the length of the snake. The perimeter of the enclosure for snakes more than 33 inches in length shall be 1.25 times the length of the snake. The perimeter shall be measured on the inside of the top edge of the enclosure. Snakes may be kept in smaller cages or containers for 31 days from the date of birth or hatching and while being transported or displayed at trade shows. All enclosures shall be adequate-

ly ventilated. The substrate shall facilitate the ability to maintain a clean and healthy environment for each animal.

(2) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health.

(3) Water. Potable water must be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal. All water receptacles shall be clean and sanitary.

(4) Cleaning of enclosures. Excrement shall be removed from enclosures as often as necessary to maintain animals in a healthy condition.

(5) Disinfection of enclosures. After an animal with an infectious or transmissible disease is removed from an enclosure, that enclosure shall be disinfected.

(6) Pest control. Programs of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained by the permittee.

(7) Observation. Animals shall be observed at least twice a week by the permittee or once a week if the animals are in hibernation. Sick, diseased, stressed, or injured animals shall be provided with care consistent with standards and procedures used by veterinarians or humanely destroyed.

(8) Handling. Animals shall be handled carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal.

(h) Records. Every permittee shall keep accurate accounting records for three years in which all of the following shall be recorded:

(1) The complete scientific name and number of all native reptiles purchased, received, sold, delivered, taken and possessed.

(2) The person from whom the native reptiles were purchased or received.

(3) The person to whom the native reptiles were sold or delivered.

(4) The date the native reptiles were purchased, received, sold, delivered or taken.

(5) The price paid or received.

(6) The dates and numbers of eggs laid.

(7) The dates and numbers of births or hatchings.

(i) Annual Report Requirement. A copy of the records required in subsection 43(h) shall be submitted to the department by December 31 of each year. No permit shall be renewed unless the records or a signed statement that no species and/or subspecies of native reptiles were purchased, received, sold, delivered, taken or possessed during the year is submitted.

(j) Confidentiality of Records. The information required in subsections 43(h)(2), (3), and (5) contained in the records and reports filed with the department pursuant to subsection 43(i) shall be confidential and shall not be disclosed to the public.

(k) Inspection. The department may enter the premises of any permittee where reptiles are maintained, or reasonably may be maintained, at any reasonable hour to inspect reptiles, and enclosures and to inspect, audit or copy records and receipts required by this section. Refusal to allow an inspection may be grounds for revocation of the permit by the Commission.

NOTE: Authority cited: Sections 200, 202, 205, 220, 5061 and 6896, Fish and Game Code. Reference: Sections 200, 202, 205, 220, 5061 and 6896, Fish and Game Code.

HISTORY

1. New section filed 9–10–96; operative 9–10–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).
2. Amendment of subsection (j) and NOTE filed 12–2–97; operative 1–1–98 (Register 97, No. 49).
3. Amendment of section heading and section filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).

Chapter 5.5. Fishery Management Plans

Article 1. Fishery Management Plans Generally

§ 50.00. Application and Location of Fishery Management Plan Regulations, and Designation of Weight in Pounds.

(a) Unless specified otherwise in a fishery management plan, or regulations adopted to implement a fishery management plan, the provisions of Article 1, Chapter 5.5, of Subdivision 1 apply to a fishery management plan (FMP) adopted by the Fish and Game Commission under authority of the Marine Life Management Act (MLMA) and other applicable state and federal laws and regulations.

(b) A regulation implementing a fishery management plan that is applicable to both sport and commercial fisheries is found in this Chapter. A fishery management plan regulation that is specific to ocean sport fishing is found with ocean sportfishing regulations in Chapter 4 of Subdivision 1, beginning with Section 27.00. A fishery management plan regulation specific to commercial fishing is found with commercial fishing regulations in Chapter 6 of Subdivision 1 beginning with Section 100.

(c) The presentation of fisheries and population data will be made using weight in pounds as the standard, unless designated otherwise in regulations adopted specific to a fishery management plan.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071 and 7075, Fish and Game Code.

HISTORY

1. New article 1 (sections 50.00–50.03) and section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 50.01. Definitions.

Definitions contained in Chapter 1 of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code, apply to fishery management plans adopted under this Chapter in addition to, and where not in conflict with, the definitions of this section or definitions specific to an FMP.

(a) *Allowable Biological Catch (ABC)* means the allowable catch, or the range of allowable catch for a species or species group, which is set each year by the Commission based on recommendations by the Department or other scientific advisors.

(b) *Allocation* means apportioning a harvest guideline, quota, or optimum yield between or among segments of the fishery.

(c) *Bait net* means a lampara or roundhaul type net, the mesh of which is constructed of twine not exceeding Standard No. 9 medium cotton seine twine or synthetic twine of equivalent size or strength. Except for drum seines and other round haul nets authorized under a permit issued by the department pursuant to Fish and Game Code Section 8780, the nets may not have rings along the lead line or any method of pursing the bottom of the net.

(d) *Commission* means the California Fish and Game Commission.

(e) *Department* means the California Department of Fish and Game.

(f) *Director* means the Director of the Department of Fish and Game.

(g) *Executive Director* means the Executive Director of the Fish and Game Commission.

(h) *FMP* means Fishery Management Plan.

(i) *FMP Framework/Framework* structure means the structure and process described in the FMP that provides for the application and adjustment of management measures pursuant to section 50.03 within the scope and criteria of the FMP and implementing regulations, without the need to annually amend the FMP.

(j) *Harvest Control Rules* means options for management that describe the amount and type of harvesting that may be applied to a stock or stocks.

(k) *Harvest guideline* means a specified numerical harvest objective that, when attained or expected to be attained, does not require closure of a fishery.

(*l*) *Management action* means an action taken by the commission or department to implement management measures.

(m) *Management measure* means a specification or measure used to manage and regulate fishing for a stock under an FMP and may include, but is not limited to, resource allocation, harvest control rules, quotas, licenses and permits, season, size, gear, bag, and landing limitations, fishery monitoring and reporting requirements, regulation of bycatch, and enforcement measures.

(n) *Maximum sustainable yield or MSY* means maximum sustainable yield as defined in Fish and Game Code Section 96.5 or a substitute for MSY (MSY proxy).

(o) *Optimum yield or OY* means optimum yield as defined in Fish and Game Code Section 97 or a substitute for OY.(OY proxy).

(p) *Permit year* means the period from April 1 through March 31.

(q) *Quota* means a specified numerical harvest objective for the attainment (or expected attainment) of which may cause closure of the fishery.

(r) *Round weight* means the weight of fish in a whole condition at the time it is caught prior to being cleaned or dressed.

(s) *Round–weight equivalent* means the weight of fish in a cleaned or dressed condition adjusted by a factor to approximate round weight.

(t) *Routine management measure* means a management measure that is likely to be adjusted on a biennial, annual or more frequent basis and is categorized as routine in the plan following an analysis of the need for the measure, its impacts, and the rationale for its use.

(u) *Socioeconomic process* means a process authorizing the commission to apply or adjust management measures pursuant to section 50.03 for a species annually or in season based on social or economic factors following preparation of a report including proposed management measures, a description of alternatives considered, and an analysis that addresses five criteria including how the action will accomplish at least one of 15 listed benefits to the fishery.

(v) *Specification* means a numerical or descriptive designation of a management objective, including but not limited to: Allowable Biological Catch (ABC); harvest guideline; quota; allocation; or an allocation for a segment of the fishery or area, gear, season, fishery, or other subdivision.

(w) *Stock* means any species, species complex, population, or subpopulation that is actively managed within a geographic area.

(x) *Weight* means the weight is in pounds and round weight or round–weight equivalent, unless designated otherwise in regulations adopted specific to a fishery management plan. Where round weight is converted to number of fish, a conversion factor shall be based on the most current information readily available to the department.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Section 7071, 7075 and 7083, Fish and Game Code.

HISTORY

1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 50.02. Plan Amendment.

(a) The following actions shall first require amendment of a Fishery Management Plan (FMP):

(1) change to a management objective;

(2) change of species in the management plan;

(3) change in the definition of an overfished stock as defined in the FMP;

(4) amendment to any procedure required by the FMP; and

(5) revision to any management measure which is fixed in the FMP.

NOTE: Authority cited: Sections 7071 and 7075, Fish and Game Code. Reference: Sections 7071, 7075, 7078, 7086 and 7087, Fish and Game Code.

HISTORY

1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 50.03. Framework Review Processes.

(a) Two processes for taking management action are available to implement routine annual changes in management of fish stocks and fisheries within the Framework Review Process.

(1) *Rulemaking Action:* The commission may conduct a rulemaking action pursuant to the Administrative Procedure Act including holding at least two or more commission meetings to hear, consider and approve measures affecting any aspect of management and fisheries, including direct allocation of a catch quota or an optimum yield, with adoption of regulations reflecting the commission's action.

(2) *Prescribed action:* A prescribed action is ministerial and may include a fishing season or gear closure when a harvest quota has been achieved or include other actions to meet sustainable management goals when the prescribed action is nondiscretionary and specifically provided for in existing regulation such that no further rulemaking under Subsection (a)(1) is required.

(b) Nothing in this section precludes the Director from exercising authority to take emergency action pursuant to Fish and Game Code Section 7710, or of the commission to take emergency regulatory action under Section 11346.1 of the Government Code, or under Section 240 of the Fish and Game Code.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

Article 2. White Seabass Fishery Management Plan

§ 51.00. Purpose and Scope.

(a) This Article implements the White Seabass Fishery Management Plan (WSFMP or plan), as adopted and amended by the California Fish and Game Commission consistent with the goals, objectives and procedures of the WSFMP and the Marine Life Management Act of 1998. These regulations, in combination with other applicable provisions of the Fish and Game Code and Title 14, CCR, govern management and regulation of white seabass stocks and fisheries.

(b) A regulation implementing this fishery management plan that is applicable to both sport and commercial fisheries is found in this Chapter. A fishery management plan regulation that is specific to ocean sport fishing is found with ocean sportfishing regulations in Chapter 4 of Subdivision 1, beginning with Section 27.00. A fishery management plan regulation specific to commercial fishing is found with commercial fishing regulations in Chapter 6 of Subdivision 1 beginning with Section 155.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7070, 7071 and 7075, Fish and Game Code.

HISTORY

1. New article 2 (sections 51.00–51.05) and section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 51.01. Definitions.

These definitions are in addition to those definitions specified in Section 50.01.

(a) *Fishing year* under the White Seabass Management Plan means the period from September 1 through August 31.

(b) *Overfished stock* means that the total annual commercial catch of white seabass in pounds reported landed on fish receipts provided to the department for the past two consecutive years declined each year by 20 percent or greater from the prior five–year average of landings, a 20 percent decline occurs in the number of fish and average size of fish (round weight) for the same two consecutive years for white seabass caught in the sport fishery as determined based on best available data, and recruitment indices for juvenile white seabass decline each year by 30 percent or greater from the prior 5–year average of recruitment. This definition will remain in use until the White Seabass Scientific and Constituent Advisory Panel (WSSCAP) develops, and the commission adopts by regulation, a different definition [required by Fish and Game Code Subsection 7086(a)].

(c) *Point of concern* means one or more of the following conditions affecting white seabass that, if found or expected to exist, may trigger the application or adjustment of one or more management measures by the commission.

(1) catch is expected to exceed the current harvest guideline or quota;

(2) any adverse or significant change in the biological characteristics of white seabass (age composition, size composition, age at maturity, or recruitment) is discovered;

(3) an overfishing condition exists or is imminent;

(4) any adverse or significant change in the availability of a managed species' forage for dependent species or in the status of a dependent species is discovered;

(5) new information on the status of white seabass;

(6) an error in data or a stock assessment is detected that significantly changes estimates of impacts due to current management.

(d) *Points of concern process* means a process authorizing the commission to apply or adjust fishery management measures at any time during the year based on confirmation of the existence of one or more resource-based points of concern identified in a fishery management plan pursuant to Subsections 50.03(a)(1) and (2).

(e) *Socio-economic benefits* means one or more social or economic issues as specified in the FMP affecting white seabass that, if found or expected to exist, may trigger the application or adjustment of one or more management measures by the commission pursuant to Section 50.03.

(f) *White seabass* means *Atractoscion nobilis*.

(g) *White seabass fishery* means fishing for or harvesting of white seabass inside and outside of California by vessels subject to California law.

(h) *White Seabass Fishery Management Plan* means the White Seabass Fishery Management Plan approved by the Fish and Game Commission on April 4, 2002, which is hereby incorporated by reference except for 5.3.2B and 5.3.3.

NOTE: Authority cited: Sections 7071 and 7086, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7086, Fish and Game Code.

HISTORY

1. New section filed 7-31-2002; operative 8-30-2002 (Register 2002, No. 31).

[The next page is 47.]

§ 51.02. Process and Timing.

(a) White seabass management will conform with the goals, objectives, criteria, and procedures of the White Seabass Fishery Management Plan and other applicable laws and regulations, including the points of concern, socioeconomic, and framework review processes.

(b) The director may appoint a White Seabass Scientific and Constituent Advisory Panel (WSSCAP) to assist the department and commission with review of white seabass fishery assessments, management proposals, and plan amendments. Membership on the WSSCAP should be reserved for those knowledgeable in the principals of fisheries science, including stock assessment, and/or those interested in, and involved with, white seabass resource and fisheries. The director may by regulation determine the terms and conditions of membership on the WSSCAP.

(c) Monitoring and assessment of white seabass fisheries shall be conducted annually utilizing best available data, but at a minimum, the collection and review of reported catches. The department will provide management recommendations to the commission annually, and in-season if needed, based on criteria to be developed by the department's White Seabass Management Team in cooperation with the White Seabass Scientific and Constituent Advisory Panel, for approval by the commission by regulation.

(d) When acting to adjust management of a species within a fishery management unit based on non-biological and socioeconomic issues, the commission will follow the process specified in the fishery management plan and Section 50.03.

(e) Annual specifications and management measures are generally developed in the fall and considered and adopted at two commission meetings held during the period from November through April depending on the timing and complexity of the issues. However, management measures and actions may be developed, considered, adopted, and implemented at any time of year according to the criteria and procedures of the points of concern process.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 7-31-2002; operative 8-30-2002 (Register 2002, No. 31).

§ 51.04. Allocation.

(a) Allocation of an annual white seabass harvest between recreational and commercial fisheries will be determined consistent with options specified in the White Seabass Fishery Management Plan.

(b) The commission shall consider at least the following factors in the allocation of white seabass:

(1) present participation in and dependence on the fisheries, including alternative fisheries;

(2) historical fishing practices in, and historical dependence on, the fisheries;

(3) the economics of the fisheries;

(4) any agreement between the affected participants in the fisheries;

(5) potential biological impacts on white seabass, associated species or their habitats affected by the allocation; and

(6) consistency with the goals and objectives of this WSFMP and the MLMA.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 7-31-2002; operative 8-30-2002 (Register 2002, No. 31).

§ 51.05. Harvest Control Rules.

(a) Harvest control rules adopted pursuant to Section 50.03 that specify either status quo management or the pounds of white seabass that may be taken annually shall be selected by the commission from options provided in the White Seabass Fishery Management Plan (WSFMP) as follows:

Option B2: The MSY proxy is computed as approximately 40 percent of the estimated pristine stock size (40 million pounds) modified by natural mortality (0.1). The MSY proxy is then adjusted downward by multiplying by 0.75 to obtain the OY of 1.2 million pounds.

(b) The commission may use any combination of management measures to meet an annual OY for white seabass.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code; Section 5.6, White Seabass Fishery Management Plan.

HISTORY

1. New section filed 7-31-2002; operative 8-30-2002 (Register 2002, No. 31).

Article 3. Nearshore Fishery Management Plan

§ 52.00. Purpose and Scope.

(a) This Article implements the Nearshore Fishery Management Plan (Nearshore FMP or plan), as adopted by the California Fish and Game Commission (Commission) consistent with the goals, objectives and procedures of the Nearshore FMP and the Marine Life Management Act of 1998, and applicable federal groundfish regulations. These regulations, in combination with other applicable provisions of the Fish and Game Code, Title 14, California Code of Regulations (CCR), and federal groundfish regulations, govern management and regulation of nearshore fish stocks and fisheries.

(b) Regulations adopted by the commission specific to sport fishing for nearshore fish stocks are included with ocean sport fishing regulations in Chapter 4, beginning with Section 27.00, Title 14, CCR. A regulation specific to commercial fishing for nearshore fish stocks is included with commercial fishing regulations in Chapter 6, beginning with Section 150, Title 14, CCR.

NOTE: Authority cited: Sections 7071 and 8587.1, Fish and Game Code. Reference: Sections 7070, 7071, 7075, 7078, 7083 and 8587.1, Fish and Game Code.

HISTORY

1. Amendment of article heading and new section filed 1-9-2003; operative 2-8-2003 (Register 2003, No. 2).

§ 52.01. Definitions.

(a) Definitions for *nearshore fish stocks, nearshore fisheries*, and *nearshore waters* are included in Section 1.90, Title 14, CCR.

(b) *Allocation* means assignment of an amount of catch to different sectors of a fishery.

(c) *Cape Mendocino* for purposes of describing the boundary of fishery management areas means a point on the mainland shore at 40 degrees 10 minutes north latitude.

(d) *Council* means Pacific Fishery Management Council [see subdivision (k) below].

(e) *Fishery Control Rule* means specified approaches to determining the amount and type of catch allowed in a fishery.

(f) *National Marine Fisheries Service or NMFS* means the National Marine Fisheries Service in the United States Department of Commerce.

(g) *Nearshore Fishery Management Plan (Nearshore FMP)* means sections 1 and 2 of the Nearshore Fishery Management Plan approved by the Commission on August 29, 2002, hereby incorporated by reference except for the "notice actions" process described in section 1, page 1-14.

(h) *Nearshore Rockfish* means black rockfish (*Sebastes melanops*), black-and-yellow rockfish (*Sebastes chrysomelas*), blue rockfish (*Sebastes mystinus*), brown rockfish (*Sebastes auriculatus*), calico rockfish (*Sebastes dallii*), California scorpionfish (*Scorpaena guttata*), China rockfish (*Sebastes nebulosus*), copper rockfish (*Sebastes caurinus*), gopher rockfish (*Sebastes carnatus*), grass rockfish (*Sebastes rastrelliger*), kelp rockfish (*Sebastes atrovirens*), olive rockfish (*Sebastes serranoides*), quillback rockfish (*Sebastes maliger*), treefish (*Sebastes serriceps*).

(i) *Overfished* is defined at Section 97.5 of the Fish and Game Code, and in the Nearshore FMP also means a population that falls below the threshold of 30% of the estimated unfished biomass.

(j) *Overfishing* is defined at Section 98 of the Fish and Game Code, and in the Nearshore FMP also means that the total catch of a nearshore fish population exceeds the Total Allowable Catch in any year or season.

(k) *PFMC or Council* means the Pacific Fishery Management Council established pursuant to the Magnuson–Stevens Fishery Conservation and Management Act.

(*l*) *Quota* means a specified numerical amount of landings (excluding discard mortality), the attainment (or expected attainment) of which may cause closure of the fishery.

(m) *Total Allowable Catch or TAC* means a specified numerical amount of catch (including discard mortality), the attainment (or expected attainment) of which may cause closure of the fishery. In Stage I of the Nearshore FMP Fishery Control Rule, TAC is equivalent to a proxy for Optimum Yield as adopted in state or federal regulations; In Stages II and III, TAC is equivalent to Optimum Yield as adopted in state or federal regulations.

(n) *Unfished Biomass or Bunfished* means an estimate of the biomass or population size that would exist if there had been no fishing in recent history (within several generations) of a fish population.

(o) *Definitions* contained in Chapter 1, and Article 1 of Chapter 5.5, of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code, apply to the nearshore fishery in addition to definitions of this section.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7078, 7083 and 7086, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.02. Process and Timing.

(a) Management of nearshore fish stocks will conform with the goals, objectives, criteria, procedures, and Fishery Control Rule guidelines of the Nearshore Fishery Management Plan, and other applicable state and federal laws and regulations.

(b) Monitoring and assessment of nearshore fisheries will be conducted annually, and, at a minimum, will include the collection and review of reported catches. The department will provide management recommendations to the commission annually, and in–season if a need is identified.

(c) The director may establish and appoint members to advisory committees, including regional advisory committees (RACs), to assist the department with development and review of fishery assessments, management options and proposals, and plan amendments.

(d) Management measures and actions may be developed, considered, adopted in compliance with the Administrative Procedure Act, and implemented at any time of year to achieve management plan goals and objectives, and may apply to any or all management areas, or portions of management areas at the discretion of the commission.

NOTE: Authority cited: Section 7071 and 7652, Fish and Game Code. Reference: Sections 7071, 7075, 7083 and 7652, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.03. Nearshore Fishery Management Plan (Nearshore FMP) Project.

(a) The Department's Recommended Proposed Project in the Nearshore FMP (Plan) involving a combination of Fishery Control Rules, Allocation, Regional Management, Marine Protected Areas (MPAs), Restricted Access, and other management measures described in the Nearshore FMP will be utilized in managing nearshore fisheries toward meeting goals and objectives of the Plan.

(b) A fishery management measure may be selected and inserted instead of, or in addition to, measures included in the adopted Nearshore FMP Project where specified in statute or regulation.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.04. Regional Management.

Four regional management areas (consistent with the Nearshore FMP's Alternative 5 for Recommended Regional Management) exist off California as follows:

(1) North Coast Region: Nearshore waters between the California–Oregon border and a line extending due west true from a point on the mainland shore at 40 degrees 10 minutes north latitude near Cape Mendocino, Humboldt County,

(2) North–Central Coast Region: Nearshore waters between a line extending due west true from a point on the mainland shore at 40 degrees 10 minutes north latitude near Cape Mendocino, Humboldt County, and a line extending due west true from Point Ano Nuevo, San Mateo County,

(3) South–Central Coast Region: Nearshore waters between a line extending due west true from Ano Nuevo, San Mateo County, and a line extending due west true from Point Conception, Santa Barbara County,

(4) South Coast Region: Nearshore waters between a line extending due west true from Point Conception, Santa Barbara County, and the U.S.–Mexico border.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.05. Allocation.

(a) Allocation of a Total Allowable Catch (TAC) of nearshore fish populations between recreational and commercial sectors will be consistent with the recommended Nearshore FMP allocation approach approved by the commission, and, with regulations of the Department of Commerce for nearshore groundfish (50 CFR, Part 660) until transfer of fishery management authority, or other Federal authorization for allocation by the state, is attained for these species.

(b) The commission will consider the following factors during a change in allocation:

(1) present versus historical participation in the fishery

(2) the economics of the fisheries

(3) local community impacts

(4) product quality and flow to the consumer

(5) gear conflicts

(6) non–consumptive uses

(7) fishing efficiency, and

(8) recreational versus commercial fishery factors.

(c) Allocation by the state of a commission authorized TAC for nearshore fish stock will be based on the use of historical fishery information applied regionally, with constituent involvement, and based on a careful review of recreational and commercial landings information, and adopted in compliance with the Administrative Procedure Act.

(d) Until regional management is phased–in, and regional fishery information required to implement the allocation methodology under subdivision (c) is available, allocation of state managed nearshore fish stocks will be based on the currently used ratio of recreational to commercial take for a species during the periods 1983 through 1989, and 1993 through 1999.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.09. Take of Nearshore Rockfish, Fishery Closure.

(a) Total Allowable Catch (TAC). Until the state has management authority for a species or species group included in the Nearshore FMP, the TAC of a species or species group will not exceed the amount specified in the Federal Register for that species or species group.

(b) Mechanism for Fishery Closures. When the TAC for a species or species group included in the Nearshore FMP is exceeded or expected to be exceeded, the department may close the fishery at the time the TAC is reached or expected to be reached.

(c) The department shall give the public and the commission no less than 10 days notice of any recreational fishery closure pursuant to this Section via a department news release.

(d) The department shall give Nearshore Fishery Permit holders no less than 10 days notice of any commercial fishery closure pursuant to this Section via a notification letter sent to each permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of any commercial fishery closure pursuant to this Section via a department news release.

NOTE: Authority cited: Section 200, 202, 205, 7071 and 8587.1, Fish and Game Code. Reference: Sections 97, 7056, 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 52.10. Take of Sheephead, Cabezon and Greenling.

(a) Total Allowable Catches (TACs) and Allocations. Based on total allowable catches specified for each calendar year, catch may not exceed the following amounts:

(1) California sheephead. The statewide allowable catch of sheephead is 205,500 pounds, allocated as follows:

(A) The commercial fishery is allocated 75,200 pounds.

(B) The recreational fishery is allocated 130,300 pounds.

(2) Cabezon. The total statewide allowable catch of cabezon is 152,100 pounds, allocated as follows:

(A) The commercial fishery is allocated 59,300 pounds.

(B) The recreational fishery is allocated 92,800 pounds.

(3) Greenlings of the genus Hexagrammos. The total statewide allowable catch of greenlings is 37,600 pounds, allocated as follows:

(A) The commercial fishery is allocated 3,400 pounds.

(B) The recreational fishery is allocated 34,200 pounds.

(b) Mechanism for Fishery Closures. The department will estimate from the current trends in catch and using the best available scientific information the time at which any commercial or recreational fishery allocation or total allowable catch for sheephead, cabezon, or greenlings specified in subsection (a) will be reached. The department will close the fishery at the time the allocation or total allowable catch is reached or is projected to be reached prior to the end of the calendar year.

(c) The department shall give the public and the commission no less than 10 days notice of any recreational fishery closure pursuant to this Section via a department news release.

(d) The department shall give holders of nearshore fishery permits no less than 10 days notice of any commercial fishery closure pursuant to this Section via a notification letter sent to the permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of any commercial fishery closure pursuant to this Section via a department news release.

NOTE: Authority cited: Sections 200, 202, 205, 7071 and 8587.1, Fish and Game Code. Reference: Sections 97, 7056, 7071, 8585.5, 8587 and 8587.1, Fish and Game Code.

HISTORY

1. New chapter 5.5, article 3 (section 52.10) and section filed 5–23–2002; operative 5–23–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 21).
2. Editorial correction restoring inadvertently deleted section (Register 2003, No. 17).
3. Amendment filed 11–7–2003; operative 12–7–2003 (Register 2003, No. 45).
4. Amendment of subsections (a)(2)–(a)(2)(B) filed 3–1–2005; operative 3–31–2005 (Register 2005, No. 9).

Article 4. Market Squid Fishery Management Plan

§ 53.00. Purpose and Scope.

(a) This article implements the Market Squid Fishery Management Plan (Market Squid FMP) as adopted and amended by the California Fish and Game Commission (commission), consistent with the requirements of Part 1.7, commencing with Section 7050, and Article 9.7 of Chapter 2 of Part 3 of Division 6 of the Fish and Game Code (commencing with Section 8420). Regulations contained in Section 53.00 et seq. are consistent with the goals, objectives and procedures of the Market Squid FMP and applicable federal regulations for coastal pelagic species and the federal Coastal Pelagic Species Fishery Management Plan. These regulations, in combination with other applicable provisions of the Fish and Game Code, Title 14 of the California Code of Regulations, and federal regulations for coastal pelagic species, govern management and regulation of market squid stocks and fisheries.

(b) A regulation implementing this fishery management plan that is applicable to both sport and commercial fisheries is found in this Article. Regulations adopted by the commission specific to recreational take and use of market squid are included with ocean sport fishing regulations in Chapter 4, beginning with Section 27.00, Title 14, CCR. Regulations specific to commercial fishing for market squid are included in Chapter 6, beginning with Section 149, Title 14, CCR.

(c) Pursuant to Fish and Game Code Section 8429.7, Fish and Game Code sections 8420.5 to 8423.5, inclusive, and sections 8426 and 8427 are made inoperative.

(d) Pursuant to Fish and Game Code Section 7071, Fish and Game Code Section 7852.2 is made inoperative as it applies to squid fishery permits.

NOTE: Authority cited: Sections 7071, 7078, 8425 and 8429.7, Fish and Game Code. Reference: Sections 7070, 7071, 7075, 7078, 7083, 8420, 8425 and 8429.7, Fish and Game Code.

HISTORY

1. New article 4 (sections 53.00–53.03) and section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).

§ 53.01. Definitions.

(a) *Brail gear, dip nets or scoop* nets means any net attached to a rigid frame operated by hand or mechanical device deployed from the vessel to scoop fish or invertebrates.

(b) *Daily trip limit* means a routine management measure which may be used to limit take of squid on a per–vessel basis within a calendar day.

(c) *Drum seine* means a purse seine net which is stored, deployed and retrieved with the aid of a mechanized drum (reel) mounted on the stern of the vessel.

(d) *Egg escapement* means the number or proportion of a female squid's lifetime supply of eggs that she is able to deposit, on average, before being taken in the fishery.

(e) *Egg escapement method* means a management tool which may be used to determine whether the fleet is fishing above or below a predetermined sustainable level of exploitation. The method requires establishing a threshold value to ensure that an adequate number of eggs are deposited prior to harvest.

(f) *Fishing year or fishing season* under the Market Squid FMP means the period April 1 though March 31.

(g) *Fishery Control Rules* means specific management strategies such as seasonal catch limits, daily trip limits, area closures, time closures, and sustainable levels of egg escapement which provide for a sustainable market squid fishery.

(h) *Fleet capacity goal* means an optimal number of vessels where the number of vessels matches the available squid resource.

(i) *Forage* means the role of market squid in the food chain as a critical source of food for higher predators, including birds, fish and marine mammals.

(j) *Lampara* means a rectangular net constructed with graduated mesh sizes, a definite bunt (bag), and fitted with floats. It is laid out by the fishing vessel in a circle and closed at least partially on the bottom by pulling the leadline in advance of the float line.

(k) *Light boat* means a vessel engaged in the commercial taking or attempting to take market squid which uses bright lights to aggregate squid for commercial purposes including live bait.

(l) *Market squid* means Loligo opalescens.

(m) *Market Squid Fishery Management Plan (Market Squid FMP)* means Chapters 1 through 5 of the Market Squid Fishery Management

Plan approved by the Commission on August 27, 2004, hereby incorporated by reference.

(n) *National Marine Fisheries Service, NMFS or NOAA Fisheries* means the federal fisheries management agency which is contained in the United States Department of Commerce.

(o) *Overfished* is defined at Fish and Game Code Section 97.5, and in the Market Squid FMP also means a condition that may exist when either the egg escapement threshold is not met, or catches of squid exceed any specified allowable level.

(p) *Overfishing* is defined at Fish and Game Code Section 98, and in the Market Squid FMP also may mean that harvests of squid are occurring at times when either the egg escapement threshold is not being met, or catches are exceeding specified allowable levels. These catches may not be sustainable.

(q) *PFMC or Council* means the Pacific Fishery Management Council established pursuant to the Magnuson–Stevens Fishery Conservation and Management Act.

(r) *Point of concern* means one or more of the following conditions affecting market squid that, if found or are expected to exist, may trigger the application or adjustment of one or more management measures by the commission:

(1) Catch is projected to significantly exceed the current seasonal catch limitation.

(2) Any adverse or significant change in the biological characteristics of the market squid (age composition, size composition, age at maturity, or recruitment) is discovered.

(3) An overfished condition exists or is imminent (defined as when the egg–escapement method threshold is not realized in two consecutive years).

(4) Any adverse or significant change in the availability of market squid as forage or in the status of a dependent species is discovered.

(5) An error in data or a change to an indicator of stock status is detected that requires adjustment to fishery control rules to ensure sustainable resource management.

(s) *Points of concern process* means a process authorizing the commission to apply or adjust fishery management measures at any time during the year based on the confirmation of the existence of one or more resource–based points of concern identified in a fishery management plan pursuant subsection 50.03(a), Title 14, CCR.

(t) *Purse seine* means a rectangular net constructed with uniform mesh sizes, without a prominent bunt (bag), and fitted with floats. It is laid out with the end attached to a skiff while the deploying vessel encircles the squid. The end of the net is then brought up to the deploying vessel and is closed on the bottom by pulling a purse line (draw string) threaded through rings along the leadline, preventing the catch from escaping.

(u) *Round haul vessels* mean those that employ the use of lampara, purse seine, and drum seine net gear to commercially harvest squid.

(v) *Seasonal catch limitation* means an amount of allowable catch which may be taken within a designated geographic area in a fishing season, specified in short tons and excluding discard mortality. The attainment (or expected attainment) of this limit will cause closure of the directed commercial fishery as specified in regulation.

(w) *Tons* means short tons, and is the standard unit of weight for purposes of describing catches and limits for the market squid fishery, notwithstanding subsection 50.00(c), Title 14, CCR.

(x) *Vessel capacity* means the gross registered tonnage, as listed on a federal Coastal Pelagic Species permit or calculated from length, breadth and depth measurements provided on United States Coast Guard documentation papers.

(y) *Weekend closures* mean a routine management measure which may be used to prohibit take of market squid during certain days of a week.

(z) Definitions contained in Chapter 1, and Article 1 of Chapter 5.5, of Subdivision 1, Division 1, Title 14, CCR, and Chapters 1 and 2 of Division 0.5 of the Fish and Game Code apply to the market squid fishery in addition to definitions of this Section.

NOTE: Authority cited: Section 7071, 7078 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7078, 7083, 7086, 8420 and 8425, Fish and Game Code.

HISTORY

1. New section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).

§ 53.02. Process and Timing.

(a) Management of market squid stocks will conform to the goals, objectives, criteria, procedures, and Fishery Control Rule guidelines of the Market Squid FMP, and other applicable state and federal laws and regulations.

(b) Periodic monitoring and assessment of squid fisheries will be conducted, and, at a minimum, will include the collection and review of reported catches. The department will provide management recommendations to the commission as needed, and in–season if a need is identified.

(c) The director may establish and appoint members to an advisory committee to assist the department with development and review of fishery assessments, management options and proposals, and plan amendments.

(d) Management measures and actions may be developed, considered, and adopted in compliance with the Administrative Procedure Act and implemented at any time of year to achieve management plan goals and objectives, and may apply to any or all management areas, or portions of management areas at the discretion of the commission.

NOTE: Authority cited: Section 7071, 7078 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7083, 7652, 8420 and 8425, Fish and Game Code.

HISTORY

1. New section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).

§ 53.03. Market Squid Fishery Management Plan (Market Squid FMP) Project.

(a) The Department's Recommended Proposed Project in the Market Squid FMP involves a combination of limitations on total harvest, regulation on the use of squid fishing gear (including lights), use of time closures to allow for periods of uninterrupted spawning, restricted access and other limits on the commercial fleet capacity, mechanisms to allow for adequate squid escapement, and area closures designed to minimize impact to sensitive non–target species and habitat. These management measures described in the Market Squid FMP will be utilized in managing the squid fishery toward meeting goals and objectives of the Market Squid FMP.

(b) Other management measures as described in the Market Squid FMP, including but not limited to vessel trip limits, squid replenishment areas, seasonal closures, and marine protected areas may be used as needed to achieve the goals and objectives of the Market Squid FMP.

(c) A fishery management measure may be adopted by the commission instead of, or in addition to, measures included in the adopted Market Squid FMP Project where specified in statute or state or federal regulation.

(d) Consistent with the goals of the Restricted Access program, the Commission established a sixth permit class for Non–Transferable Market Squid Light Boat Permits in addition to the original five permit classes and an experimental permit class identified in the discussion of the program in the Market Squid Fishery Plan.

NOTE: Authority cited: Section 7071, 7078 and 8425, Fish and Game Code. Reference: Sections 7071, 7075, 7082, 7083, 8420 and 8425, Fish and Game Code.

HISTORY

1. New section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).
2. New subsection (d) filed 2–13–2007; operative 2–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 7).

Chapter 6. Fish, Commercial

§ 100. Abalone.

Abalone may not be taken for commercial purposes.

NOTE: Authority cited: Sections 5521 and 5521.5, Fish and Game Code. Reference: Sections 5520, 5521, 5521.5 and 5522, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(1) filed 6–27–85; effective thirtieth day thereafter (Register 85, No. 26). For prior history, see Register 83, No. 40.
2. Amendment filed 12–21–90; operative 1–20–91 (Register 91, No. 4).
3. New subsection (g) and amendment of NOTE filed 8–2–93; operative 9–1–93 (Register 93, No. 32).
4. Subsection (g) expired by its own terms 3–1–95 (Register 95, No. 11).
5. New subsection (g) and amendment of NOTE filed 2–1–96; operative 3–1–96 (Register 96, No. 5).

[The next page is 51.]

6. Amendment of subsection (g) and NOTE filed 5–22–97 as an emergency; operative 5–22–97 (Register 97, No. 21). A Certificate of Compliance must be transmitted to OAL by 9–19–97 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (g) and NOTE refiled 9–8–97 as an emergency; operative 9–8–97 (Register 97, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–6–98 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of subsection (g) and NOTE as they existed prior to 5–22–97 emergency amendment by operation of Government Code section 11346.1(f) (Register 98, No. 17).
9. Amendment of first paragraph, repealer of subsections (a)–(g) and amendment of NOTE filed 4–22–98; operative 4–22–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 17).

§ 101. Possession of Sliced Abalone During Closed Season.

HISTORY

1. Repealer filed 10–17–67 as an emergency; designated effective 11–8–67 (Register 67, No. 42). For prior history, see Register 27, No. 4.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 12–12–67 (Register 67, No. 50).

§ 102. Abalone Processors Permit.

NOTE: Authority cited: Sections 7701, 7708, 8040, 8305.9, 8306.3, and 8306.8, Fish and Game Code. Reference: Sections 7700–7710.5 and 8300–8309, Fish and Game Code.

HISTORY

1. Amendment filed 6–8–78 as an emergency; effective upon filing (Register 78, No. 23). For prior history, see Register 75, No. 27.
2. Certificate of Compliance filed 8–1–78 (Register 78, No. 31).
3. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 103. Common Names for Market Fish.

(a) The following common names may be used as alternates for designated names:

(1) Pacific red snapper:
Sebastes entomelas (widow rockfish)
Sebastes flavidus (yellowtail rockfish)
Sebastes goodei (chilipepper)
Sebastes jordani (shorbelly rockfish)
Sebastes levis (cowcod)
Sebastes melanops (black rockfish)
Sebastes miniatus (vermillion rockfish)
Sebastes ovalis (speckled rockfish)
Sebastes paucispinnis (bocaccio)
Sebastes pinniger (canary rockfish)
Sebastes ruberrimus (yelloweye rockfish)
Sebastes rufus (bank rockfish)
Sebastes serranoides (olive rockfish)

(2) Butterfish:
Anoplopoma fimbria (sablefish)

(b) The following common names may be used in lieu of the scientific name:

(1) Pacific ocean shrimp:
Pandalus jordani (shrimp)

(2) Dungeness crab:
Cancer Magister (crab)

(3) Pacific whiting:
Merluccius productus (Pacific hake)

NOTE: Authority cite: Section 8023, Fish and Game Code. Reference: Section 8023, Fish and Game Code.

HISTORY

1. New section filed 3–12–74 as an emergency; effective upon filing (Register 74, No. 11).
2. Certificate of Compliance filed 6–5–74 (Register 74, No. 23).
3. New subsection (b)(3) filed 3–17–78; effective thirtieth day thereafter (Register 78, No. 11).
4. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
5. Amendment of subsection (a)(1) filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).

§ 104. White Croaker Closure.

It is unlawful to take white croaker under a commercial fishing license issued pursuant to section 7850 of the Fish and Game Code, in waters from 0 to 3 nautical miles from shore extending oceanward between a line extending 312 degrees magnetic from Point Vicente in Los Angeles County, and a line extending 166 degrees magnetic from Point Fermin in Los Angeles County. Pursuant to section 7715 of the Fish and Game Code, the provisions of this section shall become inoperative when the Director of the Department of Health Services determines that a health risk no longer exists and the Director of the Department of Fish and Game has been so notified. The Department shall fully notify the public of the reopening of these waters.

NOTE: Authority cited: Section 7715, Fish and Game Code. Reference: Section 7715, Fish and Game Code.

HISTORY

1. New section added 5–29–90 as an emergency; operative 5–29–90 (Register 90, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 09–26–90.
2. New section filed 9–24–90 as an emergency readoption; operative 9–24–90 (Register 90, No. 45). A Certificate of Compliance must be transmitted to OAL by 1–22–91 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 9–24–90 order including amendment transmitted to OAL 1–18–91 and filed 2–19–91 (Register 91, No. 12).
4. Change without regulatory effect amending section filed 5–6–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 19).

§ 104.1. Central California Gillnet Fishery Closure.

Except as provided in Fish and Game Code Section 8664.5(f), at no time may gill or trammel nets be used in ocean waters which are 60 fathoms or less in depth at mean lower low water, in the area between a line extending 261° true (245° magnetic) from the most westerly point of the west point of the Point Reyes headlands in Marin County to a line extending due west (270° true; 245° magnetic) from Point Arguello, Santa Barbara County.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Sections 8664.5 and 8664.7, Fish and Game Code.

HISTORY

1. New section filed 10–17–2000 as an emergency; operative 9–13–2000 pursuant to Fish and Game Code section 8664.7 (Register 2000, No. 42). A Certificate of Compliance must be transmitted to OAL by 1–11–2001 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–10–2001 as an emergency; operative 1–12–2001 pursuant to Fish and Game Code section 8664.7 (Register 2001, No. 2). A Certificate of Compliance must be transmitted to OAL by 5–14–2001 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2002, No. 15).
4. New section filed 4–11–2002; operative 4–26–2002 pursuant to Fish and Game Code section 8664.7 (Register 2002, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–26–2002 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4–11–2002 order transmitted to OAL 7–29–2002 and filed 9–4–2002 (Register 2002, No. 36).

§ 105. Importation and Sale of Kelp Bass, Sand Bass, and Spotted Bass.

Dead kelp bass, sand bass, and spotted bass, all of the genus Paralabrax, may be imported into this State for sale under the following regulations:

(a) If imported overland, all of the species mentioned above shall be tagged with metallic tags inscribed "California Department of Fish and Game" before entering this State.

(b) If imported by sea, all of the species mentioned above shall be tagged with metallic tags inscribed "California Department of Fish and Game" at the first point of landing in this State. Tags will not be furnished unless the request for tags is accompanied by a copy of the ship's entry papers and a certified copy of the fishing permit of the country of origin. The department reserves the right to refuse the issuance of tags if sufficient proof is not given to show that said species of fish were taken south of the international boundary between the United States and Mexico.

(c) All tags shall be furnished by the Department of Fish and Game at cost; however, a $10 administrative fee shall be charged for each order.

NOTE: Authority cited: Section 8372, Fish and Game Code. Reference: Sections 2345 and 8372, Fish and Game Code.

HISTORY

1. New section filed 9–11–53, as an emergency; effective upon filing (Register 53, No. 16).
2. Amendment filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment of subsection (c) and nonsubstantive amendment of NOTE filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
4. Change without regulatory effect amending first paragraph and NOTE filed 8–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 35).

§ 105.1. Permits to Land California Caught Fish at Points Outside of California.

The department may issue revocable permits to land fish caught from the waters of the Pacific Ocean within California at a point or place other than within this state under the following conditions:

(a) Applications and a $16.00 application fee shall be submitted to the department. The applicant shall provide the following information.

(1) Name and address of operator of boat.

(2) Name and address of owner of boat.

(3) Name of boat.

(4) Fish and Game boat registration number.

(5) Custom house or CF number.

(6) Commercial fishing license number.

(7) Species of fish to be taken.

(8) Type of gear to be used.

(b) All permits shall be for the period April 1 through March 31, except that when applications are received after April 1, they will run from date of application through March 31.

(c) This permit may be suspended temporarily by the Director for a breach or violation of the terms of the permit by the holders thereof, their agents, servants, employees or any person acting under their direction and control. The commission shall be notified of any such suspension and subsequently may revoke or reinstate the permit or fix the period of its suspension after written notice to the permittee and after he has been afforded an opportunity to be heard.

Any person who has had his permit revoked or suspended by the commission may be required, upon application for a new or subsequent permit, to appear before the commission and demonstrate to its satisfaction that his use of such permit will be in the public interest.

(d) The permit shall contain a statement signed by the applicant that he has read, understands and agrees to be bound by all the terms of the permit.

NOTE: Authority cited: Sections 713 and 7891, Fish and Game Code. Reference: Sections 713 and 7891, Fish and Game Code.

HISTORY

1. Renumbering of section 657 to section 105.1 filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29). For prior history, see Register 68, No. 29.
2. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
3. Change without regulatory effect amending subsection (a) and NOTE filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).

§ 105.5. Cooperation with State and Federal Fishery Observers.

(a) Owners or operators of commercial fishing vessels permitted under regulations of the Commission, and commercial passenger fishing vessels licensed pursuant to Fish and Game Code Section 7920, will, as a condition of permit or license issuance, cooperate with Department or Federal fishery observers, or observers collecting data for the Department, when asked to carry and accommodate an observer on fishing trips at no charge to the sponsoring agency.

(b) If observer coverage of a trip is denied by the owner or operator of a vessel, the Department may require an explanation in writing from the owner or operator. This explanation shall be received by the Department within 15 days of written request by the Department for an explanation.

(c) The Department may request revocation of fishing permits or licenses to the Commission for denials that it deems to be uncooperative in nature, after first allowing the owner or operator to meet with the Manager of Marine Region, or his representative, to provide an explanation for the denial.

(d) The Department or Federal agency requesting cooperation under subsection (a) shall not require the vessel operator or owner to provide an observer with meals or a subsistence allowance on observed fishing trips, but shall accommodate the observer with regard to reasonable eating and working conditions and access to pertinent fishing information and fishery data while aboard the vessel.

(e) Failure to provide reasonable eating and working conditions or access to pertinent fishing information or fishery data to observers, or actions taken by a vessel owner or operator against an observer that is prohibited pursuant to subsection (f), on observed fishing trips may lead to revocation of the vessel's fishing permits or licenses issued under regulations of the Commission following the procedure outlined in subsections (b) and (c) above.

(f) To ensure that observer objectives may be reasonably and safely achieved, consistent with federal groundfish observer rules, it is unlawful for any person to do any of the following:

(1) forcibly assault, resist, oppose, impede, intimidate, sexually harass, bribe, or interfere with an observer,

(2) interfere with or bias the sampling procedure employed by an observer, including physical, mechanical, or other sorting or discarding of any catch before sampling,

(3) tamper with, destroy or discard an observer's collected samples, equipment, or personal gear, without the express consent of the observer,

(4) prohibit or bar by command, impediment, threat, coercion, or refusal of reasonable assistance, an observer collecting samples, making observations, or otherwise performing the observers duties,

(5) harass an observer by conduct that has sexual connotations, has the purpose or effect of interfering with the observer's work performance, or otherwise creates an intimidating, hostile or offensive environment,

(6) require, pressure, coerce, or threaten an observer to perform duties normally performed by crew members.

NOTE: Authority cited: Sections 1006, 7071, 7652, 7923, 8405.3 and 8591, Fish and Game Code. Reference: Sections 7055, 7056, 7058, 7071, 7923 and 8587, Fish and Game Code.

HISTORY

1. New section filed 9–12–2002 as an emergency; operative 9–12–2002 (Register 2002, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2003 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2003, No. 9).
3. New section filed 2–27–2003; operative 2–27–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).

§ 106. Permits to Commercially Take Shark and Swordfish Using Drift Gill Nets.

(a) Permit Required.

(1) The owner or operator of a vessel using drift gill nets to take shark and swordfish pursuant to sections 8561–8570 of the Fish and Game Code shall have obtained a valid drift gill net shark and swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue permits to the owner or operator of a currently registered vessel who has qualified for said permit pursuant to sections 8561–8570 of the Fish and Game Code. The applicant, if the holder of an expired drift gill net shark and swordfish permit, shall have complied with subsection (e) dealing with records during the preceding year.

(3) Where Issued. Permits will be issued at department offices in Long Beach and San Diego.

(4) Permit Review.

(A) The department shall inform the applicant, in writing, that the application is complete and accepted for filing, or that the application is deficient and what specific information is required within 10 business days of receipt of a permit application.

(B) The department shall inform the applicant, in writing, of a permit decision within 15 business days of receipt of a completed permit application.

(b) Limitations of Permit. Permits are nontransferable. Not more than one permit shall be issued to any person. Except as provided in section 8564 of the Fish and Game Code, no permit shall be valid for more than one vessel at one time.

(c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from the date of issuance through March 31, 1984. Permits issued on an annual basis after March 31, 1984 shall be in force from April 1 to March 31 of the following year or, if issued after the beginning of that term, for the remainder thereof.

(d) Cost of Permit. See section 8567 of the Fish and Game Code.

(e) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of all gill net fishing activities on a form (Gill and Trammel Net Log, DFG 174 (10/89), see Appendix A) provided by the department.

(f) Notification Procedure. The department shall notify permittees if the director, pursuant to section 8577 of the Fish and Game Code, closes the drift gill net shark and swordfish fishery or any area where the fishery is conducted. The department shall notify a permittee if his permit is suspended pursuant to section 8576 of Fish and Game Code. In either case, the department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure or permit suspension and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(g) A permittee may have any person serve in his place on the permittee's vessel and engage in fishing under his drift gill net shark and swordfish permit for not more than 15 calendar days in any one year, except as otherwise provided in section 8563(b) of the Fish and Game Code. A permittee shall notify the department's Long Beach office of such a substitution by certified letter or telegram to be received at the Long Beach office during normal business hours at least 24 hours prior to the commencement of the trip. Any notice sent in this regard shall include, but is not limited to:

(1) Name of the vessel;

(2) Name and commercial fishing license number of the substitute;

(3) Departure date and port for the trip;

(4) Termination date and port for the trip.

Conviction of a substitute permittee for a willful violation of any provision of Article 16 (commencing with section 8560) of chapter 2 or article 1 (commencing with section 8601), or article 5 (commencing with section 8680) of chapter 3, part 3, division 6 of the Fish and Game Code or any regulation adopted pursuant thereto, while operating under the substitute permit, shall be cause to revoke or suspend the permit issued pursuant to sections 8560–8583 of the Fish and Game Code.

(h) Conditions of Permit. Permit holders, their agents, servants, employees or those acting under their direction or control, shall comply with all applicable provisions of the Fish and Game Code relating to commercial fish and any regulations adopted pursuant thereto.

(i) Revocation of Permits. Any permit may be revoked or suspended by the commission, when requested by the department, upon a conviction for a willful violation of any provision of article 16 (commencing with section 8560) of chapter 2 or article 1 (commencing with section 8601) or article 5 (commencing with section 8680) of chapter 3, part 3, division 6 of the Fish and Game Code, or violation of any condition of the permit by the permittee or the permittee's agent, servant, employee or person acting under the permittee's direction or control.

NOTE: Authority cited: Sections 1050, 8394, 8561, 8577 and 8578, Fish and Game Code. Reference: Sections 8561–8570, Fish and Game Code.

HISTORY

1. New section filed 3–25–81; effective thirtieth day thereafter (Register 81, No. 13).
2. New subsections (k) and (l) filed 10–9–81 as an emergency; effective upon filing (Register 81, No. 42).
3. Amendment of subsections (k) and (*l*) filed 10–28–81 as an emergency; effective upon filing (Register 81, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–25–82.
4. Repealer of subsections (k) and (*l*) filed 1–27–82 as an emergency; effective upon filing (Register 82, No. 5). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–27–82.
5. New subsections (k), (*l*) and (m) filed 9–1–82 as an emergency; effective upon filing (Register 82, No. 36). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–30–82.
6. Editorial correction of subsection (f) filed 12–29–82 (Register 83, No. 1).
7. Repealer and new section filed 5–17–83; effective thirtieth day thereafter (Register 83, No. 21).
8. Amendment of subsection (e) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
9. Amendment of subsection (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 107. Broadbill Swordfish.

(a) Permit Required.

(1) The owner or operator of a vessel taking broadbill swordfish for commercial purposes shall have obtained a valid swordfish permit and shall be in possession of said permit when engaged in such activities.

(2) To Whom Issued. The department shall issue a permit to the owner or operator of a currently registered vessel. The applicant, if the holder of an expired swordfish permit, shall have complied with subsection 107(e) dealing with records during the preceding year, or during the last year such applicant held a permit, in order to be eligible for a permit.

(b) Limitations of Permit. Not more than one permit shall be issued to any operator. Permits shall not be assigned or transferred from person to person unless so authorized by the department.

(c) Duration of Permit. Except as otherwise provided, permits issued pursuant to these regulations shall be in force from April 1 through March 31 of the following year, or if issued after the beginning of such term, for the remainder thereof.

(d) Vessel Identification. Permittees vessel shall display its assigned permit number in 10″ high x 2″ . wide black Roman alphabet letters and Arabic numerals. Figures shall be black on a white background on both sides of the superstructure of the vessel. Numbers shall be displayed at all times while operating under a swordfish permit.

(e) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of all swordfishing activities on a form (Swordfish Harpoon Log, DFG 107 (10/89) see Appendix A) provided by the department.

(f) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(g) Cost of Permit. See section 8394.5 of the Fish and Game Code.

(h) Methods of Take.

(1) Swordfish may be taken only with hand–held hook and line or handthrusted harpoon.

(2) Aircraft may be used to directly assist a permittee or any person in the taking of any species of fish while operating under a swordfish permit.

Only aircraft with current FAA registration which are registered with the department pursuant to Section 7881, Fish and Game Code, and aircraft pilots licensed pursuant to Section 7850, Fish and Game Code, may conduct flights for permittees. Such aircraft shall display the letters "SW" on the underside of each wing in block Roman alphabet at least 24 inches high x 3 inches wide, black in color and on a white background.

(i) Notification Procedure. The department shall notify permittees if the director, pursuant to section 8577 of the Fish and Game Code, closes the swordfish harpoon fishery or any area where the fishery is conducted. The department shall notify permittees by certified mail and by public announcement on VHF/Channel 16 between 0800 hours and 1000 hours during normal business days. Radio transmissions shall commence 48 hours prior to the effective date of a closure and shall continue for 24 hours after the effective date of such action. It shall be the responsibility of the permittee to daily monitor the named radio channel during the specified hours.

(j) Revocation of Permits. Any permit may be revoked and canceled by the commission upon breach or violation of any fish and game law or regulation or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

NOTE: Authority cited: Sections 1050, 7881 and 8394, Fish and Game Code. Reference: Sections 1050, 7881, 8394.5 and 8577, Fish and Game Code.

HISTORY

1. Amendment filed 6–9–77 as an emergency; effective upon filing (Register 77, No. 24). For prior history, see Register 76, No. 30.
2. Certificate of Compliance filed 7–28–77 (Register 77, No. 31).
3. Amendment filed 3–25–81; effective thirtieth day thereafter (Register 81, No. 13).
4. Amendment filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
5. Relettering of subsection (i) to subsection (j) and new subsection (i) filed 5–17–83; effective thirtieth day thereafter (Register 83, No. 21).
6. Amendment of subsection (h)(2) filed 10–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 42).
7. Amendment of subsection (e) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
8. Amendment of subsection (g) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Amendment of subsections (a)(2), (b), and (h)(2)(A), repealer of subsections (a)(3) and (h)(2)(B) and amendment of NOTE filed 5–9–95; operative 6–8–95 (Register 95, No. 19).

§ 107.1. Possession of Gill Nets by Swordfish Permittees.

(a) Except as provided in subsection (b), any person operating under the authority of a swordfish permit as specified in Section 107 of these regulations may not possess a gill net aboard a swordfish permit vessel, except that set gill nets may be possessed, provided that the intent to use such gear has been declared on the application for a swordfish permit.

(b) Drift gill nets may be possessed onboard a swordfish permit vessel and used by a swordfish permittee who also possesses a valid permit which authorizes the use of a drift gill net to take swordfish.

NOTE: Authority cited: Section 8394, Fish and Game Code. Reference: Section 894, Fish and Game Code.

HISTORY

1. New section filed 7–14–80 as an emergency; effective upon filing. Certificate of Compliance included (Register 80, No. 29).
2. Amendment filed 10–4–85; effective thirtieth day thereafter (Register 85, No. 40).
3. Amendment filed 6–30–87; operative 7–30–87 (Register 87, No. 28).

§ 107.5. Incidental Take of Swordfish by Gill Nets.

NOTE: Authority cited: Section 8394, Fish and Game Code. Reference: Section 8394 and 8566, Fish and Game Code.

HISTORY

1. New section filed 12–14–79 as an emergency; effective upon filing (Register 79, No. 50). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 4–13–80.
2. Certificate of Non–compliance filed 4–11–80 (Register 8, No. 15).
3. Editorial Correction (Register 80, No. 20).
4. New section filed 7–14–80 as an emergency; effective upon filing. Certificate of Compliance included (Register 80, No. 29).
5. Repealer filed 3–25–81; effective thirtieth day thereafter (Register 81, No. 13).

§ 108. Yellowfin Tuna.

NOTE: Authority cited: Section 313, Fish and Game Code. Reference: Section 313, Fish and Game Code.

HISTORY

1. Amendment filed 6–30–76 as an emergency; effective upon filing (Register 76, No. 27). For prior history, see Register 68, No. 33.
2. Certificate of Compliance filed 8–27–76 (Register 76, No. 35).
3. Amendment filed 8–17–77 as an emergency; effective upon filing (Register 77, No. 34).
4. Certificate of Compliance filed 10–21–77 (Register 77, No. 3).
5. Amendment filed 8–1–78 as an emergency; effective upon filing (Register 78, No. 31).
6. Certificate of Compliance filed 10–11–78 (Register 78, No. 41).
7. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 109. Importation of Yellowtail and Barracuda from Mexico.

No person, firm, or corporation shall deliver, accept, or unload any yellowtail or, barracuda, from any vessel carrying a purse seine or round haul net until the Department of Fish and Game Patrol office nearest the point of delivery shall have issued a written inspection clearance to the master or operator of such vessel, or his agent, permitting said delivery. Such clearances shall be on such forms as the Department of Fish and Game shall prescribe. Such clearances shall be issued upon presentation of evidence satisfactory to the Department of Fish and Game of the fact that such fish was taken south of the International Boundary Line between the United States and Mexico.

NOTE: Authority cited: Section 2362, Fish and Game Code. Reference: Section 2362, Fish and Game Code.

HISTORY

1. New section filed 10–10–51; effective thirtieth day thereafter (Register 26, No. 1).
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment of section heading and section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 110. Pismo Clams Imported into California.

Persons bringing pismo clams into the State at any time that such clams are legal to import under the provisions of section 2369 of the Fish and Game Code shall comply with the following regulations:

(a) Pismo clams taken outside of this State must not be brought into, nor possessed within, any district during the closed season for pismo clams in said district.

(b) The commission shall require the following information on each importation of pismo clams:

State of California
Department of Fish and Game

RECORD OF ENTRY OF PISMO CLAMS INTO THE STATE OF CALIFORNIA

(Section 2369, Fish and Game Code)

Dated _____

Name of shipping firm _____

Address _____

Name of firm shipped to _____

Address _____

Name of person in charge _____

Consumption entry No. _____

Species imported _____

In amount of _____ Pounds _____

Condition: Live _____ Sharp frozen _____ Dried _____ Sliced _____

Method of transportation _____

Remarks _____

Point of entry _____

Signature _____

Certified before me this _____ day of _____ 19 _____

Mexican control No. (S.P. 12) _____

_____

Three copies made at point of entry, before a justice of the peace, notary public, or a fish and game warden or representative or federal custom immigration agent at border. One copy to remain with the shipment while it is in transit, one copy left on file with the person before whom the record is made, and one copy sent immediately to the nearest Department of Fish and Game office along with a $10 processing fee.

(c) Pismo clams imported from south of the international boundary between the United States and Mexico to be used for any purpose after delivery to the point of destination in this State shall be distributed for consumer use in containers holding not more than five pounds of pismo clam meat.

If pismo clams for consumer use are to be delivered in the shell, such container shall hold not more than 24 clams in shell.

All containers shall be marked to indicate country of origin.

The cost of such marking and certification shall be paid by the importer.

NOTE: Authority cited: Section 2369, Fish and Game Code. Reference: Section 2369, Fish and Game Code.

HISTORY

1. Originally published 3-31-45 (Title 14).
2. Amendment filed 10-17-67 as an emergency; designated effective 11-8-67 (Register 67, No. 42). For prior history, see Register 66, No. 29.
3. Certificate of Compliance-section 11422.1, Gov. Code, filed 12-12-67 (Register 67, No. 50).
4. Editorial correction (Register 71, No. 5).
5. Amendment of NOTE filed 10-19-81; effective thirtieth day thereafter (Register 81, No. 43).
6. Amendment of subsection (b) filed 4-18-91; operative 5-18-91 (Register 91, No. 21).

§ 112. Surfperch.

Surfperch of the family Embiotocidae may be taken, transported, possessed and sold for commercial purposes pursuant to the following conditions:

(a) Notwithstanding the surfperch fishing season as specified in Fish and Game Code subsection 8395(b), surfperch of the family Embiotocidae may only be taken between August 1st and April 30th, except shiner surfperch (*Cymatogaster aggregata*), which may be taken, sold, or purchased at any time. Notwithstanding the authorized sale and purchase dates specified in 8395(b), surfperch may be sold or purchased only between August 1st and May 10th.

(b) Surfperch of the family *Embiotocidae* of the following species: barred surfperch; redtailed surfperch; and calico surfperch, taken during the open season north of a line drawn east and west through Point Arguello may be shipped south of said line and sold or purchased subject to the following regulations:

(1) All such fish shall be individually tagged by the permanent attachment of tags inscribed "California Department of Fish and Game-Surfperch" before shipment south of said line. Possession of such fish south of said line without attached prescribed tags is unlawful for commercial purposes.

(2) Tagging shall be conducted only by licensed wholesale fish dealers, their agents, or employees designated by the department. Said designated dealers are defined as those signing receipts for tags delivered to their place of business by department employees at cost. Designated dealers shall be required to produce official receipts for all said species of surfperch in quantities consistent with and corresponding to the number of tags requested.

(3) It shall be unlawful to transfer, transport or possess unused tags at any location other than the designated dealer's licensed place of business.

(4) The possession of unused surfperch tags, or any surfperch tags not attached to surfperch is unlawful in any place where fish are sold south of said line.

(5) A fee of $10 for each tag order shall be paid to the department to cover administrative costs.

NOTE: Authority cited: Section 8395, Fish and Game Code. Reference: Section 8395, Fish and Game Code.

HISTORY

1. New section filed 9-13-55 as an emergency effective upon filing. (Register 55, No. 14).
2. Amendment filed 8-2-57; effective thirtieth day thereafter (Register 57, No. 12).
3. Amendment filed 8-26-60 as an emergency; effective upon filing (Register 60, No. 19).
4. Certificate of Compliance-section 11422.1, Government Code, filed 12-15-60 (Register 60, No. 25).
5. Repealer and new section filed 10-19-81; effective thirtieth day thereafter (Register 81, No. 43).
6. New subsection (e) filed 4-18-91; operative 5-18-91 (Register 91, No. 21).
7. Amendment of section heading, redesignation of first paragraph as subsection (b), new first paragraph and subsection (a) and subsection relettering and renumbering filed 2-2-2004; operative 3-3-2004 (Register 2004, No. 6).

§ 115. Mussels.

California sea mussels (*Mytilus californianus*) may only be taken in adherence with the provisions of Section 123 and under the following conditions:

(a) The harvester must be a licensed commercial fisherman.

(b) Limits:

(1) In Districts 19, 19A, 19B, and 21, the daily bag limit is 250 pounds in the shell where:

1 pound shucked meat is equivalent to 3.8 pounds in shell; and

1 gallon shucked meat is equivalent to 30 pounds in the shell.

(2) In the remainder of the state there is no bag limit.

NOTE: Authority cited: Section 8344, Fish and Game Code. Reference: Section 8344, Fish and Game Code.

HISTORY

1. New section filed 12-11-70; effective thirtieth day thereafter (Register 70, No. 50).
2. Amendment filed 10-19-81; effective thirtieth day thereafter (Register 81, No. 43).

§ 116. Crayfish.

Freshwater crayfish may not be taken for commercial purposes except in accordance with the following regulations:

(a) Licenses and Permits Required.

(1) Crayfish may not be taken for commercial purposes except under a revocable, nontransferable, numbered permit issued by the department. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: This fee shall be charged effective April 1, 1992.) Persons taking crayfish for a fee under the authority of a scientific collector's permit do not need to have this permit.

(2) Except for those taking crayfish for a fee under the authority of a scientific collector's permit, every person who takes, assists in taking, possesses or transports crayfish while on any boat or vessel, or who uses or operates or assists in using or operating any boat, trap, or other appliance to take crayfish, must have a valid crayfish permit issued to him and must be in possession of said permit while engaged in any of such activities.

(3) Crayfish may not be taken for commercial purposes for human consumption except under the authority of a commercial fishing license. Commercial fishermen taking crayfish shall also comply with requirements of the Fish and Game Code relating to commercial fishing vessel registration and other applicable commercial laws.

(4) Crayfish may not be taken as live bait for commercial purposes except under the authority of a live freshwater bait fish license.

(5) A crayfish permit may be revoked or suspended, for a period not to exceed one year, by the commission for violation of any of the terms of the permit or provisions of law relating to the taking of crayfish by the permittee or his agent, servant, employee, or person acting under his direction and control. However, any person who has had such a permit revoked may be required by the commission to appear before it and no new permit may be issued to such person unless the commission finds that such issuance will be in the best interests of the crayfish resource.

(6) The permit number of the person owning or in command of any boat used to take crayfish shall be visibly displayed on both sides of the boat in 10-inch black numbers, one-inch wide, on a white background.

(b) Records. The department may require persons taking crayfish for commercial purposes to keep an accurate, complete record of daily fishing operations on forms provided by the department. If so required, the

original copy of the completed forms, recording one month's fishing activity, shall be mailed to the department by the fifth day of the following month.

(c) Fishing Area and Season.

(1) Area: Crayfish may be taken for commercial purposes only in the following counties or portions thereof except that no crayfish shall be taken in any lake or reservoir within the county:

(A) Tehama, Glenn, Butte, Colusa, Sutter, Yuba, Yolo, Sacramento, Solano, Contra Costa, San Joaquin, Stanislaus, Merced, Kings, Santa Barbara, Ventura, Los Angeles, Orange, San Bernardino, Riverside, San Diego and Imperial counties.

(B) Nevada, Placer, El Dorado, Amador, Calaveras, Tuolumne and Mariposa counties west of Highway 49.

(C) Madera, Fresno, Tulare and Kern counties west of the westerly boundaries of the National Park or National Forest lands.

(2) Open Season: All year.

(d) Restricted Sale.

(1) Crayfish taken under the authority of a commercial license and a crayfish permit may be used only for human consumption and may not be sold, purchased or traded for any other use, except that they may be sold to a registered aquaculturist.

(2) Crayfish taken under the authority of a live bait fish license shall be used only for bait purposes and shall not be sold, purchased or used for any other purpose.

(e) Size Limit.

(1) No live crayfish of the genus *Pacifastacus* less than three and five-eights inches (92mm) in length from tip of nose (acumen) to tip of tail (telson), measured in a straight line ventral side up, may be taken commercially, except an allowable percentage of unacceptable (dead or undersized) *Pacifastacus* in any load or lot shall not be more than 10% by number.

(2) With the exception of the 10% allowable unacceptable crayfish, all other undersized *Pacifastacus* shall be returned unharmed to the waters from which taken. Such crayfish shall be sorted and returned immediately following processing of any trap or trap line before pulling additional traps or before returning to any dock or landing.

(3) The processing plants may not possess any cooked crayfish of the genus *Pacifastacus* which are less than three and one-half inches (89 mm) in length from the tip of nose (acumen) to tip of tail (telson), measured in a straight line ventral side up, except an allowable percentage of undersized *Pacifastacus* shall not be more than 5% by number of the total crayfish received at the processing plant during the day or processing.

(4) Any undersized *Pacifastacus* taken to the processing plant shall be returned to the water from which they were taken within twenty-four hours from the time of arrival at the processing plant. Either the processor or a commercial fisherman shall return the crayfish. Such crayfish shall be maintained alive and in good condition until they are released.

(5) There is no minimum size limit on crayfish of the genus Procambarus or the genus *Orconectes.*

(6) To determine the percentage of unacceptable crayfish of the genus *Pacifastacus* which are either dead and/or less than the minimum size limit fixed by this section, samples shall be taken from various portions of the load or lot and shall be measured and counted. The mean of the combined counts of all samples taken shall be used to determine the percentage of unacceptable *Pacifastacus* in the load or lot. Samples shall be taken in containers of not less than one gallon size approximately full of *Pacifastacus.* At least three such samples shall be taken from any load or lot.

(f) Female Crayfish. Any female crayfish carrying eggs (berried crayfish) or young shall be returned unharmed to the water at the time the crayfish are sorted.

(g) Methods of Take. Crayfish may be taken only by hand, hook and line, dip net not over six feet in greatest diameter or with a trap not over three feet in greatest dimension.

(h) Trap Identification. All crayfish traps shall be permanently tagged with a visible, metal tag bearing the crayfish permit number of the fisherman. Any person pulling or raising crayfish traps bearing a permit number other than his own must have in his possession written permission to pull the traps from the person who holds the crayfish permit number identifying such traps.

(i) Buoys. Each person taking crayfish for commercial purposes shall designate a trapping area with at least two buoys, one at either end of a trap line; however, the buoys do not have to be attached to the trap line. Such buoys shall be spaced not less than 200 feet, nor more than 1,200 feet apart. The upstream buoy shall be painted red and the downstream buoy white. When single traps are employed such traps shall be individually buoyed with a minimum spacing of 200 feet between traps. Buoys for single traps shall be painted yellow. Each buoy shall bear the permit number of the fisherman in a color that contrasts with that of the buoy. The permit number on the buoy shall be at least 1 1/2 inches in height and all markings shall be at least one-quarter inch in width.

(j) Containers. Any container used to hold or transport live crayfish shall be vented at the bottom. The depth of crayfish in such container shall not exceed 13 inches.

(k) All crayfish traps must be raised and processed at least once every 72 hours. Traps not processed within this time limit shall be considered abandoned and shall be subject to seizure by department personnel.

(*l*) Scientific and Educational Use.

(1) Each person who collects crayfish for a fee for scientific and educational purposes shall have a commercial fishing license, and each boat used for this purpose shall be registered as a commercial fishing vessel. However, if a fisherman is collecting crayfish of the genus *Pacifastacus* he must also have a scientific collecting permit (see section 650, title 14, CAC, for the requirements).

(2) A qualified scientific supply house shall issue a market order to each fisherman before the fisherman collects crayfish. Each market order shall specify the collecting locality, and the duration of that market order. Each fisherman shall have a market order in his possession when collecting crayfish.

(3) The fishing area and season fixed in subsection (c) and the minimum size limit fixed in subsection (e) of this section shall also apply to the fishermen collecting crayfish for a fee for scientific and educational purposes.

NOTE: Authority cited: Section 8491, Fish and Game Code. Reference: Sections 8491 and 15101, Fish and Game Code.

HISTORY

1. New section filed 6–6–75; effective thirtieth day thereafter (Register 75, No. 23).
2. Amendment filed 1–28–76; effective thirtieth day thereafter (Register 76, No. 5).
3. Amendment of subsections (a)(5) and (e) filed 3–16–77; effective thirtieth day thereafter (Register 77, No. 12).
4. Amendment of subsections (e)(1), (e)(2) and (h) filed 5–10–79; designated effective tenth day thereafter pursuant to section 215, Fish and Game Code (Register 79, No. 19).
5. Repealer and new section filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
6. Amendment filed 8–3–82; effective thirtieth day thereafter (Register 82, No. 32).
7. Amendment of subsection (d)(1) filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).
8. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Repealer of subsections (a)(5)–(6), subsection renumbering and amendment of newly designated subsection (a)(5) filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).

§ 119. Trawl Nets Inside of the Golden Gate Bridge.

Bay shrimp, Oriental gobies, longjaw mudsuckers, staghorn sculpin, and plainfin midshipman inside of the Golden Gate Bridge may be taken for commercial purposes by the use of trawl nets only under a revocable, nontransferable permit issued by the department. All other species taken shall be immediately returned to the water.

(a) Qualifications of Permits. The applicant must be a licensed commercial fisherman and operator of a currently registered commercial fishing vessel.

(b) Limitation of Permit. A permit shall be issued to an individual owning or operating a vessel engaged in the fishery. Permits shall not be assigned or transferred from person to person. See subsection 699(b) of these regulations for the fee for this permit.

(c) Permit Areas.

(1) Trawl nets may be used in Districts 2, 12, 13, and that portion of District 3 upstream of the Carquinez Bridge, except as noted in subsections (c)(2) and (c)(3).

(2) The southern boundary of Fish and Game District 13 is the Southern Pacific Railroad crossing at Coyote Creek.

(3) Trawl nets may be used only in the portions of Districts 2 and 3 lying westerly of a projected straight line beginning at Point Edith on the south and extending through Buoy "6" to the shoreline on the north.

(d) Season. All year.

(e) Limitation of Gear.

(1) When any nets possessed under the terms of these regulations are in possession on any permittee's vessel, no other fishing nets may be possessed on that vessel.

(2) All fishing gear used under the provisions of this permit is subject to inspection and approval by the department.

(3) On request, any authorized representative of the department shall be permitted to travel on the permittee's boat to observe fishing operations.

(f) Identification of Vessel. Each vessel operating under the provisions of these regulations shall display on both sides of the vessel the number of the owner's permit in 14 inch black numbers on a white background.

(g) Records. Pursuant to section 190, of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a Bay Shrimp Log form, (FG 2025 (new 11/2005), see Appendix A.

(h) Conditions of Permit. The provisions of the Fish and Game Code relating to commercial fishing except as modified by the provisions of this permit shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(i) A permittee prohibited from obtaining a permit may request a hearing before the commission to show cause why his trawl fishing privileges should be restored.

(j) Revocation of Permits. Permits may be revoked and cancelled by the commission without notice, upon the breach or violation of any fish and game law or regulation or any violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control. Permits so revoked and cancelled may not be renewed for a period of one year from the date of revocation.

NOTE: Authority cited: Section 8832, Fish and Game Code. Reference: Sections 7857 and 8832, Fish and Game Code.

HISTORY

1. Relettering of subsections (e)–(j) to (f)–(k) and new subsection (e) filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20). For prior history, see Register 81, No. 43.
2. Amendment of subsection (e) filed 9–19–85; effective thirtieth day thereafter (Register 85, No. 38).
3. Amendment of subsection (h) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
4. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
5. Amendment of section and NOTE filed 3–22–2006; operative 4–21–2006 (Register 2006, No. 12).
6. Editorial correction of subsection (g) (Register 2006, No. 20).

§ 120. Prawn or Shrimp Trawling.

The following are the regulations under which permits to use or possess trawls for the taking of shrimp or prawns in ocean waters pursuant to section 8842 are to be granted:

(a) Qualifications of Permittee. The applicant must be the operator of a currently registered commercial fishing vessel.

(b) Southern Pink Shrimp Trawl Permit. On and after April 1, 2001, any person using a trawl net to take, possess aboard a boat, or land pink shrimp for commercial purposes in ocean waters south of a line drawn due west of Point Conception shall have a southern pink shrimp trawl permit that has not been suspended or revoked.

(c) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: This fee shall be charged effective April 1, 1992.)

(d) Permit Areas. The taking of pink shrimp north of a line drawn due west of Point Conception shall be subject to this section and Section 120.01, Title 14, CCR. Trawling for shrimp or prawns shall be permitted only in those waters of Fish and Game Districts 6, 7, 10, 17, 18, and 19, lying not less than three (3) nautical miles from the nearest point of land on the mainland shore, all offshore islands and the boundary line of District 19A, except that in waters lying between a line extending due west from False Cape and a line extending due west from Pigeon Point, trawling is allowed not less than two (2) nautical miles from the nearest point of land on the mainland shore. However, no trawling shall be conducted in the cowcod closure areas defined in Section 150.06, Title 14, CCR.

(e) Season. Pink shrimp may be taken April 1 through October 31. The taking of golden, spot and ridgeback prawns is provided for in Section 120.3, Title 14, CCR.

(f) Gear Specifications.

(1) The net to be used for the capture of shrimp or prawns shall be an otter trawl or a beam trawl net.

(2) The mesh of any webbing used on or with the beam or otter trawl shall not be less than 1 3/8 inches measured inside the knots.

(3) An approved Bycatch Reduction Device (BRD) shall be used on all trawl nets used in the commercial pink shrimp trawl fishery and is described as one of the following:

(A) The Nordmore Grate. The grate consists of a series of rigid or semi–rigid vertical bars that form a panel which guides finfish out of an escape hole located in the top of the net. The device may include a funnel used to concentrate catch near the bottom of the panel to facilitate sorting but is not a required component. An approved Nordmore Grate must meet the following criteria:

1. The rigid or semi–rigid panel must completely cover some portion of the net in diagonal cross–section.
2. None of the openings between the vertical bars of the panel may exceed 2 inches.
3. The escape hole, when spread open, must expose a hole at least 100 square inches in surface area, which is the equivalent to removing 10–12 meshes in a straight line.
4. The escape hole must be forward of the panel and the farthest back point must end within four meshes of the point at which the rigid or semi–rigid panel connects to the main net at its farthest back point.

(B) The Soft–Panel Excluder. This device uses a mesh panel to guide fish out of an escape hole located in the top of the net. An approved soft–panel BRD must satisfy the following criteria:

1. The panel meshes must be constructed of net material with individual meshes no larger than 6 inches (stretch measure).
2. The panel must completely cover some portion of the net in diagonal cross–section and partial panels are not allowed.
3. The escape hole must, when spread open, expose a hole at least 100 square inches in surface area, which is equivalent to cutting 10–12 meshes in a straight line.
4. The escape hole must be positioned forward of the panel and end within four meshes of the point at which the panel connects to the main net at its farthest back point.

(C) The Fisheye Excluder. This device functions as a simple forward facing escape hatch that is maintained by a rigid frame. An approved fisheye BRD must meet the following criteria:

1. The escape hole must be forward facing so that finfish can swim towards the mouth of the net to exit through the fisheye.
2. The device must be placed on the top of the codend, no further forward than 84 codend meshes, counted from the pursing rings.
3. The escape hole must be no less than 6 inches in height and no less than 10 inches in width.

(4) A revocable experimental BRD permit may be issued by the Department's Marine Region Manager and used in lieu of an approved BRD under the following terms and conditions:

(A) The experimental BRD meets minimum design criteria for approved BRDs as determined by the Marine Region Manager.

(B) The permitted vessel carries a Department–approved observer coverage during all times that the experimental BRD is used in lieu of an approved BRD to harvest pink shrimp.

(C) The experimental BRD permit is valid for the duration of the impending or current pink shrimp season unless revoked.

(5) Bycatch reduction devices shall not be modified in any way that interferes with their ability to allow fish to escape from the trawl, except for the purpose of testing the BRD to measure shrimp loss. Authorized testing of BRDs may be conducted as follows:

(A) All testing must occur between 3:00 p.m. and 6:00 p.m. Pacific Time.

(B) For vessels fishing two nets simultaneously (double–rigged boats), only one net may contain a disabled BRD (approved or experimental).

(C) For vessels fishing only one net, the BRD may be disabled only between 3:00 p.m. and 6:00 p.m. Pacific Time.

(g) Limitations of Gear.

(1) Nets used for the taking of shrimp or prawns under this regulation may be possessed on a boat in a permit area only when the shrimp or prawn trawling season is open in that area, except as provided in (6) below and except that for a period of seven (7) days following the close of the season, shrimp or prawn nets may be possessed on a boat for the purpose of cleaning, drying, or maintaining such nets, provided that the boat remains in port during the time the net(s) is aboard. No shrimp trawl net may be possessed on board a vessel in the commercial pink shrimp fishery that does not include an excluder device. All bycatch reduction devices and codends used for trawl fishing for pink shrimp must be readily accessible and made available for inspection at the request of a department official.

(2) When any nets possessed under the terms of these regulations are in possession on any permittee's vessel, no other fishing nets may be possessed on that vessel.

(3) No web, the meshes of which are less than that prescribed in these regulations, may be possessed on any vessel which is operating under the provisions of a shrimp or prawn permit.

(4) All fishing gear used under the provisions of this permit is subject to inspection and approval by the Department of Fish and Game at any time.

(5) On request, any authorized representative of the Department of Fish and Game shall be permitted to travel on the permittee's boat to observe shrimp or prawn trawling operations.

(6) The department may issue revocable nontransferable permits to shrimp permittees for purpose of transporting shrimp or prawn nets in closed permit areas. The permit must include such information as the name of the vessel that will transport the net and a termination date that does not extend beyond the end of the season in progress. The permit shall be carried aboard the vessel upon which the net is being transported.

(7) No shrimp trawl nets may be removed from the vessel participating in the pink shrimp trawl fishery prior to the offloading of pink shrimp.

(h) Incidentally Caught Fish. Not more than 1,500 pounds, multiplied by the number of days of the fishing trip, of fish other than Pacific whiting, shortbelly rockfish, or arrowtooth flounder caught incidentally with shrimp or prawns may be possessed on any boat operating under a permit as provided in these regulations, except salmon may be taken and possessed subject to sections 8210.2 to 8226, and 8230 to 8237, inclusive, of the Fish and Game Code. Spot prawns shall not be possessed or landed as incidental catch in the pink shrimp fishery.

(i) Maximum Count per Pound. It is illegal for any vessel operating under a southern pink shrimp permit or a permit as provided in Section 120.01, Title 14, CCR, to land pink shrimp having a count greater than 160 shrimp per pound.

(j) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a form (Shrimp/Prawn Trawl Log, DFG 120 (10/ 89), see Appendix A) provided by the department.

(k) Conditions of Permit. The provisions of the Fish and Game Code of California relating to commercial fishing except as modified by the provisions of this permit shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(l) Revocation of Permits. All permits may be revoked and canceled by the Fish and Game Commission without notice, upon the breach or violation of any fish and game law or regulation or any violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control. Permits so revoked and canceled may not be renewed for a period of one year from the date of revocation.

NOTE: Authority cited: Sections 8591 and 8842, Fish and Game Code. Reference: Sections 1700 and 8590–8595, Fish and Game Code.

HISTORY

1. Amendment of subsection (e) filed 4–7–76; effective thirtieth day thereafter (Register 76, No. 3.)
2. Amendment of subsection (i) filed 6–4–76; effective thirtieth day thereafter (Register 76, No. 23).
3. Amendment of subsection (e) filed 11–5–79 as an emergency; effective upon filing (Register 79, No. 45). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 3–5–80.
4. Certificate of Non–Compliance filed 1–25–80 (Register 80, No. 4).
5. Editorial correction of subsection (e) (Register 80, No. 47).
6. Amendment of subsection (e) filed 2–19–81 as an emergency; effective upon filing (Register 81, No. 8). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–18–81.
7. Reinstatement of subsection (e) as it existed prior to emergency amendment filed 2–19–81 by operation of section 11346.1(b). Government Code (Register 81, No. 43).
8. Amendment filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
9. Editorial correction of History Notes No. 7 and No. 8 (Register 81, No. 47).
10. Amendment of subsection (b), new subsection (d), repealer of subsection (h) and relettering of former subsections (d)–(h) filed 3–18–83; effective thirtieth day thereafter (Register 83, No. 12).
11. Editorial correction of subsection (h)(1) filed 4–12–84; effective thirtieth day thereafter (Register 84, No. 15).
12. Amendment of subsections (c), (f) and (k)(2) filed 9–23–86; operative 10–23–86 (Register 86, No. 40).
13. Amendment of subsection (k) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
14. Amendment of subsection (d) filed 4–18–91; operative 5–19–91 (Register 91, No. 21)
15. Amendment of subsection (e) filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
16. Repealer of subsections (b) and (c), new subsection (b), subsection relettering, and amendment of newly designated subsections (d), (e), (h) and (i) filed 3–28–2001; operative 3–28–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 13).
17. New subsections (f)(3)–(f)(5)(C), amendment of subsection (g)(1), new subsection (g)(7) and amendment of NOTE filed 12–17–2001; operative 1–16–2002 (Register 2001, No. 51).
18. Amendment of subsection (h) filed 3–26–2003; operative 3–26–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13).

§ 120.01. Pink Shrimp Trawling.

(a) Permit Required. On and after April 1, 2001, any person using a trawl net to take, possess aboard a vessel, or land pink shrimp for commercial purposes in ocean waters north of a line drawn due west of Point Conception shall have a northern pink shrimp trawl permit or a northern pink shrimp trawl individual permit that has not been suspended or revoked. All pink shrimp taken in ocean waters north of the aforementioned line incidental to other fishing activities shall be immediately returned to the water. Pink shrimp taken south of the aforementioned line shall be subject to the provisions of Section 120, Title 14, CCR. For the purposes of this section, vessel owner includes any person who has a lease–purchase agreement for the purchase of a vessel.

(b) Initial Permit Issuance.

(1) A northern pink shrimp trawl individual permit may be issued to the holder of a valid 2000–01 pink shrimp trawl individual permit who landed a minimum of 5,000 pounds of pink shrimp north of Point Conception in each of three of the fishing seasons from April 1, 1994 to October 31, 1999 as documented by department landing receipts submitted in their name and commercial fishing license identification number.

(2) A northern pink shrimp trawl vessel permit may be issued to the current owner of a vessel with a valid 2000–01 pink shrimp trawl vessel permit who landed a minimum of 5,000 pounds of pink shrimp north of Point Conception in each of three of the fishing seasons from April 1, 1994 to October 31, 1999, as documented by department landing receipts.

(3) A northern pink shrimp trawl vessel permit may be issued to an individual who does not qualify for a permit in (b)(1) or (2), above, and is the current owner of a commercial fishing vessel and who has been licensed as a California commercial fisherman for at least 20 years at the time of application and has participated in the pink shrimp trawl fishery for at least one of those years in this state as documented by department landing receipts that cumulatively total 5,000 pounds of pink shrimp landed by trawl nets in their name and commercial fishing license number. Any permit issued under this provision shall be nontransferable.

(4) Initial applications for all northern pink shrimp trawl permits shall be received by the department or, if mailed, postmarked no later than May 31, 2001. Initial late applications shall be received by the department or, if mailed, postmarked not later than June 30, 2001 and shall be accompanied by a $50 late fee. Initial late applications not received by the department or, if mailed, postmarked after June 30, 2001, will not be considered. A permit shall not be issued until the $50 late fee is paid.

(5) No individual or corporation that qualifies for a northern pink shrimp trawl vessel permit shall be issued a northern pink shrimp trawl individual permit.

(c) Vessel Length Endorsement.

(1) Each northern pink shrimp trawl vessel permit shall be endorsed with the overall length at the time of initial issuance. Vessel overall length is measured between the perpendiculars at the foremost portion of the hull at the stem, excluding any extensions commonly known as bowsprits, and the aftermost portion of the hull at the sternpost, excluding any extensions thereof. One of the following forms of documentation shall be submitted as proof of the vessel's overall length.

(2) Marine Survey Report. Before any northern pink shrimp trawl vessel permit is issued or transferred to another vessel, the owner of the vessel who will receive the permit may submit a marine survey completed by a certified marine surveyor on or after April 1, 1999 that clearly shows the vessel overall length.

(3) Federal Groundfish Permit. Before any northern pink shrimp trawl vessel permit is issued or transferred to another vessel, the owner of the vessel who will receive the permit may submit their current valid Federal Groundfish Permit with its endorsed length as documentation of the vessel's overall length.

(4) When a vessel is no longer available for an overall length measurement, as determined by the department, and does not have a current valid Federal Groundfish Permit, the department may consider: a Marine Survey dated prior to April 1, 1999, U.S. Coast Guard Documentation, or Department of Motor Vehicles registration records.

(d) Permit Renewal.

(1) Applicants for northern pink shrimp trawl permits must have held a valid northern pink shrimp trawl permit in the immediately preceding permit year. All applications for northern pink shrimp trawl permit renewal shall be received by the department or, if mailed, postmarked not later than April 30 each year. Late applications for northern pink shrimp trawl permit renewal shall be received by the department or, if mailed, postmarked not later than May 31 of each year and shall be accompanied by a $50 late fee. Late applications for northern pink shrimp trawl permit renewal not received, or if mailed, postmarked after May 31 will not be considered. A permit shall not be issued until the $50 late fee is paid.

(2) A northern pink shrimp trawl individual permit shall be upgraded to a northern pink shrimp trawl vessel permit before April 1, 2003. The vessel that the northern pink shrimp trawl vessel permit is assigned to may be not more than five feet greater in overall length than the longest vessel on which the permittee made qualifying landings. The individual permittee is subject to the terms of permit renewal in Section 120.01(d)(1). Any northern pink shrimp trawl individual permit not upgraded to a northern pink shrimp trawl vessel permit before April 1, 2003 shall be deemed forfeit to the department.

(e) Permit Transfers.

(1) A northern pink shrimp trawl vessel permit may be transferred to a replacement vessel owned by the permittee within two years of the permitted vessel being lost, stolen, or destroyed. The replacement vessel may be up to but not more than five feet greater in overall length than the original permitted vessel. The original length endorsement will remain on the permit.

(2) A northern pink shrimp trawl vessel permit is otherwise transferable to another owner only if the vessel qualifying for the initial permit landed 90,000 pounds of pink shrimp by trawl north of Point Conception from April 1, 1994 to October 31, 1999. An individual permit, when upgraded to a vessel permit pursuant to Section 120.01(d)(2), shall be otherwise transferable to another owner only if the fishermen qualifying for the initial permit landed 90,000 pounds of pink shrimp by trawl north of Point Conception from April 1, 1994 to October 31, 1999.

(A) The transferable permit may not be transferred more than once every twelve months.

(B) The transferable permit may be transferred any number of times to a different vessel up to five feet greater in overall length than the original endorsement, or of equal or less overall length. The original length endorsement will remain on the permit.

(C) A transferable permit may be permanently changed to a nontransferable permit on written request of the vessel owner. The permit shall not be restored to a transferable permit under any circumstances.

(3) On the death of a transferable northern pink shrimp trawl vessel permittee an heir may apply to the department to transfer that permit to him or her. The application for transfer shall be received by the department within two years of the death of the permittee.

(4) Any northern pink shrimp trawl vessel permit may be temporarily transferred, for up to one year, to a different vessel, if the permitted vessel is seriously damaged, has suffered a major mechanical breakdown, or is lost or destroyed. The request for temporary transfer shall include documentation of the damage, breakdown, loss or destruction.

(5) Any northern pink shrimp trawl vessel may be permanently retired from the fishery for any reason, and the permit transferred to a different vessel, up to but not more than five feet greater in overall length than the original length endorsement, which is owned by the same permittee.

(f) Appeal.

(1) Any applicant who is denied initial issuance of a northern pink shrimp trawl vessel permit or a northern pink shrimp trawl individual permit by the department for any reason may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked not later than March 31, 2002.

(2) Appeals for initial permit issuance may be based on medical conditions, vessel condition, purchase of a vessel during the moratorium period which had a pink shrimp vessel permit, economic conditions in the fishery, historic participation levels in the California pink shrimp fishery, oceanographic conditions and associated low availability of shrimp in the California area of the fishermen's residence, and incapacity of the vessel to participate in the fishery.

(3) Any applicant who is denied renewal of a northern pink shrimp trawl permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31 following the permit year in which the applicant last held a valid northern pink shrimp trawl permit. The ap-

peal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(4) Any applicant who is denied transfer of a northern pink shrimp trawl vessel permit may appeal the denial to the department in writing not more than 90 days from the date of denial describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(g) Fees.

(1) The annual fee for a transferable northern pink shrimp trawl vessel permit is $1,066.25.

(2) The fee to transfer a permit to a new owner is $1,000. No northern pink shrimp trawl vessel permit shall be transferred without a completed application and payment of fees.

(3) The fee to transfer a permit to another vessel owned by the same permittee is $200.

(4) The fee for a temporary permit transfer of up to one year is $100.

(5) The annual fee for a nontransferable northern pink shrimp trawl vessel permit is $533.25.

(6) The annual fee for a northern pink shrimp trawl individual permit is $500.

(7) The fee to upgrade a northern pink shrimp trawl individual permit to a northern pink shrimp trawl permit is $200.

(h) Conditions for Continued Eligibility. Any northern pink shrimp trawl vessel or northern pink shrimp trawl individual permit not renewed on or before May 31 of each permit year shall be considered forfeit to the department.

(i) Capacity Goal.

(1) The department shall evaluate the capacity goal every three years and report to the commission, with a recommendation regarding issuance of new permits.

(2) The capacity goal for transferable permits shall be a range from 75 up to the number of permits initially issued, and for nontransferable permits a range of 0 up to the number of permits initially issued.

(j) Permit Revocation.

(1) A northern pink shrimp trawl vessel or individual permit shall be revoked if false information is provided by the permittee to obtain the permit.

NOTE: Authority cited: Sections 713, 1050, 8591 and 8842, Fish and Game Code. Reference: Sections 1050, 7057, 7852.2, 7858, 8101, 8591 and 8842, Fish and Game Code.

HISTORY

1. New section filed 3–28–2001; operative 3–28–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 13).
2. Amendment of section and NOTE filed 8–28–2001; operative 9–27–2001 (Register 2001, No. 35).
3. Change without regulatory effect amending subsections (g)(1) and (g)(5) and amending NOTE filed 5–12–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
4. Change without regulatory effect amending subsections (g)(1) and (g)(5) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).

§ 120.3. Golden Prawn (*Penaeus Californiensis*), Spot Prawn (*Pandalus Platyceros*) and Ridgeback Prawn (*Eusicyonia Ingentis*) Trawling.

Prawns may only be taken by trawl nets for commercial purposes pursuant to sections 120 and 120.3 of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section. Spot prawns may not be taken or possessed using trawl nets.

Permits to use or possess trawl nets for the taking of golden prawns and ridgeback prawns in ocean waters may be granted only under the following conditions:

(a) Qualifications of Permittee. The applicant must be a licensed commercial fisherman and operator of a currently registered commercial fishing vessel.

(b) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit. (NOTE: this fee shall be charged effective April 1, 1992.)

(c) Permit Area. Trawling for golden and ridgeback prawns shall be permitted in waters not less than 25 fathoms in depth and lying not nearer than three nautical miles distance from the nearest point of land on the mainland shore, and from all offshore islands. No trawling shall be conducted in the cowcod closure areas defined in Section 150.06, Title 14, CCR. Also, trawling shall not be conducted within District 19A which shall include a line from Malibu Point (34°01.8′ N., 118°40.8′ W) to Rocky Point (Palos Verdes Point) (33°46.5′ N., 118°25.7′ W.).

(1) Trawling Zones.

(A) Trawling Zone 1: Includes waters between the California–Oregon border and a line extending due west from False Cape (Lat. 40°31′ N).

(B) Trawling Zone 2: Includes those waters between a line extending due west from False Cape and a line extending due west from Lopez Point (Lat. 36° N).

(C) Trawling Zone 3: Includes those waters between a line extending due west from Lopez Point and a line extending due west from Point Arguello (Lat. 34°35′ N).

(D) Trawling Zone 4: Includes those waters between a line extending due west from Point Arguello and a line extending due west from Point Dume (Lat. 34°0′ N).

(E) Trawling Zone 5: Includes those waters lying between a line extending due west from Point Dume and the California–Mexico boundary, excluding Fish and Game Districts 19A, 19B, 20, 20A and 21.

(d) Restricted Catch Period:

Trawling for ridgeback prawns in all zones shall be subject to the incidental catch restrictions pursuant to subsection (g) from June 1 through September 30.

(e) Gear Specifications.

(1) Trawl nets with single–walled bag or cod–end: The mesh of any webbing shall not be less than 1 1/2 inches in length.

(2) Trawl nets with double–walled bag or cod–end: The mesh of any webbing or liner shall not be less than 3 inches in length. The lines and cod–end shall be tied together along the rib lines.

(3) Mesh measurement. Minimum trawl mesh size requirements are met if a standard stainless steel wedge of appropriate gauge can be passed with thumb pressure only through 16 of 20 sets of two meshes each of wet mesh in the cod–end.

(f) Limitation of Gear.

(1) No net, the meshes of which are less than prescribed in these regulations, may be possessed on any vessel which is operating under the provisions of a golden prawn or ridgeback prawn permit.

(2) All fishing gear used under the provisions of these regulations is subject to inspection and approval by the department at any time.

(3) On request, any authorized representative of the department shall be permitted to travel on the permittee's boat to observe golden prawn or ridgeback prawn trawling operations.

(g) Incidental Catch Restrictions.

(1) Not more than 1,000 pounds of any fish caught incidentally with pink shrimp, golden or ridgeback prawns may be possessed on any boat operating under a permit as provided in these regulations. Fisherman should refer to subsection 189(a), Title 14, CCR, for bycatch limits of federally–managed groundfish species. Any amount of sea cucumbers taken incidentally may be possessed if the owner or operator of the vessel possesses a permit to take sea cucumbers pursuant to Section 8405 of the Fish and Game Code.

(2) During the restricted catch period for ridgeback prawns, loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of ridgeback prawns. For the purpose of this regulation, species of fish other than spot prawns shall not be included in the determination of the percentage of ridgeback prawns taken or possessed in any load of fish containing mixed species.

(3) Trawl loads of fish shall not contain more than 50 pounds without restriction or 15%, by weight, of spot prawns. For the purpose of this reg-

ulation, species of fish other than ridgeback prawns shall not be included in the determination of the percentage of spot prawns taken or possessed in any load of fish containing mixed species.

(h) Records. Pursuant to Section 190 of these regulations, each permittee shall complete and submit an accurate record of his fishing activities on a form (Shrimp/Prawn Trawl Log, DFG 120 (10/89), see Appendix A) provided by the department.

(i) Conditions of Permit. The provisions of the California Fish and Game Code relating to commercial fishing, except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction and control.

(j) Revocation of Permits. All permits may be revoked and cancelled by the commission upon the breach or violation of any fish and game law or regulation or violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

NOTE: Authority cited: Sections 710.7, 711, 8591 and 8842, Fish and Game Code. Reference: Sections 710.7, 711, 8140 and 8842, Fish and Game Code.

HISTORY

1. Amendment of subsection (h) filed 6–4–76; effective thirtieth day thereafter (Register 76, No. 23). For prior history, see Register 75, No. 12.
2. Amendment of subsection (h) filed 10–9–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment filed 5–17–83; effective thirtieth day thereafter (Register 83, No. 21).
4. Amendment of heading and subsections, (c), (e), (h) and (j)(2) filed 9–23–86; operative 10–23–86 (Register 86, No. 40).
5. Amendment of subsection (j) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
6. Amendment of subsection (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
7. Amendment of subsection (i)(1) filed 9–14–92; operative 10–14–92 (Register 92, No. 38).
8. Amendment of subsections (c), (e)(1)(C), (f)(1), (h)(3) and NOTE filed 11–14–95; operative 11–14–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 46).
9. Amendment of subsection (f)(1) and NOTE filed 9–19–97; operative 10–19–97 (Register 97, No. 38).
10. Amendment filed 5–3–2000; operative 5–3–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 18).
11. Editorial correction of subsection (e)(3) (Register 2000, No. 28).
12. New subsection (c), subsection relettering, amendment of newly designated subsections (e)(1)–(2), (f)(4), (g)(3) and (i) and amendment of NOTE filed 7–14–2000; operative 7–14–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 28).
13. Amendment of subsection (d) filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
14. Amendment of first two paragraphs and subsection (e), repealer of subsections (e)(1)–(2) and (f)(4), amendment of subsections (g)(1), (g)(3), (h)(1) and (h)(3) and amendment of NOTE filed 9–12–2002 as an emergency; operative 9–12–2002 (Register 2002, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2003 or emergency language will be repealed by operation of law on the following day.
15. Reinstatement of section as it existed prior to 9–12–2002 emergency amendment by operation of Government Code section 11346.1(f) (Register 2003, No. 6).
16. Amendment of subsection (e)(1) and amendment of NOTE filed 2–3–2003; operative 2–3–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 6).
17. Amendment filed 3–26–2003; operative 3–26–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13).

§ 120.4. Restricted Access Fishery.

A control date of January 1, 1999, is established for the purpose of developing a restricted access spot, ridgeback, and golden prawn trawl fishery. Only those vessels which have made at least one spot, ridgeback, or golden prawn landing with trawl gear before this date may be considered for inclusion in the restricted access trawl fishery.

NOTE: Authority cited: Sections 8591 and 8842, Fish and Game Code. Reference: Sections 8590, 8591, 8593 and 8595, Fish and Game Code.

HISTORY

1. New section filed 5–3–2000; operative 5–3–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 18).

§ 120.5. Brine Shrimp Trawling—Mono Lake, Mono County.

Permits to use or possess trawl nets for the taking of brine shrimp in Mono Lake, Mono County, pursuant to section 8842 of the Fish and Game Code may be granted only under the following terms and conditions:

(a) Qualifications of Permittee. The applicant must be a licensed commercial fisherman and operator of a currently registered commercial fishing vessel.

(b) Limitation of Permit. Not more than one permit shall be issued to any one person. No permit shall be valid for more than one vessel. Permits shall not be assigned or transferred from person to person nor from vessel to vessel.

(c) Duration of Permit. Except as otherwise provided, any permit issued pursuant to these regulations shall be in force from January 1st to December 31st, or, if issued after the beginning of such term, for the remainder thereof.

(d) Permit Area. Mono Lake, Mono County.

(e) Season. All year.

(f) Gear Specifications. Any trawl net.

(g) Limitation of Gear.

(1) Nets used for the taking of brine shrimp under this regulation may not be possessed in any area except Mono Lake, Mono County, and on shore within one mile from the edge of the lake.

(2) The holder of a permit to take brine shrimp in Mono Lake, Mono County, may transport any trawl net across any district closed to the possession of said nets for the purpose of using same in Mono Lake.

(h) Incidentally Caught Fish. All other fish or shellfish incidentally captured in trawling for brine shrimp must be returned immediately to the lake.

(i) Conditions of Permit. The provisions of the Fish and Game Code of California relating to commercial fishing except as modified by the provisions of this permit shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(j) Revocation. All permits may be revoked or suspended by the Fish and Game Commission for a period of not to exceed one year for any violation of the terms or conditions of this permit by the holders thereof, their agents, servants, employees or those acting under their direction or control.

(k) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit.

NOTE: Authority cited: Section 8842, Fish and Game Code. Reference: Section 8842, Fish and Game Code.

HISTORY

1. New section filed 8–27–62 as an emergency; effective upon filing (Register 62, No. 18).
2. Certificate of Compliance–section 11422.1, Government Code, filed 11–20–62 (Register 62, No. 24).
3. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
4. New subsection (k) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 120.6. Use of Powered Equipment of the Type, Size and Specifications Hereinafter Noted to Take Crustaceans.

Powered equipment may be used to take only *Callianassa affinis, Callianassa californiensis,* and *Callianassa giga* (commonly called ghost shrimp) under the following conditions:

(a) Powered equipment is a hand operated hydraulic pump or a pump driven by an engine not to exceed 5 horsepower. Intake and outlets of suction and hydraulic nozzles shall not be in excess of an inside diameter of 2 inches. The hydraulic nozzle shall not be longer nor extended into any tideland sands to a depth greater than 3 feet, and all engine–driven pumps shall have a shut–off valve at the nozzle.

(b) Each person operating or assisting in operating such equipment will be required to possess a commercial fishing license and a permit as provided by this section.

(c) Permits may be issued annually for the period of the commercial fishing license on application filed at one of the Department of Fish and Game offices. Permits may contain additional terms and conditions, including areas of use, as prescribed by the Department of Fish and Game. See subsection 699(b) of these regulations for the fee for this permit.

(d) Powered equipment may be used on intertidal areas, that is, between high water and low water marks, except powered equipment shall not be used in Tomales Bay, Bodega Harbor or Bolinas Lagoon. In Morrow Bay engine–driven hydraulic pumps may not be used south of a line running 230 magnetic from the public boat ramp at the south end of the Embarcadero.

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(e) Holes created in the mudflat surface by engine–driven pumps shall not exceed 8 feet in any horizontal dimension, nor more than 12 inches in depth.

(f) Mollusks and crustaceans, other than ghost shrimp, exposed or hydraulically sluiced to the surface, shall be returned immediately to their natural habitat, and no fish, mollusks or crustaceans, other than ghost shrimp shall be possessed by the permittee at any time during pumping operations or while traveling to or from pumping operations.

(g) Each permittee shall have his permit in his possession while operating such equipment.

(h) A permit shall not be assigned or transferred, and any right or privilege granted thereunder is subject to revocation by the Fish and Game Commission at any time.

(i) All provisions of the following numbered sections of the Fish and Game Code shall be a condition of all permits to be fully performed by the holders thereof, viz: 7700–7855, 8010–8024, 8250–8283, 8603, 8630–8634, 9050–9053. All section numbers are inclusive.

(j) Permits shall only be issued upon the conditions contained in the application and signed by the applicant that he has read, understands, and agrees to be bound by all terms of the permit.

(k) Any permit may be revoked or suspended for a period fixed by the commission, upon the breach or violation of the terms of the permit, or any of the foregoing sections of the Fish and Game Code, or any of these regulations, or if, in the opinion of the department, the resource is endangered. Any person who has had his permit revoked may be required to appear before the Fish and Game Commission when applying for a new permit. For a period of not more than one year, the commission may defer action upon the application of any person who uses powered equipment to take ghost shrimp without first having secured a permit under these regulations.

NOTE: Authority cited: Sections 8500 and 9053, Fish and Game Code. Reference: Sections 8500 and 9053, Fish and Game Code.

HISTORY

1. New section filed 7–3–64; effective thirtieth day thereafter (Register 64, No. 14).
2. Amendment of subsections (c) and (d) filed 5–29–69 as an emergency; effective upon filing (Register 69, No. 22).
3. Certificate of Compliance–section 11422.1, Gov. Code, filed 7–31–69 (Register 69, No. 31).
4. Amendment of subsection (d) filed 4–5–79 as an emergency; effective upon filing (Register 79, No. 14).
5. Certificate of Compliance filed 6–11–79 (Register 79, No. 24).
6. Amendment filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
7. Amendment of subsections (a), (d) and (e) filed 7–14–86; effective thirtieth day thereafter (Register 86, No. 29).
8. Amendment of subsection (c) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 120.7. Taking of Sea Urchins for Commercial Purposes.

(a) Permit Required.

(1) Any person taking or assisting in the taking of sea urchins for commercial purposes shall have obtained a valid sea urchin permit and shall be in possession of said permit when engaged in such activities. A sea urchin diving permit is not required to operate or assist in operating a vessel used to take sea urchins, however, no person without a valid sea urchin diving permit shall engage in diving from a vessel from which sea urchins are being taken or possessed for commercial purposes, unless authorized by the department's marine region regional manager or his or her designee for the purposes of sea urchin management or research.

(2) To provide an economic incentive for cooperative sea urchin management and research activity, and notwithstanding any other portion of this section, the department may authorize the holder of a valid sea urchin diving permit to harvest (take, possess, land and/or sell) red sea urchins during a closed season or in a closed area, subject to such restrictions regarding date(s), location(s), time(s), size, poundage or other matters as specified by the department. Any data collected during such harvest activity shall be made available to the department. The form of this authorization shall be a letter from the department's marine region regional manager or his or her designee issued to the permittee and containing all conditions of use.

(b) Classes of Permits.

(1) Sea Urchin Diving Permit. Sea urchin diving permits will be issued to licensed commercial fishermen 16 years of age or older who have qualified for permits pursuant to subsection (c).

(2) Sea Urchin Crewmember Permit. Sea urchin crewmember permits will be issued to licensed commercial fishermen 16 years of age or older who do not qualify for sea urchin diving permits.

(c) Permit Renewal.

(1) Applicants for renewal of sea urchin diving permits must have held a valid, unrevoked sea urchin diving permit in the immediately preceding permit year (April 1–March 31).

(2) In 2008, applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than June 30. In 2009 and thereafter, applications for renewal of sea urchin diving permits shall be received by the department or, if mailed, postmarked no later than April 30. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(d) Number of Permits.

(1) All qualified prior sea urchin diving permittees shall be eligible to receive diving permits regardless of the number issued.

(2) If the number of diving permits issued to prior permittees is more than 300, the total number of new sea urchin diving permits available for issuance shall be one–tenth the difference between the total number of sea urchin diving permits issued prior to August 1 of the current permit year and the total number of sea urchin permits issued during the immediately preceding permit year. If the number of diving permits issued to prior permittees is less than 300, the number of new sea urchin diving permits to be issued shall be the difference between the number of diving permits issued to prior permittees and 300. If the number of permits issued to prior permittees is 300, no new sea urchin diving permits shall be available.

(e) New Permittees:

(1) Applications for the issuance of any new sea urchin diving permits that may become available each year shall be received by the department or, if mailed, postmarked no later than June 30. Applications shall be submitted to the department's License and Revenue Branch office in Sacramento. If any new sea urchin diving permits are available for issuance, as provided in subsection (d)(2), they shall be issued to licensed commercial fishermen who held, for each of the two immediately preceding permit years, a valid sea urchin crewmember permit.

(2) If there are more applicants for sea urchin diving permits than there are permits available, a drawing will be held to determine which applicants will be eligible to purchase permits. Any person who submits more than one application for a new sea urchin diving permit in any one permit year will be excluded from the drawing. Each applicant who meets the criteria in subsection (e)(1) shall be entered into the drawing once. In addition, each applicant shall be entered into the drawing one more time for each additional year, above the minimum required two years, that the applicant possessed a valid sea urchin crewmember permit. No applicant shall be entered more than five times for each drawing. The drawing will be held on the third Wednesday in August each year. Permits will be issued to successful applicants in the order drawn. Payment of the fee for the sea urchin diving permit must be received at the department's License and Revenue Branch office in Sacramento on or before September 25.

(f) Fee. The fee for sea urchin crewmember permits shall be the amount authorized by Section 699 of these regulations.

(g) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Vessel Identification. When sea urchins are taken under these regulations, the vessel's commercial registration number shall be displayed on both sides of the boat. The number shall be black, at least 10 inches high, and on a white background. All permittees aboard the boat shall be

mutually responsible for the proper display of the vessel's commercial registration number.

(i) Conditions of the Permit:

(1) No person shall take or possess lobsters or abalone aboard any boat used to take sea urchins under these regulations on any day that sea urchins have been taken or are to be taken.

(2) Hydraulic lifts and air lifts shall be used only in such a manner that no rocks or other mineral matter, aquatic plants, fish or other aquatic life except sea urchins, shall be removed from the bottom or otherwise disturbed.

(j) Revocation of Permits. Any permit may be suspended, revoked, or canceled by the commission upon breach or violation of any fish and game regulation pertaining to the take of sea urchins or abalone; or violation of the terms or conditions of the permit by the holders thereof, their agents, servants, employees or those acting under their direction and control.

(k) Exemption from Tidal Invertebrate Permit. A sea urchin diver or sea urchin crewmember operating under the provisions of this section is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of section 123, Title 14, CCR.

(*l*) Fishing Season.

(1) From November through May, the open season for red sea urchins is seven days per week.

(2) From June through October, the open season for red sea urchins is Monday, Tuesday, Wednesday and Thursday.

(3) During any closed period, no red sea urchins may be possessed on any commercially registered vessel, except that any commercially registered vessel may transport red sea urchins after any closure goes into effect, provided that the vessel is in port no later than 0800 hours on the first day of the closed period.

(m) Logbooks. Each permittee shall complete and submit an accurate record of all sea urchin fishing activities on a form (DFG–120.7 (2/08)), incorporated herein by reference, provided by the department before the sea urchins are landed. The completed daily records shall be sent to the Fort Bragg office of the Department of Fish and Game for fishing activities north of the Monterey–San Luis Obispo county line, and to the Los Alamitos office for fishing activities south of the Monterey–San Luis Obispo county line on or before the tenth day of each month following the month to which the records pertain.

(n) Closed Areas.

(1) Sea urchins shall not be taken for commercial purposes in state marine reserves or state marine parks. Specific regulations in state marine conservation areas may prohibit the commercial take of sea urchins as per subsection 632(b).

(2) The Gerstle Cove area in Salt Point State Marine Conservation Area (Sonoma County) is closed to all commercial fishing for sea urchins. This area is delimited as all the ocean waters east of a line extending 180° true from the southernmost point of Salt Point (38° 33.92′ N. lat. 123° 19.89′ W. long.) and north of a line extending 270° true from the westernmost point of land of the unnamed point at the southern end of Gerstle Cove (38° 33.6′ N. lat. 123° 19.37′ W. long.).

(3) The South Caspar Point area in Mendocino County is closed to all commercial fishing for sea urchins. This area is bounded on the north by a line extending 90° magnetic from sea to the mouth of Caspar Creek (north bank) in Caspar Cove, on the south by the northern boundary of the Point Cabrillo State Marine Conservation Area and its westward extension to the 120–foot depth contour, on the west by 120–foot depth contour line connecting the north and south boundary lines, and on the East by the mainland shore. The Point Cabrillo State Marine Conservation Area remains closed to the take of all forms of marine life except as permitted in subsection 632(b).

(o) Size Limit.

(1) In southern California (south of the Monterey–San Luis Obispo county line) no red sea urchin between one and one–half (1 1/2) and three and one–quarter (3 1/4) inches in shell diameter, not including the spines or any portion of their ball–and–socket attachment to the shell, may be taken, possessed, sold, or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(2) In northern California (north of the Monterey–San Luis Obispo county line) no red sea urchin between one and one–half (1 1/2)and three and one–half (3 1/2) inches in shell diameter, not including the spines or any portion of their ball–and–socket attachment to the shell, may be taken, possessed, sold or purchased, except that not more than thirty (30) such red sea urchins per permittee per load may be taken, possessed, sold or purchased.

(3) Red sea urchins less than one and one–half (1 1/2) inches in shell diameter shall not be considered as part of the thirty (30) undersized red sea urchins per permittee per load that may be taken, possessed, sold or purchased.

(4) Every sea urchin permittee shall carry and use an accurate measuring device, to determine the size of red sea urchins being taken as specified in subsections (o)(1) and (o)(2) above, while diving for sea urchins for commercial purposes.

(p) Authorization of an Assistant for a Sea Urchin Diver Permittee.

(1) Authorization by Department. The holder of a sea urchin diving permit, who, after entering the sea urchin fishery, becomes, due to a severe unforeseen or catastrophic long–term (expected to be for one year or longer) or permanent injury or disease, physically unable to dive, may designate a specific individual as an assistant, upon written approval from the department. The department may authorize, in writing, any one specific individual to be designated by the permittee as an assistant, providing the following conditions have been met:

(A) the permittee provides documentation from a qualified physician that the permittee suffers from the disease or injury and it will prevent the permittee from diving. Such conditions shall not include short or long–term common illnesses, conditions caused or primarily exacerbated by aging, or any other condition which appears to be marginal or common, such as routine back or neck problems;

(B) the permittee has no violations or pending violations for which his or her permit could be revoked;

(C) the proposed assistant has a current California commercial fishing license and has not had any California commercial fishing license or permit suspended or revoked; has never been convicted, and no charges are pending for a violation of any provision of the Fish and Game Code or Title 14, California Code of Regulations.

(2) Special Provisions:

(A) The authorized sea urchin diver assistant may take or assist in the taking of sea urchin only when in the company of the permittee.

(B) The permittee shall have no authority to, and shall not dive for sea urchin while a valid letter authorizing the permittee to designate an assistant exists, regardless of whether or not the assistant is actively diving.

(C) The authorized sea urchin diver assistant shall have no right to ownership or transfer of the permit beyond that which is otherwise provided by law.

(D) The sea urchin diving permit, in addition to the sea urchin diver assistant authority shall be subject to revocation, suspension or other actions provided in law or regulation, upon violations committed by the assistant, when acting under the authority of a sea urchin diver assistant. The assistant shall take no actions authorized pursuant to a sea urchin diver permit without the consent of the permittee.

(E) The department shall review the authority authorized pursuant to this section at least once every year and may withdraw the authority if any of the conditions are not met.

(3) Fee Requirement. Any person authorized as an assistant pursuant to this subsection shall annually pay a fee to the department equal to the amount required of permittees pursuant to Fish and Game Code Section 9055.

(4) Required Possession of Department Authorization. The assistant shall carry the department's letter of authority whenever conducting activities authorized pursuant to the subsection.

(5) The department shall report to the commission within 18 months of the enactment of these provisions on the merits of the program. The department shall make a recommendation to the commission to either continue or discontinue the program, based on achievements and problems associated with the administration of these provisions.

NOTE: Authority cited: Sections 1050, 9054 and 9055, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 7857, 9054 and 9055, Fish and Game Code.

HISTORY

1. New section filed 1–16–74 as an emergency; effective upon filing (Register 74, No. 3).
2. Certificate of Compliance filed 3–12–74 (Register 74, No. 11).
3. Amendment of subsection (c) filed 10–7–74; effective thirtieth day thereafter (Register 74, No. 41).
4. New subsection (f) filed 3–15–77 as an emergency; effective upon filing (Register 77, No. 12).
5. Certificate of Compliance filed 6–9–77 (Register 77, No. 24).
6. Editorial correction of subsection (f) filed 12–29–82 (Register 83, No. 1).
7. Repealer of subsection (f) filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).
8. Repealer and new section filed 7–8–85; effective thirtieth day thereafter (Register 85, No. 28).
9. New subsection (a)(4) filed 7–27–87 as an emergency; operative 7–27–87 (Register 87, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–24–87.
10. Certificate of Compliance filed 10–22–87 (Register 87, No. 43).
11. Amendment of subsection (d) and new subsections (i)–(k) filed 10–22–87; operative 11–21–87 (Register 87, No. 43).
12. Amendment filed 2–6–89; operative 3–8–89 (Register 89, No. 8).
13. Amendment of subsection (n) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
14. Amendment of subsections (b), (c), (d), (e), (g), (m), (o) and (p) filed 5–8–90; operative 6–7–90 (Register 90, No. 24).
15. Amendment of subsections (m)(1)–(3) and renumbering, (p)(1)–(2) and new subsection (p)(4) filed 7–7–92; operative 8–6–92 (Register 92, No. 28).
16. New subsections (q)–(q)(6) filed 7–8–93; operative 7–8–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 28).
17. Amendment of section and NOTE filed 3–30–94; operative 3–30–94 (Register 94, No. 13).
18. Amendment of section and NOTE filed 8–6–98; operative 8–6–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 32).
19. Amendment filed 9–2–2003; operative 10–2–2003 (Register 2003, No. 36).
20. Redesignation and amendment of portion of subsection (a) as new subsection (a)(1) and new subsection (a)(2) filed 10–6–2003; operative 11–5–2003 (Register 2003, No. 41).
21. New subsection (n)(1), subsection renumbering, amendment of newly designated subsections (n)(2)–(3) and amendment of subsection (o)(4) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).
22. Amendment of subsections (c)–(c)(2) and (e)(1)–(2), repealer and new subsection (g), amendment of subsections (*l*)(1)–(2), repealer of subsections (*l*)(3)–(4), subsection renumbering and amendment of subsection (m) filed 6–30–2008; operative 6–30–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 27).

§ 121. Lobsters, Spiny. Possession During Closed Season.

No spiny lobsters may be sold or possessed during the closed season except as follows: Lobsters taken or imported during the open season which were cooked and frozen or frozen prior to the close of the open season, and lobsters imported into California during the twenty–six (26) days following the close of the open season, provided such lobsters were cooked and frozen or frozen prior to importation. During the closed season, after the twenty–six (26) day importation period, no spiny lobsters may be possessed on any boat, barge, or vessel.

NOTE: Authority cited: Sections 240 and 2365, Fish and Game Code. Reference: Sections 240, 2365 and 8254, Fish and Game Code.

HISTORY

1. Amendment filed 7–31–68; effective thirtieth day thereafter (Register 68, No. 29). For prior history, see Register 58, No. 1.
2. Amendment filed 3–12–74 as an emergency; effective upon filing (Register 74, No. 11).
3. Certificate of Compliance filed 6–5–74 (Register 74, No. 23).
4. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
5. Amendment of section heading filed 3–21–90; operative 3–21–90 (Register 91, No. 41).
6. Editorial correction of HISTORY 5. (Register 91, No. 41).

§ 121.5. Lobsters, Spiny. Verification of Size.

(a) All California spiny lobsters (Panulirus interruptus) taken, possessed, transported or sold must be maintained in such a condition that their size can be determined pursuant to Fish and Game Code Section 8252 until prepared for immediate consumption or sold to the ultimate consumer except as provided for in subsection (b) below.

(b) California spiny lobsters may be split along the midline of the carapace by persons licensed pursuant to Fish and Game Code Section 8034 (Fish Processors License) or Section 8037 (Commercial Fish Business License) provided both halves of each lobster are kept together by banding or packaging until either displayed for purchase by the ultimate consumer or prepared for immediate consumption.

NOTE: Authority cited: Sections 240, 2365 and 8254, Fish and Game Code. Reference: Sections 240, 2365 and 8254, Fish and Game Code.

HISTORY

1. New section filed 3–21–90 as an emergency; operative 3–21–90 (Register 90, No. 13). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–19–90.
2. Repealed by operation of Government Code section 11346.1(g) 120 days from effective date (Register 91, No. 41).
3. New section filed 3–10–93 as an emergency; operative 3–10–93 (Register 93, No. 11). A Certificate of Compliance must be transmitted to OAL 6–8–93 or emergency language will be repealed by operation of law on the following day.
4. New section refiled 9–27–93 with amendment of subsection (b); operative 10–27–93 (Register 93, No. 40).

§ 122. Lobsters, Permits to Take.

(a) Classes of Lobster Permits.

(1) There is a transferable lobster operator permit, a non–transferable lobster operator permit and a lobster crewmember permit.

(2) Under operator permits issued by the department, licensed commercial fishermen may use traps to take spiny lobsters for commercial purposes in Districts 18, 19, 20A, and that part of District 20 southerly of Santa Catalina Island between Southeast Rock and China Point. No other method of take is authorized for the commercial harvest of spiny lobsters.

(3) Any licensed commercial fisherman not eligible to obtain a lobster operator permit pursuant to this section may purchase a lobster crewmember permit, authorizing him/her to accompany the holder of a lobster operator permit and to assist that person in the commercial take of spiny lobster.

(b) Each lobster permit shall be issued annually and shall be valid for the period of the commercial lobster season. Each operator and crewmember permittee shall have his/her permit in possession when taking lobsters.

(c) Except as provided in this section, a permit shall not be assigned or transferred, and any right or privilege granted thereunder is subject to revocation, without notice, by the Fish and Game Commission, at any time.

(d) Applicants for the renewal of lobster operator permits shall have held a valid lobster operator permit, that has not been suspended or revoked, in the immediately preceding permit year.

(e) Transferable Lobster Operator Permit Qualification Criteria and Procedures:

(1) To qualify for a transferable lobster operator permit, an individual shall hold a valid 2005–06 lobster operator permit that has not been suspended or revoked and have landed a minimum of 500 pounds of lobster per year during any 4 of the 5 permit years from 1996–97 through 2000–01, inclusive, or have landed a minimum of 2,000 pounds of lobster per year during any 2 of those 5 permit years as documented by fish landing receipts submitted to the department in his or her name and commercial fishing license identification number pursuant to Section 8046, Fish and Game Code.

(2) Beginning on July 1, 2005 or 30 calendar days after the effective date of these regulations, whichever date is later, the department shall make an initial determination, based on department records, of which

holders of valid 2005–06 lobster operator permits, that have not been suspended or revoked, meet the qualifications for a transferable lobster operator permit specified in subsection (e)(1) above and shall mail notice of such determination, to the last address on record with the department, to all 2005–06 lobster operator permit holders. Each person who meets the qualifications will have his/her permit designated by the department as a transferable lobster operator permit.

(3) The holder of a 2005–06 lobster operator permit who is notified by the department that he/she does not meet the qualifications for a transferable lobster operator permit may submit to the department's License and Revenue Branch, 3211 "S" Street, Sacramento, CA 95816, copies of fish landing receipts that have been issued in his/her name and commercial fishing license identification number pursuant to sections 8043 and 8046, Fish and Game Code, that demonstrate he/she does meet the qualifications in subsection (e)(1) above. Such fish landing receipts and a letter requesting that his/her permit be designated as a transferable lobster operator permit shall be submitted to the department on or before March 31, 2006. Any request postmarked or presented after March 31, 2006 will not be considered.

(4) The holder of a 2005–06 lobster operator permit not able to meet these qualification criteria or meeting them and failing to submit his/her fish landing receipts on or before March 31, 2006, pursuant to subsection (e)(3) above shall have his/her permit designated a non–transferable lobster operator permit, effective with the 2006–07 license year.

(5) The holder of a valid lobster operator permit that has not been suspended or revoked, from the immediately preceding permit year shall be eligible to purchase a lobster operator permit of the same classification.

(f) Procedures and Deadline for Permit Renewal.

Applications for renewal of transferable and non–transferable lobster operator permits must be received by the department or if mailed, postmarked not later than April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(g) Procedures, Timelines and Initial Limit on Permit Transfers.

(1) The holder of a valid transferable lobster operator permit that has not been suspended or revoked may transfer his/her permit to another person licensed as a California commercial fisherman. The application to transfer a permit shall be in the form of a notarized letter from the existing permit holder identifying the transferee and shall include the original transferable lobster operator permit, a copy of the transferee's commercial fishing license and a nonrefundable permit transfer fee of five hundred dollars ($500). The application shall be submitted to the department's License and Revenue Branch, 3211 "S" Street, Sacramento, CA 95816. The transferable lobster operator permit shall be valid for the remainder, if any, of the then current lobster season and may be renewed in subsequent years pursuant to these regulations. If the transferee holds a non–transferable lobster operator permit, that permit shall be cancelled.

(2) Not more than 10 applications to transfer a permit shall be processed by the department during each license year (April 1–March 31) until March 31, 2008, after which date there is no limit on the number of transfers that may be processed during a license year. Applications will be processed in the order received. If on any given day the number of applications received is greater than the available number of transfers, the department shall conduct a drawing to determine which application(s) shall be processed. This subsection shall not apply in the event of the death of the permit holder. The estate of the holder of a transferable lobster operator permit may renew that permit as provided for in these regulations if needed to keep it valid. The estate of the decedent may transfer that permit pursuant to subsection (g)(1) above not later than one year from the date of death of the permit holder as listed on the death certificate.

(h) No SCUBA equipment or other artificial breathing device may be used to take lobster on any boat being operated pursuant to a commercial lobster permit.

(i) All provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to lobsters shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees, or those acting under their direction or control.

(j) Exemption from Tidal Invertebrate Permit. A lobster operator or crewmember operating under the provisions of a lobster permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123.

(k) No lobster trap used under authority of this permit shall be pulled or raised or placed in the water between one hour after sunset to one hour before sunrise.

(*l*) All lobster traps and receivers impounding lobsters shall be individually buoyed. The buoys must be on the surface of the water, except after the first Tuesday in October when buoys may be submerged by means of metallic timing devices, commonly called "pop–ups."

(m) Each buoy identifying a lobster trap shall display the commercial fishing license identification number of the lobster operator permit holder followed by the letter P. The commercial fishing license number and the letter P shall be in a color which contrasts with that of the buoy and shall be at least one (1) inch in height and at least one–eighth (1/8) inch in width.

(n) Any person pulling or raising lobster traps and receivers bearing a commercial fishing license number other than his/her own must have in his/her possession from the party who holds the permit assigned to said gear written permission to pull the traps, or receivers.

(o) The employees of the department may disturb or move any lobster trap at any time while such employees are engaged in the performance of their official duties and shall inspect any lobster trap to determine whether it is in compliance with all provisions of the Fish and Game Code and regulations of the commission.

(p) During the closed season for the taking of spiny lobster, no buoy attached to any trap may be marked in such manner as to identify the trap as a lobster trap, except that legally marked lobster traps may be placed in the water not more than six (6) days before the opening of the season and may remain in the water for not more than six (6) days after the close of the season, if the door or doors to such traps are wired open, the trap is unbaited, the buoy remains at the surface of the ocean, and no attempt is made to take spiny lobsters.

(q) Restricted fishing areas.

(1) No lobster trap used under the authority of this permit shall be used within 750 feet of any publicly–owned pier, wharf, jetty or breakwater; however, such traps may be used to within 75 feet of any privately–owned pier, wharf, jetty or breakwater.

(2) No lobster traps shall be set or operated within 250 feet of the following specified navigation channels.

(A) Newport Bay: Starting at the demarcation line at the entrance to Newport Bay and extension of the west side channel line, proceed southeasterly on a bearing of 151° magnetic one nautical mile; then northeasterly 44° magnetic 500 feet; then northwesterly 331° magnetic one nautical mile to the demarcation line and an extension of the east side channel line.

(B) Dana Point Harbor: Starting from Dana Point east jetty light "6," proceed on a bearing of 120° magnetic 450 yards to red buoy "4"; then south 180° magnetic one nautical mile; then westerly 270°, 300 yards; then north 0° magnetic approximately one nautical mile to Dana Point Harbor light "5."

(C) Oceanside Harbor: Starting from Oceanside Harbor breakwater light "1," proceed on a bearing of 225° magnetic for one nautical mile; then southeast for 450 yards on a bearing of 110° magnetic; then northeast on a bearing of 35° magnetic for one nautical mile to Oceanside Harbor south jetty light "2"; then west–southwest on a bearing of 253° to the point of beginning at Oceanside Harbor breakwater light "1."

(r) Records. Pursuant to section 190 of these regulations, any person who owns and/or operates any vessel used to take lobsters shall complete and submit an accurate record of his/her lobster fishing activities on a form (Daily Lobster Log, DFG 122 (7/96), incorporated herein by reference) provided by the department.

(s) The person required to submit logs pursuant to these regulations shall have complied with said regulations during the immediate past license year, or during the last year such person held a permit, in order to be eligible for a successive year annual permit.

(t) Any person denied a permit under these regulations may request a hearing before the commission to show cause why his/her permit request should not be denied. Such request must be received by the commission within 60 days of the department's denial. Any person denied the designation of his/her lobster operator permit as a transferable lobster operator permit pursuant to subsection (e) of these regulation may appeal the denial to the commission. Such appeal must be received by the commission within 60 days of the department's denial.

NOTE: Authority cited: Sections 1050, 8254 and 8259, Fish and Game Code. Reference: Sections 1050, 2365, 7852.2, 8043, 8046, 8250–8259, 9002–9006 and 9010, Fish and Game Code.

HISTORY

1. Amendment of subsection (k) filed 10–12–77 as an emergency; effective upon filing (Register 77, No. 42). For prior history, see Register 73, No. 50.
2. Certificate of Compliance filed 12–16–77 (Register 77, No. 51).
3. Amendment of subsections (g) and (i) and new subsections (m) and (n) filed 5–15–80; effective thirtieth day thereafter (Register 80, No. 20).
4. Editorial correction of subsection (m) (Register 81, No. 19)
5. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
6. New subsection (j) and relettering of subsections (j)–(n) to subsections (k)–(o) filed 10–5–82; effective thirtieth day thereafter (Register 82, No. 41).
7. Amendment of subsection (g) filed 11–17–83; effective thirtieth day thereafter (Register 83, No. 47).
8. Amendment of subsection (*l*) filed 1–17–85; effective thirtieth day thereafter (Register 85, No. 3).
9. Amendment of subsections (h) and (k) filed 1–15–86; effective thirtieth day thereafter (Register 86, No. 3).
10. Amendment of subsection (m) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
11. Amendment of subsection (h) filed 9–4–90; operative 9–4–90 (Register 90, No. 42).
12. Amendment of subsection (a) and NOTE filed 11–1–94; operative 11–1–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 44).
13. Amendment of subsections (a)–(b) filed 9–6–95; operative 9–6–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 36).
14. Amendment of section and NOTE filed 9–10–96; operative 10–10–96 (Register 96, No. 37).
15. Editorial correction of subsections (g) and (n) and NOTE (Register 98, No. 37).
16. Repealer of subsections (d)(1)–(d)(1)(B), amendment of subsection (f)(1) and new subsection (o)(2)(C) filed 9–9–98; operative 9–9–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 37).
17. Amendment redesignating former subsection (e)(1) as subsection (e), redesignating and amending former subsection (f)(1) as subsection (f) and repealing subsections (e)(2) and (f)(2)–(f)(3) filed 6–16–2003; operative 7–16–2003 (Register 2003, No. 25).
18. New subsection (i) and subsection relettering filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).
19. Amendment of section and NOTE filed 7–13–2005; operative 7–13–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 28).
20. Amendment of subsection (f) and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 123. Tidal Invertebrates.

Marine invertebrates shall not be taken for commercial purposes in any tide pool or tidal area, including tide flats or other areas between the high tide mark and 1,000 feet beyond the low tide mark of any natural or constructed shoreline, except as otherwise provided in this section. Revocable Tidal Invertebrate Permits may be issued by the department in accordance with the following regulations:

(a) Qualifications of Permittee.

The applicant must be a licensed commercial fisherman. If a vessel is used in taking or transporting tidal invertebrates for commercial purposes, the vessel must be currently registered and all fishermen on the vessel must possess a valid Tidal Invertebrate Permit.

(b) Limitation of Permit.

Not more than one permit shall be issued to any one person. Permits shall not be assigned or transferred from person to person.

(c) Duration of Permit and Fee for Permit: Any Tidal Invertebrate Permit issued pursuant to these regulations shall be valid from April 1 to March 31 of the following year, or, if issued after the beginning of such term for the remainder thereof. See subsection 699(b) of these regulations for the fee for this permit.

(d) Permit Exemption.

Commercial fishermen taking only lobster, sea cucumber, squid, crab or sea urchin need not possess the permit as required in this section but are subject to the provisions of this section and must have the appropriate permits to take such species as required by Fish and Game Code sections 8254, 8405, 8421, 9001 and 9054, and regulations adopted pursuant thereto.

(e) Provisions of this section do not apply to commercial fishermen taking freshwater clams or crayfish in inland waters.

(f) Permit Conditions.

(1) Under the terms of a Tidal Invertebrate Permit issued pursuant to this section only the following invertebrates may be take for commercial purposes: barnacles, chiones, clams, cockles, sand crabs, limpets, mussels, sand dollars, octopuses, shrimp, sea hares, starfish, worms and native oysters subject to the following restrictions:

(A) Marine worms shall not be taken in any mussel bed, nor shall any person pick up, remove, detach from the substrate any other organisms, or breakup, remove, alter or destroy any rock or other substrate or surfaces to which organisms are attached to obtain marine worms.

(B) Clams may only be taken in accordance with restrictions listed pursuant to Fish and Game Code sections 8340–8343, and 8346.

(2) Marine invertebrates may not be taken for commercial purposes in state marine reserves or state marine parks. Commercial take of marine invertebrates may be limited in state marine conservation areas pursuant to specific regulations in subsection 632(b).

NOTE: Authority cited: Section 8500, Fish and Game Code. Reference: Sections 8254, 8305.5, 8306.8, 8396, 8500, 9001 and 9054, Fish and Game Code.

HISTORY

1. Amendment of subsection (f)(2) filed 12–15–77; effective thirtieth day thereafter (Register 77, No. 51). For prior history, see Register 77, No. 4.
2. Amendment of subsection (f)(1) filed 10–11–78; effective thirtieth day thereafter (Register 78, No. 41).
3. Amendment of subsections (f)(1) and (2) filed 3–14–80; effective thirtieth day thereafter (Register 80, No. 11).
4. Amendment filed 1–15–81; effective thirtieth day thereafter (Register 81, No. 3).
5. Editorial correction of subsection (d) (Register 81, No. 9).
6. Amendment of subsection (f)(1) filed 4–26–84; effective thirtieth day thereafter (Register 84, No. 17).
7. Amendment of subsection (f)(1) filed 10–11–85; effective thirtieth day thereafter (Register 85, No. 41).
8. Amendment of subsection (f)(2)(A) filed 12–21–90; operative 1–20–91 (Register 91, No. 4).
9. Amendment of subsection (c) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
10. Amendment of subsection (d) and NOTE filed 7–7–92; operative 8–6–92 (Register 92, No. 28).
11. Amendment filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 124.1. California Halibut Bottom Trawl Vessel Permits.

(a) California Halibut Bottom Trawl Vessel Permits shall be issued pursuant to Section 8494 of the Fish and Game Code.

(b) Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of California Halibut Bottom Trawl Vessel Permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

NOTE: Authority cited: Sections 1050 and 8494(h), Fish and Game Code. Reference: Sections 1050, 7852.2 and 8494, Fish and Game Code.

HISTORY

1. New section filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 125. Commercial Rock Crab Permits.

(a) Permit Required for Take Using Trap Gear.

Effective April 1, 2005, any person using traps to take, possess aboard a vessel, use as bait, or land rock crab (*Cancer antennarius, C. anthonyi,* or *C. productus*) for commercial purposes shall have a valid general trap permit issued pursuant to Fish and Game Code Section 9001 and either a northern or southern rock crab trap permit as described in this Section that has not been suspended or revoked.

(1) Presence of Permit Holder Aboard a Vessel. At least one rock crab trap permit holder shall be on board at all times when taking, possessing aboard a vessel, using as bait, or landing rock crab using trap gear. If a support vessel is used, a rock crab trap permit holder shall be on each vessel when taking rock crab.

(2) Crewmembers. Any licensed commercial fisherman working on a vessel utilizing commercial rock crab trap gear shall possess a valid general trap permit that has not been suspended or revoked. Crewmembers are not required to hold a rock crab trap permit.

(3) Fishermen holding lobster operator or crewmember permits issued pursuant to Fish and Game Code Section 8254 and Section 122, Title 14, CCR, taking rock crab incidentally as authorized in Fish and Game Code Section 8250.5 during the lobster fishing season specified in Fish and Game Code Section 8251 and in lobster trap gear as defined in Fish and Game Code Section 9010, are exempt from the rock crab trap permit requirements of this Section.

(4) Revocation or suspension. A northern or southern rock crab trap permit may be revoked or suspended by the commission upon violation of the Fish and Game Code, or violation of regulations adopted by the Commission, by the holder thereof, his or her agent, employee, or person acting under his or her direction and control.

(b) Permit Conditions.

(1) Commercial rock crab trap permits are issued conditional upon all provisions of the Fish and Game Code and regulations of the Fish and Game Commission relating to crabs and traps.

(2) Pursuant to Fish and Game Code Section 9005, every trap or string of traps deployed for purposes of commercially harvesting rock crab shall be marked with a buoy.

(3) Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop–ups," shall not be used on buoy lines attached to rock crab traps, and shall not be possessed by any commercial rock crab trap permittee on any vessel while taking or attempting to take rock crab.

(c) Permit Areas.

(1) The northern rock crab trap permit is required only in ocean waters between 42°00′ N. lat. (the Oregon/California border) and 36°00′ N. lat. (at Lopez Point, Monterey County).

(2) The southern rock crab trap permit is required only in ocean waters south of 36°00′ N. lat. (at Lopez Point, Monterey County).

(d) Northern Rock Crab Trap Permit Issuance.

(1) A person is eligible to purchase a northern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman;

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) each year the individual must submit to the department a northern rock crab trap permit application form DFG 1375 (6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f).

(e) Southern Rock Crab Trap Permit Issuance.

(1) Initial Permit Issuance. During the 2005–2006 permit year, any person is eligible for initial issuance of a southern rock crab trap permit if the individual meets all of the following criteria:

(A) the individual must be a licensed commercial fisherman; and

(B) the individual must possess a valid general trap permit, issued pursuant to Fish and Game Code Section 9001, that has not been suspended or revoked; and

(C) the individual must have landed a minimum of 500 pounds of rock crab utilizing trap gear between January 1, 1998 and December 31, 2003 at ports located within the southern permit area as defined in subsection (c), and as documented by fish landing receipts submitted to the department in the individual's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046. Individuals who hold a Nearshore Fishery Trap Endorsement issued pursuant to Section 150.03, Title 14, CCR, are exempt from this eligibility requirement.

(D) Application Deadlines for Southern Rock Crab Trap Permit. A southern rock crab trap application form DFG 1324(6/04), which is incorporated by reference herein, and the annual permit fee specified in subsection (f) must be received by the department or, if mailed, must be postmarked on or before September 30, 2005. Applications for initial issuance of a southern rock crab trap permit received by the department, or, if mailed, postmarked from October 1 through October 31, 2005 will be assessed a $50 late fee. Applications and permit fees for initial issuance of southern rock crab trap permits received, or, if mailed, postmarked after October 31, 2005 shall be returned to the applicant unissued.

(2) Southern Rock Crab Trap Permit Renewal. Southern rock crab trap permits must be renewed annually.

(A) Beginning with the 2006–2007 permit year, only persons who held a valid southern rock crab trap permit during the immediately preceding permit year are eligible to obtain a permit for the following permit year.

(B) All applications and permit fees for renewal of a southern rock crab trap permit shall be received by the department, or, if mailed, postmarked on or before April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(f) Fees.

(1) Northern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars ($250.00).

(2) Southern rock crab trap permit. The department shall charge an annual fee of two hundred and fifty dollars ($250.00).

(g) Appeals.

(1) Southern Rock Crab Trap Permit Initial Issuance Appeals. Any applicant who is denied initial issuance of a southern rock crab trap permit for any reason by the department may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked on or before March 31, 2006.

(2) Southern Rock Crab Trap Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Restricted Access.

A control date of January 1, 2003 is established for the purpose of considering a future restricted access southern rock crab trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the southern rock crab trap fishery if one is developed.

(i) Tidal Invertebrate permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of rock crab.

NOTE: Authority cited: Sections 1050 and 8282, Fish and Game Code. Reference: Sections 1050, 7852.2, 7857, 8250.5, 8282, 8284, 9000, 9001, 9002, 9005, 9006 and 9011, Fish and Game Code.

HISTORY

1. New section filed 2–28–2005; operative 2–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 9).
2. Amendment of section heading, new subsection (a)(4), repealer of subsection (g), subsection relettering and amendment of NOTE filed 5–3–2007; operative 6–2–2007 (Register 2007, No. 18).

3. Amendment of subsections (e)(2), (g)(2) and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 125.1. Commercial Take of Rock Crab; Size Limit; Use of Rock Crab as Bait; Incidental Take Provisions.

(a) Rock crab, as defined in Fish and Game Code section 8275(c), less than 4 1/4 inches, measured across the carapace in a straight line through the body, from edge of shell to edge of shell at the widest part, shall not be taken, possessed, bought, sold, or used as bait.

(b) Measuring requirements. Any person taking rock crab for any commercial purpose or for use as bait shall carry a measuring device and shall measure any rock crab immediately. Undersized rock crab shall be immediately returned to the water.

(c) Incidental take. Only the following species may be taken incidentally in rock crab traps being used to take rock crab under authority of a permit issued pursuant to Section 125. All other invertebrates and finfish shall be immediately released to the water.

(1) Kellet's whelk.

(2) Octopus.

(3) Crabs, other than the genus *Cancer*.

(d) Pursuant to Fish and Game Code Section 9001.7, rock crab may be used as bait in finfish traps. However, consistent with Fish and Game Code Section 5508, rock crab may not be possessed or maintained in such a condition that their size cannot be determined. Additionally, consistent with Fish and Game Code Section 5509, rock crab may not be possessed or maintained in such a condition that the species cannot be readily identified.

NOTE: Authority cited: Section 8282, Fish and Game Code. Reference: Sections 8250.5, 8281, 8284, 9001.7 and 9011, Fish and Game Code.

HISTORY

1. New section filed 5–3–2007; operative 6–2–2007 (Register 2007, No. 18).

§ 126. Commercial Take of Tanner Crab.

(a) Permit Required for Take and Possession Using Trap Gear. Any vessel using traps to take, possess aboard a vessel, or land Tanner crab (*Chionoecetes spp.*) for commercial purposes shall have a valid Tanner Crab Trap Vessel Permit. Tanner crab taken incidentally in other trap fisheries may not be possessed and must be immediately returned to the water unless the vessel is issued a Tanner Crab Trap Vessel Permit. A Tanner Crab Trap Vessel Permit is not required to incidentally take, possess or land Tanner crab with gear other than trap gear. For purposes of this Section, the term "Tanner crab" includes all species of the genus *Chionoecetes*.

(1) Permit Issuance Provisions.

(A) An applicant is eligible to purchase a Tanner Crab Trap Vessel Permit for placement on a vessel if the following conditions are met:

1. The vessel must be issued a valid commercial boat registration pursuant to Fish and Game Code Section 7881.

2. The applicant must hold a valid commercial fishing license issued pursuant to Fish and Game Code Section 7850.

3. The applicant must submit a Tanner Crab Trap Vessel Permit application form FG 1439 (9/05), which is incorporated by reference herein, and the permit fee specified in subsection (a)(2).

(B) There are no deadlines or late fees for purchase of a Tanner Crab Trap Vessel Permit. The sale of Tanner Crab Trap Vessel Permits is not restricted and therefore permits are not subject to renewal requirements.

(2) Permit Fee. The Department shall charge a fee of $10,000 for a Tanner Crab Trap Vessel Permit that is valid from April 1 through March 31.

(3) Other Permits Required,

(A) Any person who operates or assists on any vessel for purposes of taking, transporting or landing Tanner crab under authority of a Tanner Crab Trap Vessel Permit shall possess a valid commercial fishing license issued pursuant to Fish and Game Code Section 7850, unless expressly exempted by that Section.

(B) Any person operating under authority of Fish and Game Code Section 7850 who operates or assists on any vessel when trap gear is aboard for purposes of taking, transporting or landing Tanner crab under authority of a Tanner Crab Trap Vessel Permit shall also possess a valid General Trap Permit issued pursuant to Fish and Game Code Section 9001.

(4) Tanner Crab Trap Construction Requirements, Specifications, and Limits.

(A) State Trapping Requirements. As a condition of this permit, Tanner crab traps and commercial Tanner crab trap fishing activities are subject to statutes and regulations that define and specify the following general trap requirements: trap logbooks and submission requirements, trap destruction devices, disturbing traps of another, trap servicing intervals not to exceed 96 hours, trap marker buoys, and other trap and buoy identification requirements. These statutes and regulations are defined in Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9008, and sections 180, 180.2, 180.5, and 190, Title 14, CCR.

(B) Trap Construction and Dimensional Requirements.

1. Escape Ports. Every Tanner crab trap shall have at least three openings of at least 4.5 inches in diameter in the side or upper panels of the trap to allow for escapement of undersized crab. The 4.5–inch measurement of the opening shall be taken at its smallest inside diameter. The openings may be constructed with a rigid opening such as a ring or as part of a mesh panel. At the time of measurement, the trap shall be set upright as if it were in use. If the opening is non–rigid or contained within pliable mesh, the smallest inside diameter measurement shall be taken so that a rigid cylindrical measuring device 4.5 inches in its outside diameter and at least three inches in length shall be able to pass easily through the opening.

2. Trap Dimensional Requirements. Tanner crab traps must not be more than 10 feet long and not more than 10 feet wide and not more than 42 inches high, as measured by the greatest distance in each dimension.

(C) Trap Destruction Devices. Traps utilized under authority of a Tanner Crab Trap Vessel Permit must contain a trap destruction device meeting the requirements for Tanner crab traps specified in Section 180.2, Title 14, CCR.

(D) Prohibition on Pop–Ups. Timed buoy release mechanisms capable of submerging a buoy attached to a trap, commonly known as "pop–ups," shall not be used on buoy lines attached to Tanner crab traps, and shall not be possessed by any commercial vessel while taking, attempting to take, or possessing Tanner crabs.

(E) Depth Requirement. Tanner crab traps shall only be placed or otherwise used in water depths greater than 300 fathoms.

(F) Vessel Buoy Marking Requirement. In addition to the trap and buoy marking requirements specified in Fish and Game Code section 9006 and 9007, every string of traps shall be marked with a buoy on each end of the string that is marked with the vessel's commercial boat registration number issued by the department pursuant to Fish and Game Code Section 7881. A vessel fishing under authority of a Tanner Crab Trap Vessel Permit may only take, possess aboard a vessel, transport, deliver, or land Tanner crab from traps marked with the vessel's own registration number. The vessel's registration number on each buoy shall be preceded by the letters "TC." The numbers and letters shall be in a color which contrasts with the color of the buoy. A line thickness no less than 1/8 inch shall be used to create letters and numbers which shall be no less than two (2) inches in height and no less than one (1) inch in greatest width. The permit holder shall maintain the buoys so that the registration numbers and the letters "TC" are legible and easily determined.

(G) Disturbing Traps Prohibited. It is unlawful to willfully or recklessly disturb, move or damage any trap or attachment thereof that belongs to another owner and that is marked with a vessel registration number and the letters "TC." However, a person aboard a permitted vessel may pull or raise a trap marked with a buoy bearing a vessel registration number and the letters "TC" other than his own, but must have written permission in his or her immediate possession from the permittee whose vessel registration number is marked on the buoy. This subsection does not apply to employees of the department while engaged in the performance of official duties. Employees of the department may disclose the name, address, and registration number of Tanner Crab Trap Vessel permittees to repre-

sentatives of public safety agencies to assist in the return of traps and attachments to their proper owners. This subsection does not create any duty on any state or local agency to remove or move a trap, line, or buoy that may endanger the public safety and does not create any liability to Part 2 (commencing with Section 814) of Division 3.6 of Title 1 of the Government Code.

(H) Trap and String Limits. No more than 480 traps may be submerged or otherwise used per permitted vessel. Not more than six strings with not more than 80 traps per string shall be submerged or otherwise used. All traps must be fished on a string of traps. For purposes of this Section, "string" means individual traps that are connected by line or other means.

(5) Processing at Sea. Vessels may process crabs at sea and land them in a condition other than whole pursuant to the requirements of this Section.

(A) For purposes of this Section, the term "processing" shall not be equated to the term or activity of "Process fish" as defined in Fish and Game Code Section 8031.

(B) If Tanner crab is not landed in the round, the whole-weight conversion factor that shall be applied is 1.61. At the time the landing receipt is completed pursuant to Fish and Game Code Section 8043, the processed weight shall be recorded in the "Pounds" section and the converted whole weight, in pounds, shall be recorded in the space marked "Note Pad" on the landing receipt.

(C) For purposes of landing tax payments as required and specified by Fish and Game Code sections 8041 and 8051, for Tanner crab landed in processed condition, tax payments shall be computed and paid based on the converted whole weight.

(6) Cumulative Vessel Trip Limits.

(A) A cumulative trip limit is the total number of pounds of Tanner crab that may be taken and retained, possessed, or landed by a vessel in a two-month period without a limit on the number of landings or trips. The cumulative trip limit per vessel per designated two-month limit period is 250,000 pounds of whole crab. For purposes of calculating catch against a cumulative vessel trip limit, all landings of processed crab shall be converted to the whole-weight equivalent as described in subsection (a)(5)(B).

(B) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

1. January 1 through the last day of February,
2. March 1–April 30,
3. May 1–June 30,
4. July 1–August 31,
5. September 1–October 31,
6. November 1–December 31.

(C) All landings made in a vessel's registration number listed on landing receipts submitted to the department pursuant to Fish and Game Code Section 8043 count toward the cumulative trip limit for the two month period that corresponds to the date on the receipt. Such receipts must accurately record the weight of Tanner crab landed.

(D) Copies of all landing receipts which document the catch of Tanner crab shall be kept onboard the fishing vessel throughout, and for 15 days following, each period for which cumulative landings by individual vessels are limited.

(E) When the seasonal catch limit defined in subsection (b) is reached and action to close the fishery is taken, cumulative trip limits defined in this subsection become inoperative.

(7) Incidental Landings and Allowances.

(A) No more than five percent of the total possessed or landed catch by weight may be comprised of invertebrates other than Tanner crab. All crab and other invertebrates taken in Tanner crab traps, except for crab of the genus Cancer (including but not limited to Dungeness crab and rock crab) may be landed and sold incidentally under authority of a Tanner Crab Trap Vessel Permit.

(B) All finfish taken in Tanner crab traps, with the exception of sablefish, shall immediately be returned to the water. Sablefish may be landed if authorized pursuant to Federal groundfish regulations.

(C) No invertebrates or finfish taken in Tanner crab traps may be used as bait.

(8) Observer Requirements and Cooperation with Observer Programs.

(A) Each permittee is required to carry an observer onboard to gather biological, fishery and bycatch information during Tanner crab fishery operations according to the specifications defined in this subsection. The permittee shall contract with either a National Marine Fisheries Service (NMFS)–certified observer provider firm, or a private individual who is certified either as a NMFS observer or as a crab observer by the Alaska Department of Fish and Game. The Tanner Crab Trap Vessel permittee shall be liable for a violation of any terms or conditions of this subsection.

1. Prior to contracting, the permittee is required to acquire department approval of the selected provider firm or private individual. The department shall review the qualifications of the observer with whom the vessel wishes to contract with, and may reject the individual or firm. Request for department approval shall be directed to the department's Marine Region Regional Manager or his or her designee, and must be sought by phone at (562) 342-7108, and in writing to the department's office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720. Requests for approval must be made at least 60 days prior to the planned commencement of fishing activity. At the time the request is made, the permittee must also notify the department of the anticipated start date of fishing activity.

2. As a condition of the contract, the observer shall collect biological and fishery data as requested by the department. Data to be collected by the observer shall include vessel identification, date and time, information on catch, incidental take, sex ratio, size, maturity, condition and quality factors, weight, discards, gear specifications, vessel position and depth, trap soak time, number of traps set and pulled, and a summary of the vessel's daily activities and interactions with other vessels or fisheries compiled in a daily observation report. As needed, the department may request the observer to provide additional information that is similar in scope and nature to the aforementioned items. The permittee is required to ensure that while aboard, the observer is gathering data at all times when the vessel is engaged in fishing activity.

3. The department will provide all necessary sampling materials, equipment and a computer to the selected provider firm or individual for the observer's use aboard the vessel. The permittee shall ensure that the sampling materials, equipment and computer are returned to the department following completion of the observer's duties. Observer safety equipment needs and safety specifications shall be arranged by the permittee with the selected provider firm or private individual, and shall not be the responsibility of the department.

4. The contract between the permittee and the selected provider firm or private individual shall specify that data collected aboard the vessel shall be the property of the department.

5. The permittee shall ensure that all data collected or reported by the observer shall be delivered to the department office at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720 on or before the 10th day of each month following the month to which the observer's records pertain. Observer records that are mailed shall be postmarked on or before the 10th day of each month following the month to which the records pertain.

6. The permittee shall ensure that the data and all reports and documentation are collected by the observer on paper data sheets, entered into a computer provided by the department, and provided to the department in electronic format according to the submission procedures described in this subsection. Paper data sheets used onboard the vessel shall be included with the electronic data submitted to the department.

(B) As a condition of a Tanner Crab Trap Vessel Permit, the permittee is required to have an observer onboard at the time the vessel's fishing activity commences each fishing season, and during all fishing operations that occur over the sixty consecutive days that follow. A vessel's fishing activity commences at the time that a trap is deployed for purposes of commercially harvesting Tanner crab.

(C) All vessels and persons operating under authority of a Tanner Crab Trap Vessel Permit are subject to provisions of Section 105.5, Title 14,

CCR. The crew must allow personnel designated by the department to board any commercial fishing vessel, conveyance, or other mechanical device used under authority of a Tanner Crab Trap Vessel Permit, to observe or inspect equipment, procedures, crabs, other invertebrates or fish.

(9) Permit Revocation and Violations.

(A) Pursuant to Fish and Game Code subsection 1052(b), a Tanner Crab Trap Vessel Permit shall be revoked if the applicant or permittee submits false information for the purposes of obtaining a permit.

(B) Any Tanner Crab Trap Vessel Permit may be suspended, revoked or cancelled by the commission upon notice by the department of a violation by a permit holder, or any person acting under authority of his or her permit, of Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9008, sections 105.5, 180, 180.2, 180.5, and 190, Title 14, CCR, the regulations of this Section, or other provisions of the Fish and Game Code or regulations of the Fish and Game Commission relating to crabs, traps, and times or areas closed to fishing.

(C) The Tanner Crab Trap Vessel Permit holder shall be liable for any violations committed by him or her of Fish and Game Code sections 9001, 9002, 9003, 9004, 9005, 9006, 9007, and 9008, sections 105.5, 180, 180.2, 180.5, and 190, Title 14, CCR, the regulations of this Section, or other provisions of the Fish and Game Code or regulations of the Fish and Game Commission relating to crabs, traps, and times or areas closed to fishing. The Tanner Crab Trap Vessel Permit holder shall also be liable for violations committed by any other person operating under the authority of his or her permit. Additionally, any such other person is liable for his or her own violations.

(b) Seasonal Catch Limit. For the period from April 1 through March 31 of the following year, a total of not more than two million pounds of Tanner crab may be landed in California. For purposes of this catch limit, all landings of processed crab shall be converted to the whole–weight equivalent as described in subsection (a)(5)(B). The directed trap fishery closure shall be implemented as follows:

(1) Mechanism for Fishery Closure. The department will estimate from the current trends in catch and using available scientific information the time at which the catch limit will be reached. The department will close the directed trap fishery at the time the catch limit is reached or is projected to be reached prior to the end of the fishing year.

(2) The department shall give holders of Tanner Crab Trap Vessel Permits described in subsection (a) no less than 10 days notice of the closure via a notification letter sent to the permittee's address on file with the department. The department shall give the public and the commission no less than 10 days notice of the closure via a department news release.

(3) When the Tanner crab catch limit has been reached, Tanner crab may continue to be taken incidentally in other fisheries where a Tanner Crab Trap Vessel Permit is not required.

(c) Minimum Size Limit. Any species of Tanner crab must have a minimum carapace width of 5 inches measured by the greatest straight–line distance across the carapace at a right angle to a line midway between the eyes to the posterior margin, not including spines. Every person taking Tanner crabs shall carry a measuring device and any Tanner crab that is found to be undersized shall immediately be returned to the water.

(d) Male–Only Fishery. Only male Tanner crabs may be retained and landed. All female Tanner crabs shall immediately be returned to the water.

(e) Prohibition on Use as Bait. Tanner crabs may not be used as bait in any commercial fishery.

(f) Tidal Invertebrate Permits. Tidal Invertebrate Permits issued pursuant to Section 123, Title 14, CCR, are not required for the commercial take of Tanner crab.

NOTE: Authority cited: Sections 1050, 5508, 7090 and 8026, Fish and Game Code. Reference: Sections 1050, 1052, 5508, 7050, 7051, 7055, 7056, 7058, 7850, 7881, 8026, 8031, 8040, 8041, 8042, 8043, 8046, 8051, 8834, 9000, 9001, 9002, 9003, 9004, 9005, 9006, 9007 and 9008, Fish and Game Code.

HISTORY

1. New section filed 3–14–2006; operative 3–14–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 11).

§ 130. Importation and Inspection of Live Shellfish.

NOTE: Authority cited: Section 15600, Fish and Game Code. Reference: Section 15600, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 1–23–78; effective thirtieth day thereafter (Register 78, No. 4). For prior history, see Register 71, No. 5.
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).

§ 131. Mariculture and Shellfish Allotments.

NOTE: Authority cited: Sections 5700 and 15400, Fish and Game Code. Reference: Sections 5700 and 15400–15415, Fish and Game Code.

HISTORY

1. Amendment of subsections (j) and (k) filed 1–26–72; effective thirtieth day thereafter (Register 72, No. 5). For prior history, see Register 70, No. 5.
2. Amendment filed 11–28–77; effective thirtieth day thereafter (Register 77, No. 49).
3. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
4. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2 (d) (Register 83, No. 14).

§ 132. Importation of Crab.

This section applies only to crab of the species *Cancer magister*. Except as otherwise provided herein, live crab, cooked crabmeat or whole or cracked crab in the shell may be imported into California under the following regulations and conditions:

(a) During the closed season cooked picked crabmeat imported into California must be in containers and each container must bear the name and address of the out–of–state processor.

(b) During the closed season all shipments of cooked crabmeat, or cooked crab in the shells, imported into the State of California shall be accompanied by a manifest, bill of lading, or invoice showing the name and address of the shipper and the name and address of the importer or consignee and the quantity of cooked crabmeat or cooked crab contained in said shipment. Immediately after the receipt of each shipment of cooked crabmeat, or cooked crab, the importer thereof shall furnish the nearest office of the Department of Fish and Game with a copy of the manifest, bill of lading, waybill, or invoice covering each shipment received by said importer.

(c) No cooked crabmeat, cooked whole or cracked crab, or cooked picked crabmeat shall be imported into California by boat or by sea during the closed season for crabs in California. All such importation of crabmeat must be by land or air carrier.

(d) No female crab may be imported into California at any time.

(e) All crabs imported into California at any time must meet the requirements of size as specified in Section 8278 of the California Fish and Game Code.

(f) No cooked crabmeat or cooked whole or cracked crab in the shell may be imported at any time into California unless legally taken and possessed in the state or country of origin of such shipment of crab.

(g) Persons importing live crabs into California during the closed season shall comply with the following requirements:

(1) All live crabs imported into California must be accompanied by an invoice, bill of lading or manifest showing the name and address of the shipper, the name and address of the importer or consignee and the quantity of live crabs contained in the shipment.

(2) All containers of live crab shipped into California must bear, on the outside of the container, the name and address of the shipper, the name and address of the importer or consignee, the wording "LIVE DUNGENESS CRAB" in addition to the documentation required by subsection 132(g)(1).

(3) All crab distributed by the importer or consignee must be accompanied by documentation indicating "live imported Dungeness crab" in addition to the documentation required by subsection 132(g)(1).

(h) Prior notice of at least 36 hours for each shipment shall be provided the department office nearest the point of destination during normal

working hours (8:00 a.m.–5:00 p.m., Monday–Friday). Said notice shall include approximate time of entry into the state and the route of travel through the state. The importer shall furnish a copy of the bill of lading covering each importation received by said importer to said department office within 24 hours of receipt of the shipment.

NOTE: Authority and reference cited: Sections 2364 and 8281, Fish and Game Code.

HISTORY

1. Amendment filed 7–30–65; effective thirtieth day thereafter (Register 65, No. 13). For prior history, see Register 58, No. 6.
2. Amendment of initial paragraph and new subsection (g) filed 2–10–70; effective thirtieth day thereafter (Register 70, No. 7).
3. New subsection (h) filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
4. Amendment of subsections (g) and (h) filed 11–20–86; effective thirtieth day thereafter (Register 86, No. 47).

§ 132.5. Crab (*Cancer Magister)* Commercial Season Extension.

NOTE: Authority cited: Sections 8276.4 and 8277, Fish and Game Code. Reference: Sections 8275–8277, Fish and Game Code.

HISTORY

1. New section filed 7–3–79 as an emergency; effective upon filing (Register 79, No. 27).
2. Amendment filed 8–6–79 as an emergency; effective upon filing (Register 79, No. 32).
3. A Certificate of Compliance must be filed by 1031–79 or both prior emergency filings will revert to the former language pursuant to Government Code Section 11422.1(c).
4. Certificate of Compliance filed 9–26–79 (Register 79, No. 39).
5. Amendment filed 7–24–80 as an emergency; effective upon filing (Register 80, No. 30). A Certificate of Compliance must be transmitted to OAH within 120 days or emergency language will be repealed on 11–20–80
6. Repealer and new section filed 7–6–81 as an emergency; effective upon filing (Register 81, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–3–81.
7. Certificate filed 9–22–81 repealing section by operation of Government Code Section 11346.1 (Register 81, No. 39).
8. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
9. New section filed 6–27–84 as an emergency; effective upon filing (Register 84, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–25–84.
10. Repealed by operation of Government Code Section 11346.1(g) (Register 84, No. 43).

§ 133. Crabmeat, Cooked Crabs or Parts Thereof.

This section applies only to crabs of the species Cancer magister. Crabmeat, cooked crabs or parts thereof, taken during the open season for crabs may be possessed, transported, and sold during the closed season under the following regulations:

(a) Such cooked crabmeat, and cooked crabs or parts thereof shall be placed by the owner or possessor of such crabmeat, cooked crabs or parts thereof, in storage prior to the close of the season or within 10 days after the close of the season.

Within 14 days after the close of the season the owner or possessor of such crabmeat, cooked crabs or parts thereof, which are being held for sale during the closed season, shall furnish the Department of Fish and Game with a written inventory of all crabmeat, cooked crabs or parts thereof held in possession on the tenth day after the close of the season. The inventory shall show the address of each cold storage plant where such crabmeat, cooked crabs or parts thereof are stored, as well as the amount in pounds of such crabmeat, cooked crabs or parts thereof held in each of said cold storage plants.

(b) All withdrawals of cooked crabs or parts thereof, except picked crabmeat, from such cold storage plants shall be accompanied by a delivery manifest and a copy of said manifest shall be mailed to the nearest Department of Fish and Game office on the same date as the withdrawal.

(c) The cold storage delivery manifest shall show the following: weight of cooked crabs or parts thereof, except picked crabmeat; name and address to whom delivery was made; and date and time of withdrawal.

NOTE: Authority cited: Section 8281, Fish and Game Code. Reference: Section 8281, Fish and Game Code.

HISTORY

1. Amendment filed 7–30–65; effective thirtieth day thereafter (Register 65, No. 13). For prior history, see Register58, No. 6
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 134. Sturgeon, Importation of.

NOTE: Authority cited: Sections 2361, 2363, 2430, 2431, 7701, 7708, 8213 and 8431, Fish and Game Code. Reference: Sections 2353, 2361, 2430–2433, 7700–7710.5, 8213 and 8431, Fish and Game Code.

HISTORY

1. New section filed 12–17–51; effective thirtieth day thereafter (Register 26, No. 7).
2. Repealer and new section filed 4–19–55; effective thirtieth day thereafter (Register 55, No. 6).
3. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 135. Transportation, Possession and Sale of Imported Sturgeon, Striped Bass, Steelhead Trout and Shad.

All imported sturgeon, striped bass, steelhead trout and shad shall be imported, transported, possessed and sold as provided in this section. This section applies to fish commercially taken out–of–state and not to those species grown or imported live by registered aquaculturists in this state.

(a) At least 12–hour prior notice by the shipper or consignee of each shipment of such fish shall be provided to the department's regional office nearest the consignee during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.).

(b) Such fish must be accompanied by a bill of lading, waybill, invoice or similar accountable document showing the place of origin of the shipment, the name and address of the consignee and a listing of all fish by species, total weight and tag number.

(c) The consignee shall retain a copy of the bill of lading or similar accountable document for one year and make it available to the department upon request.

(d) All dead fish or parts thereof, may be imported, transported, or sold within the state in any form but shall be either:

(1) Packaged in sealed containers or boxes. Each container or box shall be clearly labeled showing a description of the contents and an identification of the shipper; or

(2) Tagged with consecutively numbered cinch–up vinyl plastic spaghetti tags with a legend showing the name of the shipper along with the city and state of origin. The tag sequence shall be present on all invoices and waybills. Reusable tags may not be possessed in the State of California. When tags are removed from the fish they must be destroyed by cutting through that portion of the tag which contains the name of the shipper and the tag number; or

(3) Clearly marked, using liquid nitrogen and a metal brand, with an "A," 1/2 inch square, posterior to the head, anterior to the dorsal fin and above the lateral line. All fish shall be marked when alive but may be killed prior to transport or sale.

(e) All live fish may be imported, transported or sold within the state in any form but shall be either tagged or marked as described in subsections (d)(2) or (d)(3).

(f) Fish tagged, marked and/or packaged under subsections (d) or (e) above may be reprocessed and repackaged or retagged by dealers possessing a Wholesale Fish Dealer's and Processor's License as provided by section 8040 of the Fish and Game Code as well as a revocable processing permit issued by the Wildlife Protection Branch of the department specifically for striped bass, sturgeon and steelhead trout and shad. The permit shall be issued on a calendar year basis, or part thereof. When transported for sale such fish or portions of fish shall meet the transportation requirements of subsections (b) and (c).

(g) No such fish may be possessed at a place where fish are sold unless packaged, marked or tagged in the manner described in subsections (d) or (e) except that operators or employees of retail stores, restaurants or other eating establishments may remove portions from packaged,

marked or tagged fish when such portions are being displayed or prepared for actual sale to a consumer or for actual consumption on the premises.

(h) The permit issued pursuant to subsection (f) may be cancelled or suspended at any time by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission. See subsection 699(b) of these regulations for the fee for this permit.

NOTE: Authority cited: Sections 1050, 2361, 2363, 7701, 7708, 8431, 15005 and 15600, Fish and Game Code. Reference: Sections 1050, 2353, 2361, 2363, 7700–7703, 8371, 8431, 15005 and 15600–15601, Fish and Game Code.

HISTORY

1. New section filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
2. Repealer and new section filed 6–11–82; effective thirtieth day thereafter (Register 82, No. 24).
3. Amendment filed 4–1–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 14).
4. Amendment of subsection (a) filed 4–8–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 14).
5. Amendment of subsection (a) filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20).
6. Amendment filed 3–1–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 9).
7. Amendment of first paragraph and subsections (f) and (g) filed 3–4–86; effective thirtieth day thereafter (Register 86, No. 10).
8. Amendment of subsections (f) and (h) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 136. Commercial Packaging or Tagging of Striped Bass.

NOTE: Authority cited: Sections 2361, 2363, 2430, 2431, 7701, 7708, 8213 and 8431, Fish and Game Code. Reference: Sections 2353, 2361, 2430–2433, 7710–7710.5, 8213 and 8431, Fish and Game Code.

HISTORY

1. New section filed 6–1–73; effective thirtieth day thereafter (Register 73, No. 22).
2. Amendment filed 4–5–77; effective thirtieth day thereafter (Register 77, No. 15).
3. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 137. Importation and Sale of Green Sea Turtle Products.

NOTE: Authority and reference cited: Section 2463, Fish and Game Code.

HISTORY

1. New section filed 3–21–75; effective thirtieth day thereafter (Register 75. No. 12).
2. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 141. Sardine Canners, Reduction Plants and Packers of Other Sardine Products.

NOTE: Authority cited: Sections 7701, 7708 and 8075, Fish and Game Code. Reference: Sections 7700–7710.5 and 8075, Fish and Game Code.

HISTORY

1. Amendment filed 2–26–52; effective thirtieth day thereafter (Register 27, No. 4).
2. Amendment filed 4–21–60; effective thirtieth day thereafter (Register 60, No. 9).
3. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 142. Fishermen and Fish Plants.

(a) In order to prevent waste of fish, no person shall take or bring into any cannery, packing, preserving, reduction or other plant, fish in excess of an amount for which he has a bona fide order in writing, either from the plant to which the fish are to be delivered, or from an organization acting for the plants or for the fishermen within the region; and no person shall deliver fish to a packing plant which are of a size, condition or species not specified in the bona fide order.

A person shall not be considered as having a bona fide order to deliver fish if it is general knowledge, or if it is known by him, that weather conditions, strikes or other labor conditions, or any other conditions will prevent the completed delivery of fish to the given plant.

(b) To prevent waste of fish, fishermen shall to the best of their ability, avoid impounding more fish when laying out the net than they intend to load on their boat, or of impounding fish of a size or species which do not comply to this order. In cases where more fish are accidentally caught in the net than it is desired to take on their boat or lighter, or in cases where fish which in size, quality or species do not conform to this order, are accidentally caught in the net, fishermen shall release the excess fish or the fish which do not comply to this order while they are still alive and before they commence brailing out the catch.

NOTE: Authority cited: Section 7708, Fish and Game Code. Reference: Sections 7700–7710.5, Fish and Game Code.

HISTORY

1. Originally published 3–31–45 (Title 14).
2. Amendment filed 10–23–46 (Register 6).
3. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 143. Sardine Pack, Acceptable Equivalents for, Other Than One–Pound Oval Cans.

NOTE: Authority cited: Sections 7701, 7708 and 8075, Fish and Game Code. Reference: Sections 7700–7710.5 and 8075, Fish and Game Code.

HISTORY

1. Amendment filed 12–17–58 as an emergency; effective upon filing (Register 58, No. 23). Certificate of Compliance—Section 11422.1, Gov. Code, filed 3–12–59.
2. Amendment filed 8–1–61 as an emergency; effective upon filing (Register 61, No. 15).
3. Certificate of Compliance—Section 11422.1, Gov. Code, filed 11–21–61 (Register 61, No. 23).
4. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 145. Anchovy Pack.

NOTE: Authority cited: Sections 7701, 7703 and 7708, Fish and Game Code. Reference: Sections 7700–7710.5, Fish and Game Code.

HISTORY

1. New section filed 4–1–48 as an emergency (Register 12, No. 1).
2. Amendment filed 6–5–61 as an emergency; effective upon filing (Register 24, No. 4).
3. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 146. Sampling Methods.

Samples taken pursuant to this section establish a rebuttable presumption that the sampling results are evidence of the true condition of the entire load or lot in the examination of which the sample was taken. The presumption established by this section is a presumption affecting the burden of proof.

(a) In sampling loads or lots of fish to determine species or size composition by number or weight, a minimum of five subsamples shall be taken at reasonable intervals throughout the unloading process. The department shall prescribe methods of selecting samples which shall be reasonably calculated to produce by such sampling fair representations of the composition of the entire load or lot which is sampled.

(b) To insure reasonable calculation of fair representation of composition, subsamples shall be taken to provide that the following minimum sample sizes are attained when dealing with the prescribed percentage tolerances:

Percentage Tolerance	*Minimum Total Sample Size (in number of fish)*
50%	378
40%	363
30%	318
25%	284
18%	223
15%	193

(c) Samples shall be taken and evaluated by deputized Wildlife Protection personnel or other designated personnel trained and certified by the department to conduct sampling activities established pursuant to this section.

NOTE: Authority cited: Sections 7701, 7702, 7708 and 8189, Fish and Game Code. Reference: Sections 7700–7710.5, 8075–8080 and 8180–8189, Fish and Game Code.

HISTORY

1. New Section filed 7–7–55 as an emergency; effective upon filing (Register 55, No. 10).
2. Amendment filed 4–21–60; effective thirtieth day thereafter (Register 60, No. 9).

3. Amendment filed 1–4–66; effective thirtieth day thereafter (Register 66, No. 1).

4. Repealer and new section filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 147. Granting and Issuance of Permits to Take and Use Anchovies by a Reduction Process.

Anchovies shall not be taken, possessed, landed, or processed for reduction purposes except under revocable permits issued pursuant to this section. Anchovies may be taken for reduction purposes in the Northern Permit Area from August 1 to June 30. Anchovies may be taken for reduction purposes in the Southern Permit Area from September 15 to June 30.

(a) Permits to Take, Possess, Land or Transport Anchovies.

(1) To Whom Issued. Revocable permits shall be issued to the owner or operator of a currently registered California commercial fishing vessel. Permits may not be transferred from one boat to another without authorization from the department. The individual to whom the permit is issued must be aboard when fishing for anchovies for reduction purposes. Any permittee whose permit has been revoked may not take or assist in taking anchovies for reduction purposes for the remainder of the season.

(2) Where Issued. Permits may be obtained from the department offices at Long Beach and Monterey. Such permits shall be valid until terminated or revoked. See subsection 699(b) of these regulations for the fee for this permit.

(3) Conditions of Permits.

(A) Suspension of Permits. When the harvest quotas established by the commission in subsection (a)(3)(F) are close to being reached, the department will notify all permit holders of the closing date 48 hours prior thereto.

(B) Gear Specifications:

1. It is unlawful for any permittee to use a roundhaul net, with a wet–stretch mesh size less than 10/16 of an inch, except that the bag portion of a purse seine net may have a wet–stretch mesh size of not less than 8/16 of an inch, to take anchovies for reduction purposes. The bag portion of a purse seine net shall be constructed as a single unit and shall not exceed 12.5 percent of the total area of the net.

2. It is unlawful for any permittee to possess aboard his fishing vessel any fishing gear contrary to the above specifications when anchovies taken for reduction purposes are possessed aboard the vessel.

3. Minimum mesh size requirements are met if a standard stainless steel wedge of appropriate gauge can be passed, with thumb pressure only, through 16 of 20 sets of two meshes each of wet mesh.

4. Notwithstanding these gear specifications, a permittee may, until April 1, 1986, possess and use a roundhaul net of smaller mesh size if, prior to use, the permittee has notified the department and has demonstrated to the department that the net was used in the California anchovy reduction fishery prior to May 24, 1983.

(C) Gear Inspection. Fishing gear possessed aboard a permittee's vessel shall be subject to inspection by the department at all times to determine compliance with gear specification requirements specified in subsection (a)(3)(B).

(D) Vessel Identification. The operator of any boat engaged in taking anchovies under these regulations shall at all times while operating such boat identify it by displaying on an exposed part of the superstructure, amidship on each side and on top of the house visible from the air, the department's registration number of the boat in 14–inch black numerals on white background.

(E) Declaration of Intent to Take, Possess, Land or Transport Anchovies for Reduction Purposes.

1. The provisions of subsection (a)(3)(E) shall apply only to vessels taking anchovies for reduction purposes as described in subsection (a)(3)(F)1. and 2.

2. No vessel shall be operated to take, carry or deliver anchovies for reduction purposes unless a declaration of intent has been filed regarding said vessel in accordance with these regulations.

3. Before a vessel operator can file a declaration of intent as required by subsection (a)(3)(E) he must be the operator of a vessel duly registered as provided by section 7890 of the Fish and Game Code, and must possess a valid commercial fishing license.

4. No vessel operating under the authority of a declaration of intent filed pursuant to these regulations shall take, carry or deliver anchovies for any purpose other than reduction except when taking anchovies for canning or live bait purposes as provided in subsection (a)(3)(E)12 of these regulations, or when operating pursuant to an exception filed in accordance with subsection (a)(3)(E)5 of these regulations. When operating under the authority of an exception, no anchovies may be taken for reduction purposes.

5. During the period for which the declaration is in force and effect, a named vessel may be used to take, carry and deliver anchovies for other than reduction purposes if, and only if, operator files an exception in accordance with the following provisions:

a. When the operator intends to use said vessel to take anchovies for purposes other than reduction, he shall so notify the Long Beach or Yountville offices of the department, either by letter or telegram, prior to the commencement of fishing. This notice shall be posted or sent prior to the commencement of fishing and shall be effective only on the vessel named.

b. The notice shall contain the following information: the calendar days for which the exception is to be effective; the purpose for which the anchovies are to be taken; and the name and registration number of the vessel.

6. Declaration of intent shall be filed with the department during normal working hours at the Yountville, San Diego or Long Beach office of the department. The declaration of intent shall be filed on forms furnished by the department.

7. Each declaration of intent shall specify the vessel to which it applies. Only one vessel may be specified on any one declaration, but a qualified applicant may file separate declarations for more than one vessel.

8. Except as otherwise provided, any declaration of intent filed pursuant to these regulations shall be in force only during the open season, or if filed after the beginning of such term, for the remainder thereof.

9. A copy of each declaration filed under subsection (a)(3)(E) to take anchovies shall be carried aboard the vessel to which it relates and shall be exhibited upon demand to the authorized representative of any reduction plant to which said vessel is delivering anchovies and upon demand to any officer of the department.

10. No vessel which has filed a declaration of intent to take, carry and deliver anchovies for purposes of reduction and has filed no exception thereto shall place any net in the water for the purpose of taking anchovies in any unauthorized area. In the event of any violation of this section, the operator of said vessel shall be deemed in violation thereof.

11. Whenever anchovies are possessed aboard a vessel for which declaration of intent to take, carry and deliver anchovies for reduction purposes has been filed and such declaration is in full force and effect, and not then subject to any notice of exception pursuant to subsection (a)(3)(E)5, it shall be conclusively presumed that said anchovies were taken and were being carried for reduction purposes.

12. Notwithstanding the other provisions of subsection (a)(3)(E), vessels operating under a declaration of intent to take anchovies for reduction purposes may also take anchovies for canning purposes, pursuant to the appropriate sections of the Fish and Game Code and of this section, and may also take anchovies for live bait purposes, providing that all conditions, laws, and regulations pertaining to the reduction fishery are adhered to while so engaged in live bait fishing.

(F) Permit Areas and Quotas.

1. Northern Permit Area. The area shall include the waters of the Pacific Ocean between the California–Oregon border and a line extending due west (true) from Point Buchon. Anchovies taken under the provisions of these regulations may be taken in all waters of the northern permit area described above, with the following exceptions: within Districts 2, 8, 9, 11, 12, 13, 15; the waters of Bodega and Tomales Bay; that portion of

District 10 lying inshore of a line beginning at Pigeon Point (San Mateo County) northwesterly in a straight line to the U.S. Navigation Light on S.E. Farallon Island, northerly in a straight line to the U.S. Navigation Light on Pt. Reyes (Marin County); that portion of District 16 lying southerly of the Monterey Breakwater magnetic east to shoreline; that portion of District 18 within three miles of shore in the area lying between a line drawn magnetic west of Point Estero and a line drawn magnetic west of Point Buchon; and that portion of District 18 within three miles of shore in that area lying between a line drawn magnetic west of Point San Luis and a line drawn magnetic west of Arroyo Grande Creek.

2. Southern Permit Area. The area shall include the waters of the Pacific Ocean between the United States–Mexico International Boundary and a line extending due west (true) from Point Buchon. Anchovies taken under the provisions of these regulations may be taken in all waters of the southern permit area described above, with the following exceptions: within three miles of the mainland shore south of Point Buchon and in all districts or portions of districts where and at such times as the use of round–haul nets is prohibited; within four miles of the mainland shore between lines running 235° magnetic from the steam plant stack at Mandalay Beach and 205° magnetic from the steam plant stack at Ormond Beach; within the area encompassed by a line extending six miles 165° magnetic from Point Fermin, thence to a point located three miles offshore on a line 210° magnetic from Huntington Beach pier; within six miles of the mainland shore south of a line running 210° magnetic from the tip of the outer breakwater of Oceanside Harbor.

3. Quotas. If the department or department's designee does not produce a northern anchovy biomass estimate, total tonnage reserved for a harvest quota is 5,000 tons and is established on August 1 of each year. This quota is allocated evenly between northern and southern permit areas.

4. Adjustments to Quotas. If during the season the maximum quota set by the commission for the northern or southern permit areas should be approached, the commission will consider an increase in the quota for the area approaching its quota. After May 15, any tonnage remaining in the quota for the northern permit area will be made available to southern area permittees.

(b) Permits to Reduce Anchovies.

(1) Qualification of Permittee. To be eligible for a reduction permit under these regulations each applicant must have the license provided in section 8042(a) of the Fish and Game Code, and supply proof to the satisfaction of the department that the applicant can properly unload, weigh, and utilize anchovies for reduction before any permit is issued.

(2) Applications. All applications for permits to reduce whole anchovies for a given season must be received by the Fish and Game Commission, 1416 Ninth Street, Sacramento, CA 95814, on or before the close of business on the preceding July 15.

(3) Limitation of Permit. Not more than one permit shall be issued for each plant. Permits shall not be transferred without prior authorization from the commission.

(4) Duration of Permit. Except as otherwise provided, any permit issued pursuant to these regulations shall be in force only for the time as specified on such permit.

(5) Records. The permittee shall submit daily to the nearest office of the department receipts required under the provisions of section 8011 of the Fish and Game Code for all anchovies purchased or received that day for reduction.

(6) Plant Delivery. No reduction plant shall take delivery of anchovies from any vessel whose operator has not filed a declaration of intent required under subsection (a)(3)(E) to take, carry and deliver anchovies for reduction purposes.

(7) Weighing of Fish Landed. No anchovies intended for use or used in any reduction plant shall be unloaded from any vessel except at a weighing or measuring device approved by the Bureau of Weights and Measures. *Such anchovies shall be weighed by a public weighmaster* licensed as an individual under the laws of this state and a receipt as to such weight shall be immediately issued by him to the fisherman at the time of receipt of such anchovies. Copies of such receipt shall be handled in the manner provided in sections 8011 to 8014 of the Fish and Game Code.

(8) Fish from South of the International Boundary. Anchovies taken south of the United States–Mexico International Boundary and landed in California for reduction processes shall be included in the total quota set by these regulations for the southern permit area.

(c) These regulations shall be set forth in or attached to all permits. Permits shall be issued only upon conditions contained in the application and signed by the applicant that he has read, understands and agrees to be bound by all the terms of the permit. A copy of these regulations shall be given to every person who files a declaration of intent pursuant to these regulations.

(d) Revocation of Permits. Any permit may be revoked by the commission upon breach or violation of any Fish and Game law or regulation or violation of the terms or conditions of the permit by holders thereof, their agents, servants, employees, or those acting under their direction and control.

NOTE: Authority cited: Sections 202 and 7708, Fish and Game Code. Reference: Sections 8076 and 8190, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (a)(3)(E) filed 8–18–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 34). For prior history, see Register 81, No. 42.
2. Amendment of subsections (a)(3)(B) and (a)(3)(C) filed 5–26–83 as an emergency; effective upon filing (Register 83, No. 22). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–23–83.
3. Certificate of Compliance including amendment of NOTE filed 9–16–83 (Register 83, No. 38).
4. Amendment filed 9–19–83; effective thirtieth day thereafter (Register 83, No. 38).
5. Editorial correction of NOTE filed 10–13–83 (Register 83, No. 42).
6. Amendment of subsection (a)(3)(F) filed 10–18–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 42).
7. Amendment of subsection (a)(3)(F) filed 9–23–85; effective thirtieth day thereafter (Register 85, No. 38).
8. Amendment of subsection (a)(3)(f)3 filed 10–3–88; operative 11–2–88 (Register 88, No. 41).
9. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
10. Amendment of subsections (a)(3)(E)1., (a)(3)(E)5., (a)(3)(E)5.a. and (a)(3)(E)6., repealer and new subsection (a)(3)(F)3. and amendment of NOTE filed 11–12–96; operative 11–12–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 46).

§ 148. Permits to Commercially Take Pacific Mackerel.

NOTE: Authority cited: Section 7652, Fish and Game Code. Reference: Sections 7650–7653 and 8411, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 6–28–82 as an emergency; effective upon filing (Register 82, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–26–82. For prior history, see Register 81, No. 43.
2. Certificate of Compliance filed 9–29–82 (Register 82, No. 40).
3. Editorial correction of subsection (a)(2) filed 12–29–82 (Register 83, No. 1).
4. Amendment of subsection (b)(3)(B)1 filed 11–10–83 as an emergency; effective upon filing (Register 83, No. 47).
5. Order of Repeal of 11–10–83 emergency order filed 11–18–83 by OAL pursuant to Government Code section 11349.6 (Register 83, No. 47).
6. Amendment of subsection (b) filed 8–27–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 35).
7. Amendment of subsection (b) filed 7–10–85; effective thirtieth day thereafter (Register 85, No. 28).
8. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Amendment of subsection (a) filed 9–9–92; operative 10–9–92 (Register 92, No. 37).
10. Repealer of section and amendment of NOTE filed 9–24–2001; operative 10–24–2001. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652(d) (Register 2001, No. 39).

§ 149. Commercial Taking of Market Squid.

(a) Fishing days. North of a westerly extension of the United States — Republic of Mexico boundary line, market squid may not be taken for commercial purposes between 1200 hours (noon) on Friday and 1200 hours (noon) on Sunday of each week. This regulation applies to vessels catching squid or attracting squid with lights. This regulation does not ap-

ply to vessels taking squid for live bait purposes only or to fishing activities which result in squid landings taken pursuant to subsection (g) of this Section. Squid taken for live bait purposes pursuant to this Section shall only be sold as live bait.

(b) Records. Pursuant to Section 190 of these regulations, any person who possesses a valid Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit shall complete and submit an accurate record of his/her squid fishing, lighting, or brailing activities on a form (Market Squid Vessel Logbook — DFG 149a (9/01), or Market Squid Light/Brail Boat Logbook — DFG 149b (10/05), which are located in Appendix A of Subdivision 1 of Division 1 of Title 14, CCR) provided by the department, as appropriate to the type of fishing activity. Logbook records shall be transmitted to the department on or before the 10th day of each month following the month that fishing activity occurred.

(c) Maximum Wattage. Each vessel fishing for squid or lighting for squid shall utilize a total of no more than 30,000 watts of lights to attract squid at any time.

(d) Light Shields. Each vessel fishing for squid or lighting for squid will reduce the light scatter of its fishing operations by shielding the entire filament of each light used to attract squid and orienting the illumination directly downward, or providing for the illumination to be completely below the surface of the water. The lower edges of the shields shall be parallel to the deck of the vessel.

(e) Seasonal Catch Limitation. For the period from April 1 through March 31 of the following year, a total of not more than 118,000 short tons of market squid may be taken statewide by vessels permitted under Section 149.1 or 149.3, Title 14, CCR, with the fishery closure implemented as follows:

(1) The department shall estimate, from the current trend in landings, when the market squid catch limit will be reached, and will publicly announce the effective date of closure of the directed fishery on VHF/channel 16 between the hours of 10:00 p.m. and 12:00 a.m. (midnight). It shall be the responsibility of all operators of permitted market squid vessels to monitor VHF/channel 16 to determine when the catch limit is expected to be reached and the fishery closed. Any announcement issued or made by the department on VHF/channel 16 shall constitute official notice.

(2) Whenever the market squid catch limit has been reached, market squid may be taken for commercial purposes through March 31 only if the amount taken does not exceed two tons landed in a calendar day or if the squid taken is used for live bait only.

(f) Closed Times and Areas for Seabirds. Market squid may not be taken for commercial purposes utilizing attracting lights in all waters of the Gulf of the Farallones National Marine Sanctuary. Boundaries of the Sanctuary are defined as those in effect on August 27, 2004, pursuant to Title 15, Code of Federal Regulations (CFR), Part 922, Subpart H. This regulation also applies to vessels pursuing squid for live bait purposes.

(g) Incidental Allowance. It is unlawful to take, land, or possess in excess of two tons of squid per trip or per calendar day except as authorized under a Market Squid Vessel Permit or a Market Squid Brail Permit as described in subsection 149.1(b) or Section 149.3, or for purposes of live bait only.

(h) Forfeiture. Squid landed or possessed in violation of the allowance specified in subsection (g) above shall be forfeited to the department by the signing of an official release of property form. The squid shall be sold or disposed of in a manner to be determined by the department. The proceeds from all sales shall be paid into the Fish and Game Preservation Fund.

(i) Use of Lights to Aggregate Squid. It is unlawful to attract squid by light except as authorized under permits described in subsection 149.1(b) or Section 149.3. This regulation does not apply to seine skiffs of a permitted vessel, or to vessels pursuing squid for live bait purposes only.

(j) Citations for violations of this Section may be issued to the vessel operator, crewmembers, and/or the holder of a market squid permit issued pursuant to Section 149.1 or 149.3, Title 14, CCR.

(k) Exemption from Tidal Invertebrate Permit. A commercial market squid vessel or light boat operating under the provisions of a commercial market squid permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123.

NOTE: Authority cited: Sections 7078, 7701, 7708, 7923, 8026, 8425 and 8429.5, Fish and Game Code. Reference: Sections 7701, 7708, 7923, 8026, 8425, 8429.5, 8429.7, 12159 and 12160, Fish and Game Code.

HISTORY

1. New section filed 9–2–83 as an emergency; effective upon filing (Register 83, No. 38).
2. Order of Repeal filed 9–12–83 by OAL pursuant to Government Code Section 11349.6 (Register 83, No. 38).
3. New section filed 1–11–84; effective thirtieth day thereafter (Register 84, No. 2).
4. Amendment of subsection (a) and new subsection (b) filed 4–24–90; operative 4–24–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 19).
5. Repealer and new section and amendment of NOTE filed 6–4–98; operative 7–4–98 (Register 98, No. 23).
6. Repealer and new section filed 2–23–2000; operative 2–23–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 8).
7. New subsections (c) and (d) filed 5–31–2000; operative 5–31–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 22).
8. New subsections (e)–(e)(2) and amendment of NOTE filed 5–20–2002; operative 6–19–2002 (Register 2002, No. 21).
9. New subsections (f)–(j) [reserved] and new subsection (k) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).
10. Amendment of section and NOTE filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).
11. Amendment of subsection (b) filed 2–13–2007; operative 2–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 7).

§ 149.1. Market Squid Fishery Restricted Access Program.

(a) Permit Required. On and after April 1, 2005, no person shall take, land, or attract squid by light for commercial purposes, except as provided in subsection 149(g), unless the owner of that vessel has a valid market squid permit for use on that vessel that has not been suspended or revoked.

(b) Classification of Permits and Permit Authorization.

(1) A Market Squid Vessel Permit authorizes the use of round haul gear, including purse seine, drum seine and lampara nets for commercial harvest. Use of brail gear, including dip and scoop nets, is also authorized. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Vessel Permits are designated as either transferable or non–transferable as described in subsection (o) below.

(2) A Market Squid Brail Permit authorizes the use of brail gear including dip and scoop nets to take market squid for commercial purposes. Lights may also be used as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Brail Permits are designated as either transferable or non–transferable as described in subsection (o) below.

(3) A Market Squid Light Boat Permit authorizes only the use of lights as specified in regulation to aggregate squid for purposes of commercial harvest. No other gear is authorized under this permit to take or assist in the taking of market squid for commercial purposes. Market Squid Light Boat Permits are designated as either transferable or non–transferable as described in subsection (o) below.

(4) Only one market squid permit, regardless of the class of permit as described in subsections (b)(1), (2), and (3) above, may be issued per owner per vessel.

(c) Initial Issuance Criteria. Any person who is the registered owner of the vessel must provide current proof of vessel ownership at the time of application. Permits as described in subsection (b) shall be issued only to the following persons, partnerships or corporations based on qualifying criteria described in this subsection. Transferable permits shall be issued to owners where the vessel meets the specified initial issuance criteria for the class of permit. Non–transferable permits shall be issued only to individuals that meet the specified initial issuance criteria for the class of permit. During initial permit issuance, a permit must be placed only on a vessel that was licensed with a valid Market Squid Vessel Permit or a Market Squid Light Boat Owner's Permit in the 2004–05 permit year,

and which must also be the vessel upon which the qualifying catches were made.

(1) Market Squid Vessel Permit — Transferable.

(A) A Transferable Market Squid Vessel Permit may be issued to an individual, partnership or corporation that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004–05 permit year that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) the Market Squid Vessel Permit has not been suspended or revoked, and

(C) the vessel must have made at least 50 landings of market squid from January 1, 2000 through March 31, 2003 as documented by fish landing receipts submitted to the department in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.

(D) Upon issuance of a transferable Market Squid Vessel Permit, additional squid fishery catch history associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.

(2) Market Squid Vessel Permit — Non–Transferable.

(A) A Non–Transferable Market Squid Vessel Permit may be issued to an individual that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004–05 permit year that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) the Market Squid Vessel Permit has not been suspended or revoked, and

(C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and

(D) the individual has made at least 33 landings of market squid from the vessel licensed with a Market Squid Vessel Permit for the 2004–05 permit year as documented by fish landing receipts submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, prior to August 27, 2004. Only receipts that demonstrate catch aboard a vessel with a Market Squid Vessel Permit for the 2004–05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.

(E) The department shall separately identify Non–Transferable Market Squid Vessel Permits issued under this section and those permits shall become null and void upon the death of the permit holder.

(3) Market Squid Brail Permit — Transferable.

(A) A Transferable Market Squid Brail Permit may be issued to an individual, partnership, or corporation that is the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) have been issued a Market Squid Vessel Permit for the 2004–05 permit year for that vessel that has not been suspended or revoked, and

(C) the vessel must have made at least 10 landings of market squid with brail gear from January 1, 2000 through March 31, 2003 as documented by fish landing receipts submitted to the department in the vessel's name and identification number pursuant to Fish and Game Code Section 8046.

(D) Upon issuance of a transferable Market Squid Brail Permit, additional squid fishery catch history associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.

(4) Market Squid Brail Permit — Non–Transferable.

(A) A Non–Transferable Market Squid Brail Permit may be issued to an individual that is the owner of a commercial fishing vessel with a Market Squid Vessel Permit for the 2004–05 permit year that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) the Market Squid Vessel Permit has not been suspended or revoked, and

(C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and

(D) the individual has made at least 10 landings of market squid with brail gear from the vessel with a Market Squid Vessel Permit for the 2004–05 permit year as documented by fish landing receipts submitted to the department in the person's name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, during any one permit year (April 1 through March 31 of the following year) from January 1, 2000 through March 31, 2003. Only receipts that demonstrate catch from a vessel with a Market Squid Vessel Permit for the 2004–05 permit year that does not already qualify for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.

(E) The department shall separately identify Non–Transferable Market Squid Brail Permits issued under this section and those permits shall become null and void upon the death of the permit holder.

(5) Market Squid Light Boat Permit — Transferable.

(A) A Transferable Market Squid Light Boat Permit may be issued to an individual, partnership or corporation that is the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) the individual, partnership or corporation must have been issued a Market Squid Vessel Permit or a Squid Light Boat Owner's Permit for the 2004–05 permit year for use on that vessel that has not been suspended or revoked, and

(C) the individual, partnership or corporation must have submitted to the department, pursuant to subsection 149(b) and Section 190, Title 14, CCR, at least one market squid light boat logbook form (DFG 149b) with fishing activity dated on or prior to December 31, 2000 for that vessel.

(D) Upon issuance of a transferable Market Squid Light Boat Permit, additional squid fishery light boat activity associated with the vessel may not be used by any individual, partnership or corporation toward qualification for additional permits of any class.

(6) Market Squid Light Boat Permit — Non–Transferable.

(A) A Non–Transferable Market Squid Light Boat Permit may be issued to an individual that is the owner of a commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application, and

(B) the individual must have been issued a Market Squid Vessel Permit or a Squid Light Boat Owners Permit for the 2004–05 permit year for use on that vessel that has not been suspended or revoked, and

(C) pursuant to Fish and Game Code Section 8101, the individual must have been licensed as a California commercial fisherman for at least 20 years at the time of application, and

(D) the individual must have submitted to the department, pursuant to subsection 149(b) and Section 190, Title 14, CCR, at least one market squid light boat logbook form (DFG 149b) with fishing activity dated from January 1, 2001 through August 27, 2004 for that vessel. Only logbook forms from a vessel with a Market Squid Vessel Permit or a Squid Light Boat Owners Permit for the 2004–05 permit year that has not already qualified for issuance of a transferable Market Squid Vessel Permit under subsection (c)(1) of this section or a transferable Market Squid Brail Permit under subsection (c)(3) of this section or a transferable Market Squid Light Boat Permit under subsection (c)(5) of this section are valid for consideration.

(E) The department shall separately identify Non–Transferable Market Squid Light Boat Permits issued under this section and those permits shall become null and void upon the death of the permit holder.

(7) Non–Transferable Market Squid Vessel Permits, Non–Transferable Market Squid Brail Permits, and Non–Transferable Market Squid

Light Boat Permits may only be issued to individuals, and shall not be issued to partnerships or corporations, although the permit may be placed on a vessel which is owned by a partnership or corporation.

(d) Application Deadlines for Initial Permit Issuance.

(1) All applications [FG 1315 (8/04), incorporated by reference herein] and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits must be received by the department, or, if mailed, postmarked on or before June 30, 2005. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from July 1 through July 31, 2005 will be assessed a $250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Market Squid Vessel Permits, Market Squid Brail Permits, and Transferable Market Squid Light Boat Permits received by the department or postmarked after July 31, 2005 will be denied by the department and returned to the applicant.

(2) All applications [FG 1319 (New 12/06), incorporated by reference herein] and permit fees for initial issuance of Non–Transferable Market Squid Light Boat Permits must be received by the department at the address specified on the application, or, if mailed, postmarked on or before June 30, 2007. Applications and permit fees for initial issuance of Non–Transferable Market Squid Light Boat Permits received by the department, or, if mailed, postmarked from July 1 through July 31, 2007 will be assessed a $250 late fee, notwithstanding Fish and Game Code Section 7852.2. Applications and permit fees for initial issuance of Non–Transferable Market Squid Light Boat Permits received by the department or postmarked after July 31, 2007 will be denied by the department and returned to the applicant.

(e) Initial Issuance Appeals. Any applicant who is denied initial issuance of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit by the department pursuant to subsection (c) may appeal that denial to the commission in writing, describing the basis for the appeal. The appeal shall be received by the commission or, if mailed, postmarked within 60 days of the department's denial.

(f) Annual Permit Renewal.

(1) On and after April 1, 2006, Market Squid Vessel Permits, Market Squid Brail Permits and Transferable Market Squid Light Boat Permits will be issued annually by the department only to those persons who have held the same class of permit in the immediately preceding permit year.

(2) On and after April 1, 2008, Non–Transferable Market Squid Light Boat Permits will be issued annually by the department only to those persons who held such permits in the immediately preceding permit year.

(3) Upon the death of the individual to whom a Non–Transferable Market Squid Vessel Permit, Non–Transferable Market Squid Brail Permit, or Non–Transferable Market Squid Light Boat Permit is issued, the permit shall be considered null and void and permit renewal criteria specified in this subsection shall not apply.

(g) Application Deadlines for Annual Permit Renewal. All applications [FG 1315 (Rev. 11/05), incorporated by reference herein] and permit fees for renewal of Market Squid Vessel Permits, Market Squid Brail Permits, and Market Squid Light Boat Permits must be received by the department at the address specified on the application, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(i) Permit, Transfer and Upgrade Fees.

(1) The department shall charge an annual fee for a permit of each permit class as follows:

(A) Market Squid Vessel Permit — Transferable — $2,101.25.

(B) Market Squid Vessel Permit — Non–Transferable — $1,050.50.

(C) Market Squid Brail Permit — Transferable — $2,101.25.

(D) Market Squid Brail Permit — Non–Transferable — $1,050.50.

(E) Market Squid Light Boat Permit — Transferable — $630.25.

(F) Market Squid Light Boat Permit — Non–Transferable — see Section 699, Title 14, CCR, for the permit fee.

(2) The department shall charge a non–refundable fee of five hundred dollars ($500) for each permit transfer. If more than one permit is involved in the transfer based on provisions defined in subsection (o), a total of five hundred dollars ($500) dollars shall be charged for the transaction.

(3) The department shall charge a non–refundable fee of one thousand five hundred dollars ($1,500) for each Market Squid Brail Permit Upgrade based on provisions defined in subsection (q).

(j) Permit Revocation, Suspension or Cancellation.

(1) Pursuant to Fish and Game Code Section 1052(b), a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit shall be revoked if false information is provided by the permittee to obtain or maintain the permit.

(2) A Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of regulations contained in Section 149, Title 14, CCR, or violation of the terms and conditions of the permit.

(k) Dissolution of Partnership or Corporation. If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by a bona fide partnership or corporation which becomes dissolved, the partnership or corporation shall notify the department of the name of the partner or shareholder who is the successor permitholder and the department shall reissue the permit to that partner or shareholder. Change of vessel ownership provisions defined in subsection (*l*) and transfer fees in subsection (i)(2) apply.

(*l*) Change of Vessel Ownership.

(1) If a transferable Market Squid Vessel Permit, Market Squid Brail Permit, or Market Squid Light Boat Permit is issued for a vessel that is owned by an individual or by a bona fide partnership or corporation, and the individual, bona fide partnership, or corporation transfers the title of ownership of the vessel to another entity, the original entity to which the permit is issued must notify the department of the change in ownership, and submit a non–refundable transfer fee of five hundred dollars ($500).

(2) Upon payment of fees, and surrender to the department of the original permit or permits, the department shall issue the applicable permit to the new owner of the vessel that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) below shall apply.

(3) Non–Transferable Market Squid Vessel Permits, Non–Transferable Market Squid Brail Permits and Non–Transferable Market Squid Light Boat Permits which are issued to individuals shall not be transferred to a new owner. Sale or transfer of ownership of a vessel that is authorized to fish under a non–transferable market squid permit shall render the permit null and void.

(m) Capacity Goals.

(1) The capacity goal for transferable and non–transferable Market Squid Vessel Permits is 55.

(2) The capacity goal for transferable and non–transferable Market Squid Brail Permits is 18.

(3) The capacity goal for transferable and non–transferable Market Squid Light Boat Permits is 34.

(4) Should the number of Market Squid Vessel Permits, Market Squid Brail Permits, or Market Squid Light Boat Permits issued by the department fall below the capacity goal for that permit class, the commission may prescribe criteria for issuance of additional permits of that class, which may include but is not limited to previous issuance of market squid vessel, brail or light boat permits, market squid catch or market squid logbook histories.

(n) Gross Tonnage Endorsement. Each Market Squid Vessel Permit or Market Squid Brail Permit shall be endorsed with the gross tonnage at the time of initial issuance. Any vessel owner transferring a Market Squid Vessel Permit or Market Squid Brail Permit shall also provide gross tonnage information for the replacement vessel as described below.

(1) The gross tonnage shall be determined as follows:

(A) If the owner of the vessel holds a Federal Coastal Pelagic Species Permit issued by the National Marine Fisheries Service for that vessel, the owner of the vessel shall submit a copy of the vessel owner's current valid Federal Coastal Pelagic Species Permit with the vessel's endorsed gross tonnage.

(B) If the owner of the vessel does not hold a Federal Coastal Pelagic Species Permit for the vessel, the gross tonnage will be determined by multiplying the length (L), breadth (B), and depth (D) of the vessel by 0.0067. Records of length, breadth, and depth used for determining gross tonnage will be those recorded on the vessel's United States Coast Guard documentation paper.

(2) The gross tonnage endorsement will remain in effect for the lifetime of each permit, regardless of the gross tonnage of a vessel to which it was transferred.

(3) In cases where a permit is transferred to a vessel with a smaller gross tonnage, the original gross tonnage endorsement will remain, and excess gross tonnage cannot be split out from the original permit endorsement for any purpose.

(4) In cases where two or more permits are transferred to a replacement vessel pursuant to guidelines in subsection (o), the replacement vessel shall be issued a transferable permit which reflects a gross tonnage endorsement which is recorded as either the sum of the gross tonnage endorsements from the original vessels, or the gross tonnage of the replacement vessel, whichever of the two values is less.

(o) Transfer of Permits to Replacement Vessels.

(1) Conditions for permit transferability as defined in this subsection shall provide the mechanism for achieving the capacity goals defined in subsection (m) of this Section over time.

(2) Definitions of Comparable Capacity.

(A) For purposes of permit transferability described in this subsection, two vessels are of comparable capacity if the gross tonnage, as defined in subsection (n) of this Section, of the replacement vessel is not in excess of ten percent greater than the gross tonnage of the originally permitted vessel [the replacement vessel's gross tonnage must be less than (the gross tonnage of the original vessel) plus (0.1 multiplied by the gross tonnage of the original vessel)].

(B) A replacement vessel shall be considered of comparable capacity in cases of permit transfers where the gross tonnage of the original vessel exceeds the gross tonnage of the replacement vessel by any amount. Gross tonnage endorsement provisions for the replacement vessel defined in subsection (n) shall apply.

(3) After August 31, 2005 the following conditions for transferability of permits to replacement vessels will be in effect for permits in each class as described:

(A) The owner of a vessel with a valid Transferable Market Squid Vessel Permit may transfer the permit to another person who is the owner of a replacement commercial fishing vessel of comparable capacity as defined in this subsection.

(B) If transfer is sought of a Transferable Market Squid Vessel Permit for a replacement commercial fishing vessel which is not of comparable capacity as defined in this subsection, one additional valid Transferable Market Squid Vessel Permit shall be transferred and surrendered to the department at the time of the transfer. Market Squid Vessel Permit transfers are not authorized in cases where the gross tonnage of the replacement vessel is not of comparable capacity to the sum of the gross tonnages of the two original vessels as defined above.

(C) A Transferable Market Squid Brail Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of a replacement commercial fishing vessel of comparable capacity as defined in this subsection.

(D) A Transferable Market Squid Light Boat Permit issued to an individual, partnership or corporation may be transferred to another entity who is the owner of a replacement commercial fishing vessel.

(E) In the event of death of the holder of a Transferable Market Squid Vessel Permit, Transferable Market Squid Brail Permit, or a Transferable Market Squid Light Boat Permit, the estate must apply for transfer of the permit to another entity within one year of the permitholder's death.

(F) A Non–Transferable Market Squid Vessel Permit or a Non–Transferable Market Squid Brail Permit issued to an individual may not be transferred to another entity, but in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel of comparable capacity as defined in subsection (m). A Non–Transferable Market Squid Light Boat Permit issued to an individual may not be transferred to another entity, but in the event the permitted vessel is lost, stolen or destroyed, or has suffered a major mechanical breakdown, the permit may be placed on a replacement vessel. A notarized, written request for transfer must be submitted, along with proof that the permitted vessel is lost, stolen, or destroyed in the form of a copy of the report filed with the United States Coast Guard or any other law enforcement agency or fire department investigating the loss. In the case of mechanical breakdown, the request shall include an estimate of the costs to repair the vessel from a marine surveyor or boat repair yard. The department shall not issue a permit for a replacement vessel pursuant to this subsection if the permitted vessel was reported lost, stolen, destroyed, or damaged for fraudulent purposes.

(4) The applicant for transfer must be the owner of a replacement commercial fishing vessel that has been registered with the department pursuant to Fish and Game Code Section 7881 at the time of application.

(5) A written request for transfer of a market squid permit of any class shall be submitted to the department by the owner of the replacement vessel in the form of a notarized letter, accompanied by the nonrefundable transfer fee and shall include a copy of the permit or permits which are being considered for transfer, current proof of vessel ownership, and gross tonnage information as described in subsection (n), if applicable.

(6) Any market squid permit holder intending to transfer a permit shall submit a notarized letter to the department setting forth the conditions of the sale, and shall specify that the terms of the transfer as documented by the replacement vessel owner are valid and true.

(7) Upon determining that the applicant is qualified to transfer the permit to a replacement vessel, payment of all fees, and surrender to the department of the original permit or permits, the department shall issue the applicable permit to the owner of the replacement vessel that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.

(8) At the time the permit transfer is complete, vessels previously authorized to fish under conditions of a surrendered permit shall not take or attract squid for commercial purposes unless otherwise authorized in regulation or statute.

(p) Transfer Appeals. Any applicant who is denied transfer of a Market Squid Vessel Permit, Market Squid Brail Permit, or a Market Squid Light Boat Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked within 60 days of the date of the department's denial. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's written decision.

(q) Market Squid Brail Permit Upgrade. Purchase of a Transferable Market Squid Brail Permit by a permittee who holds a Transferable Market Squid Light Boat Permit may occur with surrender of a Transferable Market Squid Light Boat Permit. Non–Transferable Light Boat Permits are not eligible for upgrade.

(1) An application for upgrade to a Market Squid Brail Permit shall be submitted to the department by a Transferable Market Squid Light Boat permittee in the form of a notarized letter, and shall include a copy of the permit which is being sought for surrender, current proof of vessel ownership, and gross tonnage information as described in subsection (n).

(2) Upon determining that the applicant is qualified to upgrade the permit, payment of all permit and upgrade fees, and surrender to the department of the original permit, the department shall issue the replacement permit that is valid for the remainder of the fishing season. Gross tonnage endorsement provisions defined in subsection (n) above shall apply.

(r) Market Squid Brail Permit Upgrade Appeals. Any applicant who is denied upgrade of a Transferable Market Squid Light Boat Permit to a Transferable Market Squid Brail Permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked within 60 days of the date of the department's denial. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's written decision.

NOTE: Authority cited: Sections 713, 1050, 7071, 7078, 7923, 8026, 8425, 8428 and 8429.5, Fish and Game Code. Reference: Sections 1050, 7050, 7071, 7701, 7708, 7852.2, 7923, 8026, 8101, 8425, 8428, 8429.5 and 8429.7, Fish and Game Code.

HISTORY

1. New section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).
2. New subsections (i)(3) and (q)–(r) filed 4–22–2005; operative 4–22–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 16).
3. Change without regulatory effect amending subsections (g) and (i)(1)(A)–(E) and amending NOTE filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
4. Amendment filed 2–13–2007; operative 2–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 7).
5. Amendment of subsections (g) and (h) and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 149.3. Experimental Market Squid Vessel Permits.

(a) The commission may issue 3 Non–Transferable Market Squid Vessel Permits as described in Section 149.1 to any individual for placement on any vessel for purposes of developing a squid fishery in areas previously not utilized for squid production.

(b) Excepting initial issuance provisions defined in subsection 149.1(c), terms and conditions of Section 149.1 apply in entirety to permits issued pursuant to this Section.

(c) Individuals issued permits pursuant to this Section are subject to all commercial squid fishing regulations defined in Section 149, Title 14, CCR.

(d) Market Squid Vessel Permits issued pursuant to this Section may be suspended, revoked, or cancelled by the commission upon conviction of a violation of regulations contained in Section 149, Title 14, CCR, or violation of the terms and conditions of the permit.

NOTE: Authority cited: Sections 7071, 7078 and 8425, Fish and Game Code. Reference: Sections 7070, 7071, 7075, 7078 and 7083, Fish and Game Code.

HISTORY

1. New section filed 3–28–2005; operative 3–28–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 13).

§ 150. Nearshore Fishery Restricted Access Program.

(a) Nearshore Fishery Permits issued pursuant to Fish and Game Code Section 8587, are valid only in the regional management area specified in the permit.

(b) The department shall issue a Nearshore Fishery Permit for a regional management area described in Section 52.04, Title 14, CCR to each nearshore fishery permittee who meets the regional qualifying criteria below. A person will receive only one Nearshore Fishery Permit for use in only one regional management area. A person meeting the qualifications for more than one regional management area must make a permanent, irrevocable decision prior to obtaining a Nearshore Fishery Permit for the 2003–2004 permit year to fish in one regional management area. The permit shall not be changed to another regional management area under any circumstances.

(c) Nearshore Fish Stocks Used for Landings Qualification. The following names or market categories and their associated codes as recorded on department fish landing receipts pursuant to Fish and Game Code Section 8043 will be used to determine eligibility: black–and–yellow rockfish (251), cabezon (261), California scorpionfish (260), California sheephead (145), China rockfish (258), gopher rockfish (263), grass rockfish (652), greenlings of the genus *Hexagrammos* (290), kelp rockfish (659), group nearshore rockfish (973) and group gopher rockfish (962).

(d) Initial Permit Issuance.

(1) North Coast Region. The person has a valid 2002–2003 Nearshore Fishery Permit that has not been suspended or revoked, and has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and satisfies the landings and participation requirements below:

(A) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and December 31, 1999, and

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(1) are designated North Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) North–Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002–2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the North–Central Coast Region as defined in Section 52.04,Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(2) are designated North–Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North–Central Coast Region only.

(3) South–Central Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002–03 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex–vessel price per pound of $2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South–Central Coast Region.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(3) are designated South–Central Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or

land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South–Central Coast Region only.

(4) South Coast Region. The person has landed nearshore fish stocks as described in Section 150.01, Title 14, CCR, from January 1, 1994 to December 31, 1999, as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, and has a valid 2002–2003 Nearshore Fishery Permit that has not been suspended or revoked, and satisfies the landing and participation requirements below:

(A) has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period 1994 to 1999, inclusive, and which sold for a minimum average ex–vessel price per pound of $2.00 for landings of nearshore fish stocks landed during the most current three calendar years with landings of nearshore fish stocks during the period 1994 to 1999, inclusive.

(B) has made at least one landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in either the 2000 or 2001 calendar year.

(C) landings of nearshore fish stocks used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(D) Nearshore Fishery Permits issued pursuant to subsection (d)(4) are designated South Coast Region Nearshore Fishery Permits, are transferable, and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(e) Initial Qualification for 20–year California Commercial Fishermen. During the initial year of the nearshore restricted access program, any person who has been licensed as a California commercial fisherman for at least 20 years at the time of application, and who does not qualify for a permit in (d)(1), (2), (3), or (4) above, and who has participated in the commercial nearshore fishery for at least one of those years as documented by department fish landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046, upon application shall be issued a Non–Transferable Nearshore Fishery Permit for one regional management area, based on the following minimum landing requirements in subsection (e)(1), (2), (3), or (4) below:

(1) landed at least 200 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(1) are designated Non–Transferable North Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North Coast Region only.

(2) landed at least 650 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the North–Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(2) are designated Non–Transferable North–Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the North–Central Coast Region only.

(3) landed at least 1,050 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South–Central Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(3) are designated Non–Transferable South–Central Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South–Central Coast Region only.

(4) landed at least 800 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in any one calendar year between January 1, 1994 and December 31, 1999.

(A) landings used to qualify must have been made at ports located within the South Coast Region as defined in Section 52.04, Title 14, CCR.

(B) Nearshore Fishery Permits issued pursuant to subsection (e)(4) are designated Non–Transferable South Coast Nearshore Fishery Permits and authorize the holder to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, in the South Coast Region only.

(5) A non–transferable Nearshore Fishery Permit shall become null and void upon the death of the permit holder.

(f) Capacity Goal. The capacity goal for each nearshore regional management area is as follows: 14 North Coast Region Nearshore Fishery Permits, 9 North–Central Coast Region Nearshore Fishery Permits, 20 South–Central Coast Region Nearshore Fishery Permits, and 18 South Coast Region Nearshore Fishery Permits. The capacity goal for Non–Transferable Nearshore Fishery Permits is zero.

(g) Permit Transfers.

(1) If the combined total of transferable and non–transferable Nearshore Fishery permits in a regional management area is greater than the capacity goal for that regional management area on or after April 1, 2003, the following provisions for permit transfers are in effect:

(A) A Nearshore Fishery Permit issued pursuant to this section may be voluntarily transferred by the permittee, if the transferee (person to whom the permit is to be issued) has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR. Until the number of permits in a regional management area equals or falls below the capacity goal for that regional management area, a permit may only be transferred if one additional transferable permit for the same regional management area is surrendered to the department for cancellation at the same time the application for the transfer is submitted to the department.

(B) A Nearshore Fishery Permit may be transferred pursuant to this section to a person only if that person holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850 and submits to the department a notarized letter from each of the permittees described in subdivision (A), that each include a statement identifying the person to whom the Nearshore Fishery Permit is to be transferred and setting forth the conditions of the transfer.

(C) Application for transfer of a Nearshore Fishery Permit, in the form of a notarized letter, shall be submitted to the department by the transferee.

(D) Upon determining that the transferee of the Nearshore Fishery Permit is qualified to receive a Nearshore Fishery Permit and upon payment of all permit and transfer fees, the department shall issue a Nearshore Fishery Permit for that regional management area to the transferee that is valid for the remainder of the then current fishing season. At the time the permit transfer is complete the additional transferable Nearshore Fishery Permit is required to be surrendered by the transferee pursuant to subsection (g)(1)(A). If the transferee holds a Non–Transferable Nearshore Fishery Permit, that permit shall be cancelled.

(E) After the transfer of a person's Nearshore Fishery Permit, the former permit holder may not take, possess, transfer, or sell any nearshore fish stocks as described in Section 150.01, Title 14, CCR, for commercial purposes unless otherwise permitted by law.

(2) Should the combined total of transferable and non–transferable Nearshore Fishery Permits in a regional management area fall below the capacity goal, the commission may prescribe criteria for the transfer of

permits or the issuance of additional permits pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.

(3) A transferable Nearshore Fishery Permit issued pursuant to this section may be transferred to the estate of a permittee who has died only for the purpose of transferring the Nearshore Fishery Permit to another person.

(A) Such transfer may be considered if the estate makes application, in the form of a notarized letter, for the transfer within one year of the date of death as listed on the death certificate.

(B) The estate is responsible for any permit renewal fees under subsection (n) of this Section or Section 150.03, Title 14, CCR.

(4) The Nearshore Fishery Permit in the estate of a deceased permittee may be transferred to any person who meets all of the following qualifications:

(A) The person, at that time, holds a commercial fishing license issued pursuant to Fish and Game Code Section 7850.

(B) The person has never been convicted of a violation of any provision of these regulations or of the Fish and Game Code pertaining to the commercial take of nearshore fish stocks.

(C) The transfer of the permit is subject to subsection (g)(1) and (2) above.

(5) A Nearshore Fishery Permit in the estate of a deceased permittee that is transferred to an immediate family member (spouse, child, grandchild, parent, or sibling) or to a partner as described in Fish and Game Code Section 8102 is exempt from the requirements in subsection (g)(1) and (2) above.

(h) Application Deadline for Initial Issuance of Nearshore Fishery Permit. All applications (FG 1326(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a $50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(i) Nearshore Fishery Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Permits for a regional management area will be issued annually by the department only to those persons who have held a valid Nearshore Fishery Permit for that regional management area in the immediately preceding permit year.

(j) Application Deadline for Nearshore Fishery Permit Renewal. All applications (FG 1326 (Rev. 11/05), incorporated herein by reference) and permit fees for renewal of Nearshore Fishery Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(k) Presence of Permit Holder on Vessel. At least one Nearshore Fishery Permit holder shall be on board at all times when taking, possessing aboard a boat, or landing nearshore fish stocks as described in Section 150.01, Title 14, CCR. If a support vessel is used, a permit holder shall be on each vessel when taking nearshore fish stocks.

(*l*) Gear Authorized for Use. Only dip nets (as defined in Section 1.42, Title 14, CCR), hook-and-line gear consistent with restrictions of Section 150.17, Title 14, CCR, and gear authorized for use under a gear endorsement issued pursuant to Section 150.03, Title 14, CCR, shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR.

(m) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(n) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each transferable Nearshore Fishery Permit of $533.25.

(2) The department shall charge an annual fee for each Non-Transferable Nearshore Fishery Permit of $533.25.

(3) The department shall charge a non-refundable fee of $500 for each permit transfer. If more than one permit is required for the transfer, a total of $500 shall be charged.

(o) Revocation of Permits. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8043, 8046, 8102, 8587, 8587.1, 8588, 8589.5 and 8589.7, Fish and Game Code.

HISTORY

1. New section filed 10-13-2000; operative 10-13-2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 41).
2. Amendment of subsection (a) and new subsection (b)(1) filed 3-14-2002; operative 3-14-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 11).
3. Amendment of section heading, repealer and new section and amendment of NOTE filed 3-10-2003; operative 3-10-2003 pursuant to Government Code Section 11343.4 (Register 2003, No. 11).
4. Amendment filed 3-29-2004; operative 3-29-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
5. Amendment of subsection (*l*) filed 3-14-2005; operative 4-13-2005 (Register 2005, No. 11).
6. Change without regulatory effect amending subsections (j) and (n)(1)-(3) and amending NOTE filed 5-10-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
7. Change without regulatory effect amending subsections (j) and (n)(1)-(2) filed 12-19-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
8. Amendment of subsection (j), repealer and new subsection (m)(2) and amendment of NOTE filed 7-8-2008; operative 7-8-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 150.01. Nearshore Fishery Permit Required.

Notwithstanding Section 8587 of the Fish and Game Code, a nearshore fishing permit is required only for the commercial take of the following species of nearshore fish stocks: black-and-yellow rockfish, gopher rockfish, kelp rockfish, California scorpionfish, greenlings of the genus *Hexagrammos,* China rockfish, grass rockfish, California sheephead, and cabezon.

NOTE: Authority cited: Section 8587.1, Fish and Game Code. Reference: Section 8587, Fish and Game Code.

HISTORY

1. New section filed 3-5-2001; operative 3-5-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).

§ 150.02. Control Dates for Other Nearshore Species; Permits to Commercially Take Deeper Nearshore Fish Species.

(a) Permit Required. Effective April 1, 2003, any person taking, possessing aboard a boat, or landing any species of deeper nearshore fish listed in subsection (b) below for commercial purposes shall possess a

valid deeper nearshore species fishery permit issued to that person that has not been suspended or revoked, except that when using a boat to take deeper nearshore species at least one person aboard the boat shall have a valid deeper nearshore species fishery permit.

(b) Permit Authorization. Notwithstanding Section 8587 of the Fish and Game Code, a deeper nearshore species fishery permit is required only for the commercial take of the following species of nearshore fish stocks: black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, olive rockfish, quillback rockfish and treefish.

(c) Permit Revocation. Deeper nearshore species fishery permits are revocable.

(d) Fees. The fee for a deeper nearshore species fishery permit is $133.50.

(e) Initial Issuance Criteria. Notwithstanding Section 8587 of the Fish and Game Code, a deeper nearshore species fishery permit shall be issued only to persons who have made landings that cumulatively total 200 pounds of any of the eight species for which a deeper nearshore species fishery permit is required pursuant to subsection (b). Landings must have been made in an individual's name and commercial fishing license identification number and submitted on fish landing receipts to the department pursuant to Section 8043, Fish and Game Code, and must have been made from January 1, 1994 through December 31, 1999. Applications (FG 1329(2/03), incorporated herein by reference) for initial issuance must be received by the department, or, if mailed, postmarked on or before September 30, 2003. Applications received by the department or postmarked from October 1, 2003 through October 31, 2003 must be accompanied by a $50 late fee. Applications received by the department or postmarked after October 31, 2003 will be returned to the applicant unissued.

(f) Appeal. Any applicant who is denied issuance of a deeper nearshore species fishery permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be received by the department, or, if mailed, postmarked on or before March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(g) Renewal.

(1) Applicants seeking renewal of a deeper nearshore species fishery permit must have held a deeper nearshore species fishery permit in the immediately preceding permit year.

(2) Applications [FG 1329 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of a deeper nearshore species fishery permit must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Applications for renewal must be accompanied by evidence that the qualification requirements specified in subsection (g)(1) have been met.

(h) A control date of December 31, 1999 is established for the purpose of developing a restricted access commercial nearshore fishery for those persons taking nearshore fish stocks not covered under other nearshore control dates or nearshore restricted access programs established in Section 150, Title 14, CCR. Species subject to this control date include only black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish. Landings of these species made after this date may not apply toward qualifying for participation in a future restricted access program for this component of the nearshore fishery.

(i) This section does not apply to those nearshore species for which a Nearshore Fishery Permit is required pursuant to Section 150.01.

NOTE: Authority cited: Sections 713, 1050, 7071 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7071, 7852.2, 7857, 7858, 8585.5 and 8587.1, Fish and Game Code.

HISTORY

1. New section filed 8–12–2002; operative 9–11–2002 (Register 2002, No. 33).
2. Amendment of section heading, section and NOTE filed 3–26–2003; operative 3–26–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13).
3. Amendment of subsections (e) and (g)(2) filed 3–29–2004; operative 3–29–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
4. Change without regulatory effect amending subsections (d) and (g)(2) and amending NOTE filed 5–10–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
5. Change without regulatory effect amending subsections (d) and (g)(2) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
6. Amendment of subsection (g)(2) and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 150.03. Nearshore Fishery Gear Endorsement Program.

(a) The following regulations govern the qualification, issuance and appeals process of a gear endorsement program for the commercial take of nearshore fish stocks.

(b) Nearshore fish stocks are those listed in Section 150.01, Title 14, CCR.

(c) Qualifications for Gear Endorsement. A transferable gear endorsement shall be issued upon application only to a person who has a valid 2003–2004 transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. A non–transferable gear endorsement shall be issued upon application only to a person who has a valid 2003–2004 non–transferable Nearshore Fishery Permit, issued pursuant to Section 150, Title 14, CCR, for a specific regional management area as defined in Section 52.04, Title 14, CCR. The following qualifying criteria shall be used to determine eligibility for either a transferable or non–transferable trap endorsement:

(1) North Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(*l*), Title 14, CCR. A trap endorsement shall be attached to the North Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002–2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(2) North–Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(*l*), Title 14, CCR. A trap endorsement shall be attached to the North–Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the following requirements:

(A) has a valid 2002–2003 general trap permit that has not been suspended or revoked, and

(B) has landed at least 1,000 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, between January 1, 1994 and October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the North–Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(3) South–Central Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish

stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(*l*), Title 14, CCR. A trap endorsement shall be attached to the South–Central Coast Region Nearshore Fishery Permit issued to a person who has satisfied the requirements of either (A), or (B) and (C) below:

(A) has a valid 2002–2003 finfish trap permit that has not be suspended or revoked, or

(B) has a valid 2002–2003 general trap permit that has not been suspended or revoked, and has landed at least 500 pounds of nearshore fish stocks as described in Section 150.01, Title 14, CCR, in each of 3 calendar years during the period January 1, 1994 through October 20, 2000 that were taken with trap gear.

(C) landings of nearshore fish stocks as described in Section 150.01, Title 14, CCR, used to qualify must have been made at ports located within the South–Central Coast Region as defined in Section 52.04, Title 14, CCR, as documented by department landing receipts submitted in his name and commercial fishing license identification number pursuant to Fish and Game Code Section 8046.

(4) South Coast Region Trap Endorsement. A trap endorsement allows the permittee to use trap gear when taking nearshore fish stocks as described in Section 150.01, Title 14, CCR, in addition to gear authorized under Section 150(*l*), Title 14, CCR. A trap endorsement shall be attached to the South Coast Region Nearshore Fishery Permit issued to a person who has a valid 2002–2003 finfish trap permit that has not been suspended or revoked.

(5) A non–transferable trap endorsement issued under this Section shall become null and void upon the death of the permit holder.

(d) Transfer of Nearshore Fishery Permit Gear Endorsements. The transfer of a Nearshore Fishery Permit gear endorsement is subject to the provisions of Section 150(g), Title 14, CCR. Only one Nearshore Fishery Permit gear endorsement is required to transfer the gear endorsement to a new permittee.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Permit Gear Endorsements. All applications (FG 1327(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a $50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Permit gear endorsements under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Permit Gear Endorsement Renewal Requirements. After April 1, 2004, notwithstanding Fish and Game Code Section 8587, Nearshore Fishery Permit gear endorsements for a regional management area will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Permit gear endorsement for that regional management area in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Permit Gear Endorsement Renewal. All applications [FG 1326 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Permit gear endorsements must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Permit gear endorsement for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a Nearshore Fishery Permit gear endorsement may appeal to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(i) Fees. Notwithstanding Fish and Game Code Section 8587, the fees for a Nearshore Fishery Permit gear endorsement under the restricted access program shall be as follows:

(1) The department shall charge an annual fee for each Nearshore Fishery Permit gear endorsement of $80.00.

(2) The department shall charge a non–refundable fee of $75 for each gear endorsement transfer.

(j) Revocation of Nearshore Fishery Permit Gear Endorsement. Any Nearshore Fishery Permit gear endorsement may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

(k) Notwithstanding Fish and Game Code Section 9001.5, a finfish trap permit is not required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR. A general trap permit, issued pursuant to Fish and Game Code Section 9001, is required when taking nearshore fish stocks under the authority of a Nearshore Fishery Permit and trap endorsement issued pursuant to sections 150 and 150.03, Title 14, CCR.

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7852.2, 8046, 8589.5, 8589.7, 9001 and 9001.5, Fish and Game Code.

HISTORY

1. New section filed 6–18–2001; operative 7–18–2001 (Register 2001, No. 25).
2. Amendment of section heading, section and NOTE filed 3–10–2003; operative 3–10–2003 pursuant to Government Code Section 11343.4 (Register 2003, No. 11).
3. Amendment of section and NOTE filed 3–29–2004; operative 3–29–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
4. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations, amending subsections (g), (i)(1)–(i)(2) and NOTE in accordance with section 713 of the Fish and Game Code, filed 5–11–2005; operative 6–10–2005 pursuant to the Commission's instructions (Register 2005, No. 19).
5. Change without regulatory effect amending subsections (g) and (i)(1)–(2) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
6. Amendment of subsection (g), repealer and new subsection (h)(2) and amendment of NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 150.04. Control Date for Gear Endorsement Program for Other Nearshore Species.

(a) A control date of October 20, 2000 is established for the purpose of developing and implementing a gear endorsement program for the commercial nearshore fishery for nearshore fish stocks not covered under other nearshore control dates or nearshore restricted access programs established in Section 150, Title 14, CCR, or Section 150.03, Title 14, CCR. Species subject to this control date include only black rockfish, blue rockfish, brown rockfish, calico rockfish, copper rockfish, monkeyface eel, olive rockfish, quillback rockfish and treefish.

(b) In addition to any other requirements the Commission may adopt, in order to be considered for inclusion in a future gear endorsement program described in subsection (a), a person must have made at least one landing of the nearshore species described in subsection (a). This landing must be in his/her own name and commercial fishing license identification number on or before the control date in subsection (a) using a specified gear type (traps and/or hook and line and/or nets) as documented by a fish landing receipt prepared pursuant to Fish and Game Code Section

8043 and submitted to the department pursuant to Fish and Game Code Section 8046.

(c) This section does not apply to those nearshore species for which a Nearshore Fishery Permit is required pursuant to Section 150.01.

NOTE: Authority cited: Sections 7071 and 8587.1, Fish and Game Code. Reference: Sections 7071, 8043, 8046, 8585.5, 8586 and 8587.1, Fish and Game Code.

HISTORY

1. New section filed 8–12–2002; operative 9–11–2002 (Register 2002, No. 33).
2. Amendment of subsections (a) and (b) filed 3–26–2003; operative 3–26–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 13).

§ 150.05. Nearshore Fishery Bycatch Permit Program.

(a) A Nearshore Fishery Bycatch Permit authorizing the take, possession aboard a vessel, or landing of nearshore fish stocks as described in Section 150.01, Title 14, CCR, and in the manner and amount described in subsections (b) and (d) below may be issued to a person who meets the following conditions:

(1) has a valid 2002–2003 Nearshore Fishery Permit that has not been suspended or revoked.

(2) The person is not eligible for a 2003–2004 Nearshore Fishery Permit, or the person is eligible for a 2003–2004 Nearshore Fishery Permit based on landings made with gear not authorized under Section 150 or 150.03, Title 14, CCR, and chooses not to convert to the gear authorized pursuant to Section 150, 150.03 or 150.17, Title 14, CCR.

(b) Gear Authorized for Use. Only trawl or entangling nets shall be used to take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under a Nearshore Fishery Bycatch Permit issued pursuant to this section.

(c) Nearshore Fishery Bycatch Permits are non–transferable and the permit becomes null and void upon the death of the permit holder.

(d) Trip Limits.

(1) Nearshore Fishery Bycatch Permit holders are subject to all state and federal cumulative trip limits pursuant to sections 150.16 and 189, Title 14, CCR. Pursuant to sections 150.06 and 189, Title 14, CCR, no retention of nearshore fish stocks is allowed when the directed nearshore fishery is closed.

(2) Notwithstanding, Section 120.3, Title 14, CCR, and Fish and Game Code Section 8496, a person holding a Nearshore Fishery Bycatch Permit may take, possess aboard a vessel, or land nearshore fish stocks as described in Section 150.01, Title 14, CCR, under the following trip limits:

(A) North Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(B) North–Central Coast Region. Zero (0) pounds of nearshore fish stocks may be taken per trip.

(C) South–Central Coast Region. Twenty–five (25) pounds of nearshore fish stocks may be taken per trip.

(D) South Coast Region. Fifty (50) pounds of nearshore fish stocks may be taken per trip.

(e) Application Deadline for Initial Issuance of Nearshore Fishery Bycatch Permits. All applications (FG 1328(1/03), incorporated herein by reference) and permit fees for initial issuance of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, be postmarked on or before June 30, 2003. Applications and permit fees for initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program received by the department, or, if mailed, postmarked from July 1 through July 31, 2003 will be assessed a $50 late fee. Applications and permit fees for the initial issuance of Nearshore Fishery Bycatch Permits under the restricted access program postmarked or received after July 31, 2003 shall be returned to the applicant unissued.

(f) Nearshore Fishery Bycatch Permit Renewal Requirements. Notwithstanding Fish and Game Code Section 8587, after April 1, 2004, Nearshore Fishery Bycatch Permits will be renewed annually by the department only to a person who has held a valid Nearshore Fishery Bycatch Permit in the immediately preceding permit year.

(g) Application Deadline for Nearshore Fishery Bycatch Permit Renewal. All applications [FG 1328 (Rev. 11/05), incorporated herein by reference] and permit fees for renewal of Nearshore Fishery Bycatch Permits must be received by the department, or, if mailed, postmarked on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Appeals.

(1) Any applicant who is denied initial issuance of a Nearshore Fishery Bycatch Permit for any reason may appeal to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked, no later than March 31, 2004. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's denial.

(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(i) Fees. The department shall charge an annual fee for each Nearshore Fishery Bycatch Permit of $213.25.

(j) Revocation of Nearshore Fishery Bycatch Permit. Any permit may be suspended, revoked, or cancelled by the commission upon conviction of a violation of any provision of these regulations or Fish and Game Code pertaining to the commercial take of nearshore fish stocks as described in Section 150.01, Title 14, CCR, or violation of the terms or conditions of the permit by the holder thereof, his agents, servants, employees or those acting under his direction and control.

NOTE: Authority cited: Sections 713, 1050 and 8587.1, Fish and Game Code. Reference: Sections 1050, 7850, 7852.2, 8496, 8587 and 8587.1, Fish and Game Code.

HISTORY

1. New section filed 3–10–2003; operative 3–10–2003 pursuant to Government Code Section 11343.4 (Register 2003, No. 11).
2. Amendment filed 3–29–2004; operative 3–29–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 14).
3. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations, amending subsections (g) and (i) and amending NOTE in accordance with section 713 of the Fish and Game Code, filed 5–11–2005; operative 6–10–2005 pursuant to the Commission's instructions (Register 2005, No. 19).
4. Change without regulatory effect amending subsections (g) and (i) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
5. Amendment of subsection (g), repealer and new subsection (h)(2) and amendment of NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 150.06. Management Areas Defined; Closure Periods Defined.

(a) Cowcod closure areas means both Area 1 and Area 2: Area 1, also termed the western cowcod conservation area adopted as federal groundfish regulations, is an area south of Point Conception bound by straight lines connecting the following points in the order listed:

33°50′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 118°50′ W. long.;
32°20′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°37′ W. long.;
33°00′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°53′ W. long.;
33°33′ N. lat., 119°30′ W. long.;
33°50′ N. lat., 119°30′ W. long.;

The transit corridor through the cowcod closure Area 1 is bounded on the north by the latitude line at 33°00′ 30″ N. lat., and on the south by the latitude line at 32°59′ 30″ N. lat., and Area 2, also termed the eastern cowcod conservation area adopted as federal groundfish regulations, that is a smaller area west of San Diego bound by straight lines connecting the following points in the order listed:

32°42′ N. lat., 118°02′ W. long.;
32°42′ N. lat., 117°50′ W. long.;
32°36′42″ N. lat., 117°50′ W. long.;
32°30′ N. lat., 117°53′30″ W. long.;
32°30′ N. lat., 118°02′ W. long.;
32°42′ N. lat., 118°02′ W. long.;

(b) Seasonal closure periods and in–season closures enacted due to quota attainment for commercial rockfish, a subgroup of rockfish, lingcod or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional explanation regarding fishing for federal groundfish in state waters.

(c) Seasonal closures for commercial sheephead, cabezon, and greenlings of the genus Hexagrammos:

(1) For ocean waters between 42°00′ N. lat. (the Oregon/California border) and 40°10′ N. lat. (near Cape Mendocino, Humboldt County), closed time periods for sheephead, cabezon, and greenlings of the genus Hexagrammos shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes for ocean waters between 40°10′ N. lat. (near Cape Mendocino) and 34°27′ N. lat. (at Point Conception, Santa Barbara County), noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in–season due to quota attainment do not apply.

(2) For ocean waters between 40°10′ N. lat. (near Cape Mendocino) and 34°27′ N. lat. (at Point Conception, Santa Barbara County), closed time periods for sheephead, cabezon, and greenlings of the genus Hexagrammos shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes in this area noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in–season due to quota attainment do not apply.

(3) For ocean waters between 34°27′ N. lat. (at Point Conception, Santa Barbara County) and the U.S./Mexico border, closed time periods for sheephead, cabezon, and greenlings of the genus Hexagrammos shall be defined as the time periods closed to commercial take of shallow and deeper nearshore rockfishes in this area noticed in the Federal Register by the National Marine Fisheries Service, or defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. Time periods closed to the commercial take of shallow or deeper nearshore rockfish fisheries enacted in–season due to quota attainment do not apply.

NOTE: Authority cited: Sections 7071, 7652 and 8587.1, Fish and Game Code. Reference: Sections 7071, 7652, 8585.5 and 8587.1, Fish and Game Code.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Repealer and new subsection (b), new subsection (c) and subsection relettering filed 12–30–2002; operative 1–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
3. Amendment of subsection (a) filed 12–31–2002; operative 12–31–2002. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652(d) (Register 2003, No. 1).
4. Repealer of subsection (d) filed 11–7–2003; operative 12–7–2003 (Register 2003, No. 45).
5. Repealer and new subsection (c), new subsections (c)(1)–(3) and amendment of NOTE filed 1–15–2004; operative 1–15–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 3).

§ 150.16. Commercial Take of Nearshore Fishes.

(a) Notwithstanding Section 8588(b) of the Fish and Game Code, minimum size limits (total length) are as follows:

(1) black–and–yellow rockfish (*Sebastes chrysomelas*) ... 10 in.
(2) cabezon (*Scorpaenichthys marmoratus*) ..... 15 in.
(3) California scorpionfish or sculpin (*Scorpaena guttata*) ..... 10 in.
(4) California sheephead (*Semicossyphus pulcher*) ..... 13 in.
(5) China rockfish (*Sebastes nebulosus*) ..... 12 in.
(6) gopher rockfish (*Sebastes carnatus*) ..... 10 in.
(7) grass rockfish (*Sebastes rastrelliger*) ..... 12 in.
(8) greenlings of the genus Hexagrammos (*Hexagrammos* spp.) ..... 12 in.
(9) kelp rockfish (*Sebastes atrovirens*) ..... 10 in.

(b) Species of nearshore fish stocks as defined in Section 1.90, Title 14, CCR, must be sorted by species prior to weighing and the weight reported separately on the Fish and Game receipt.

(c) Any nearshore fish listed under this section that are taken in a nearshore fishery shall be measured immediately upon being brought aboard the vessel and released immediately if not in compliance with the size limits specified.

(d) Regulations adopted to modify the minimum size limits or to specify maximum size limits shall be based on the best available scientific information and adopted pursuant to the Administrative Procedure Act following public notice and not less than one public hearing.

(e) Cumulative trip limits for sheephead, cabezon, greenlings of the genus Hexagrammos, California scorpionfish, and subgroups of rockfish.

(1) A cumulative trip limit is the total number of pounds of a species or a species group that may be taken and retained, possessed, or landed by an individual commercial licensee in a cumulative trip limit period without a limit on the number of landings or trips.

(2) Cumulative trip limit periods start at 0001 hours local time, end at 2400 hours local time, and are in two month periods as follows:

(A) January 1 through the last day of February,
(B) March 1–April 30,
(C) May 1–June 30,
(D) July 1–August 31,
(E) September 1–October 31,
(F) November 1–December 31.

(3) Landings toward a cumulative trip limit value for a defined cumulative trip limit period provided in this subsection are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(4) Any person landing species for which there is a cumulative trip limit established pursuant to this Section shall keep in their immediate possession copies of any and all reports of landings required by state laws or regulations throughout the cumulative limit period during which a landing occurred and for 15 days thereafter.

(5) Cumulative trip limit values noticed in the Federal Register by the National Marine Fisheries Service for the cumulative trip limit periods for shallow nearshore rockfish, deeper nearshore rockfish, and California scorpionfish apply to each individual California commercial licensee in addition to the federally–defined vessel–based limits. Landings are summed by an individual's California commercial license number listed on fish receipts submitted to the department pursuant to Section 8043, Fish and Game Code.

(6) Cumulative trip limits for sheephead, cabezon and greenlings.

(A) The cumulative trip limit per individual per two–month limit period when fishing is allowed pursuant to Section 150.06, Title 14, CCR, is as follows:

	Sheephead	*Cabezon*	*Greenlings*
January–February	2,000 pounds	300 pounds	25 pounds
March–April	2,000 pounds	100 pounds	25 pounds
May–June	2,400 pounds	250 pounds	25 pounds
July–August	2,400 pounds	150 pounds	25 pounds
September–October	2,400 pounds	900 pounds	25 pounds
November–December	2,400 pounds	100 pounds	25 pounds

(B) The department will evaluate year–to–date catch levels against total allowable catch limits defined in Section 52.10. Based on these data, when the department determines that cumulative trip limits defined in this Section need significant adjustment upward or downward (by 50 percent or more) in order to spread the allowable catches through the open season to the extent possible and prevent early attainment of the annual total allowable commercial catch, the cumulative trip limits defined in this Section may become inoperative and may be replaced with alternative limits as determined by the department. The department may perform these in–season analyses between May and September of each year;

and provide notification of changes by October 15 of each year, as described in subsection (e)(6)(C).

(C) The department shall give holders of nearshore fishery permits no less than 10 days notice of any cumulative trip limit change pursuant to this Section via a notification letter sent to the permittee's address on file with the department.

(D) When optimum yields, allocations, total allowable catches or other catch limits defined in Section 52.10 are reached, and action to close the fishery is taken pursuant to Section 52.10 subsection (b), cumulative trip limits defined in this Section become inoperative.

(f) All other trip limits (including daily, weekly and cumulative trip limits) established for commercial rockfish, a subgroup of rockfish, or California scorpionfish noticed in the Federal Register by the National Marine Fisheries Service shall apply in state waters within the geographic boundary areas defined in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660. See also Section 189, Title 14, California Code of Regulations for additional requirements regarding fishing for federal groundfish in state waters.

NOTE: Authority cited: Sections 240, 7071, 8587.1 and 8588, Fish and Game Code. Reference: Sections 240, 8585.5, 8587.1 and 8588, Fish and Game Code.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. New subsection (e) filed 8–23–2001 as an emergency; operative 9–1–2001 (Register 2001, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–31–2001 or emergency language will be repealed by operation of law on the following day.
3. New subsection (f) and amendment of NOTE filed 9–18–2001 as an emergency; operative 9–18–2001 (Register 2001, No. 38). A Certificate of Compliance must be transmitted to OAL by 1–16–2002 or emergency language will be repealed by operation of law on the following day.
4. New subsection (g) filed 11–8–2001 as an emergency; operative 11–8–2001 (Register 2001, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–8–2002 or emergency language will be repealed by operation of law on the following day.
5. Repealer of subsections (e)–(g) and new subsections (e)–(e)(6)(C) filed 12–30–2002 as an emergency; operative 1–1–2003 (Register 2003, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
6. Repealer of subsections (a) and (b) and subsection relettering filed 12–30–2002; operative 1–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 1).
7. Amendment of subsection (b), new subsections (c) and (d) and subsection relettering filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).
8. Reinstatement of section as it existed prior to 12–30–2002 order by operation of Government Code section 11346.1(f) (Register 2003, No. 45).
9. Repealer of subsections (e)–(g) and new subsections (e)–(f) filed 11–7–2003; operative 12–7–2003 (Register 2003, No. 45).
10. Amendment of subsection (e)(6)(A) filed 3–1–2005; operative 3–31–2005 (Register 2005, No. 9).

§ 150.17. Limitations on Number of Hooks and Area.

Excepting the provisions of Fish and Game Code subsection 9027.5(c), it is unlawful to use more than 150 hooks on a vessel, or to use more than 15 hooks per line, to take nearshore fish stocks for commercial purposes in ocean waters within one mile of shore within Fish and Game Districts 6, 7, and 10, or in ocean waters within one mile of the mainland shore in Fish and Game Districts 17, 18, and 19.

NOTE: Authority cited: Sections 7071 and 8587.1, Fish and Game Code. Reference: Sections 7050, 7051, 7055, 7060, 8585.5 and 9027.5, Fish and Game Code.

HISTORY

1. New section filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
2. Amendment of section and NOTE filed 1–9–2003; operative 2–8–2003 (Register 2003, No. 2).

§ 155. White Seabass, Commercial Take.

(a) Notwithstanding Fish and Game Code Section 8383, white seabass may not be taken for commercial purposes between March 15 and June 15, inclusive, between the United States–Mexico International Boundary and a line extending due west (true) from Point Conception, except that one white seabass not less than 28 inches in total length may be taken, possessed, and sold by a vessel each day if taken incidental to gill and trammel net fishing operations conducted under authority of a permit issued pursuant to Fish and Game Code Section 8681. Any fish so taken shall not be transferred to any other vessel.

(b) The restrictions in this section shall not apply to white seabass taken in waters lying south of the International Boundary Line between the United States and Mexico extended westerly into the Pacific Ocean. A current fishing permit issued by the Mexican Government is evidence that white seabass were taken south of the international boundary.

NOTE: Authority cited: Section 7071, Fish and Game Code. Reference: Section 7071, Fish and Game Code.

HISTORY

1. New section filed 6–2–2000; operative 6–2–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 22). For prior history, see Register 67, No. 50.

§ 155.01. White Seabass Commercial Size Limit:

It is unlawful to take, possess, sell, or purchase any white sea bass less than 28 inches in length, measured from the tip of the lower jaw to the end of the longer lobe of the tail.

NOTE: Authority cited: Sections 7071 and 7078, Fish and Game Code. Reference: Sections 7071, 7075, 7082 and 7083, Fish and Game Code.

HISTORY

1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 155.05. Use of Purse Seine and Roundhaul Nets and Delivery to California Ports.

(a) It is unlawful to use any purse seine or round haul net to take white seabass in waters off California.

(b) It is unlawful to possess any white seabass, except those taken south of the International Boundary Line between the United States and Mexico, and imported into the state pursuant to authority of subsections (c) and (d), on any boat carrying or using any purse seine or round haul net, including, but not limited to, a bait net defined pursuant to subsection 50.01(b), Title 14, CCR.

(c) White seabass taken in waters south of the International Boundary Line between the United States and Mexico, extended westerly in the Pacific Ocean, may be delivered to California ports aboard boats, including boats carrying purse seine or roundhaul nets in accordance with subsection (d) governing the inspection and marking of such fish imported into this State. The cost of such inspection and marking shall be paid by the importer.

(d) No person, firm, or corporation shall deliver, accept, or unload any white seabass from any vessel carrying a purse seine or roundhaul net until the Fish and Game Patrol office nearest the point of delivery shall have issued a written inspection clearance to the master or operator of such vessel, or his agent, permitting said delivery. Such clearances shall be issued upon presentation of evidence satisfactory to the Department of Fish and Game of the fact that such fish was taken south of the International Boundary Line between the United States and Mexico.

(e) Notwithstanding the provisions of this section, the department may issue permits to hook–and–line commercial fishermen to possess a bona fide bait net on their vessels for the purpose of taking bait for their own use only.

NOTE: Authority cited: Sections 7071 and 7083, Fish and Game Code. Reference: Sections 2362, 7071, 7075, 7082, 7083 and 8623 Fish and Game Code.

HISTORY

1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 155.10. Gill Net Mesh Size, Closed Season, Possession of Thresher and Shortfin Mako.

(a) Gill nets with meshes of a minimum length of six inches may be used to take white seabass. However, during the period from June 16 to March 14, inclusive, not more than 20 percent by number of a load of fish may be white seabass 28 inches or more in total length, up to a maximum of 10 white seabass per load, if taken in gill nets with meshes from 3 1/2 to 6 inches in length.

(b) In accordance with Fish and Game Code Section 8576, during the period from February 1 to August 14, inclusive, not more than two thresher sharks and two shortfin mako sharks may be possessed and sold if taken incidentally in drift gill nets while fishing for white seabass and if at least five white seabass are possessed and landed at the same time as the incidentally taken thresher or shortfin mako shark.

NOTE: Authority cited: Sections 7071 and 7083, Fish and Game Code. Reference: Sections 7071, 7075, 7082, 7083, 8576 and 8623, Fish and Game Code.

HISTORY
1. New section filed 7–31–2002; operative 8–30–2002 (Register 2002, No. 31).

§ 156. Sardines, Limit of Catch for Reduction Purposes.

NOTE: Authority cited: Section 1068, Fish and Game Code. Current authority: Sections 8075–8080, Fish and Game Code.

HISTORY
1. Expired by own terms (Register 58, No. 15). For prior history, see Register 28, No.5.

§ 157. Importation of Sardines for Bait.

All persons importing sardines for bait must send a copy of the incoming foreign manifest or bill of lading to the Department of Fish and Game, 245 W. Broadway, Long Beach, California 90802. The foreign manifest or bill of lading must show the country of origin of the sardines and the weight of the shipment.

The importer shall also advise the above office of the location where the imported sardines will be stored. Each sale of sardines to other than the actual consumer must be reported to the department. The report must show the name and address of the consignee and consignor and the date and weight of the shipment.

A copy of the foreign manifest or bill of lading, together with a notice of location of sardine storage, and a report of each subsequent sale of the sardines, must be sent to the department at the above address within 48 hours of the transaction.

Imported sardines sold at retail must be delivered to the consumer in packages or containers showing the name of the dealer, the weight of the contents of each package or container, the country of origin, and a statement that the sardines were legally imported for sale as bait.

NOTE: Authority cited: Section 8150.5, Fish and Game Code.

HISTORY
1. New section filed 3–12–74; effective thirtieth day thereafter (Register 74, No. 11).
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Page reprinted to correct paging error (Register 81, No. 47).
4. Editorial correction filed 12–29–82 (Register 83, No. 1).

§ 158. Sardines.

(a) Pursuant to Section 190 of these regulations, a permittee taking sardines for bait under the provisions of Fish and Game Code Section 8152 shall complete and submit a record of daily fishing activity on a form (Live Bait Log, DFG 158 (10/89), see Appendix A) provided by the Department.

(b) The fee for a Sardine Permit issued pursuant to Section 8150.7 of the Fish and Game Code and for a Sardine Live–Bait Permit issued pursuant to Section 8152 of the Fish and Game Code shall be the same as the permit fee authorized by Section 699, Title 14, CCR.

NOTE: Authority cited: Sections 1050, 8026 and 8152, Fish and Game Code. Reference: Sections 1050, 8026, 8150.7 and 8152, Fish and Game Code.

HISTORY
1. New section filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
2. New subsection (a) designator and subsection (b) and amendment of NOTE filed 5–11–92; operative 6–10–92 (Register 92, No. 19).

§ 159. Commercial Fishing for Coastal Pelagic Species.

(a) General provisions. No person shall engage in commercial fishing for coastal pelagic species (CPS) except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of Commerce pursuant to the Magnuson Fishery Conservation and Management Act and published in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660 are hereby incorporated and made a part of these regulations. Federal regulations shall be made available upon request from the Department of Fish and Game, Marine Region, 1416 Ninth Street, Box 944209, Sacramento, CA 94244–2090, phone number 916–653–6281.

(b) General Definitions. For purposes of these regulations, the following definitions shall apply:

(1) *Actively managed species (AMS).* Those CPS for which the Secretary has determined that harvest guidelines or quotas are needed by Federal management according to the provision of the federal CPS Fishery Management Plan.

(2) *Advisory Subpanel (AP).* The Coastal Pelagic Species Advisory Subpanel that comprises members of the fishing industry and public appointed by the Council to review proposed actions for managing the coastal pelagic fisheries.

(3) *Biomass.* The estimated amount, by weight, of a coastal pelagic species population. The term biomass means total biomass (age 1 and above) unless stated otherwise.

(4) *Closure.* Taking and retaining, possessing, or landing the particular species or species group is prohibited. Unless otherwise announced in the Federal Register, offloading must begin before the time the fishery closes.

(5) *Coastal pelagic species (CPS).* Includes northern anchovy (*Engraulis mordax*), Pacific mackerel (*Scomber japonicus*), Pacific sardine (*Sardinops sagax*), jack mackerel (*Trachurus symmetricus*), and market squid (*Loligo opalescens*).

(6) *Coastal Pelagic Species Management Team (CPSMT).* The individuals appointed by the Council to review, analyze, and develop management measures for the CPS fishery.

(7) *Council.* The Pacific Fishery Management Council, including its CPSMT, AP, Scientific and Statistical Committee (SSC), and any other committee established by the Council.

(8) *Federally Designated Routine Management Measures.* Routine Management Measures, identified as catch restrictions intended to keep landings within the harvest levels announced by the Secretary of Commerce and noticed in the Federal Register by the National Marine Fisheries Service, are hereby incorporated and made a part of these regulations. Should any federal management measures conflict with existing statutes, including Fish and Game Code Sections 8496 and 8842(b), or regulations of the commission, the provisions in the statutes or regulations which conflict with the federal management measures are made inoperative.

(9) *Finfish.* For the purpose of this section only, finfish includes northern anchovy, Pacific mackerel, Pacific sardine, and jack mackerel, but excludes market squid.

(10) *Fishery Management Area.* The EEZ off the coasts of Washington, Oregon, and California between 3 and 200 nautical miles offshore, bounded in the north by the Provisional International Boundary between the United States and Canada, and bounded in the south by the International Boundary between the United States and Mexico.

(11) *Fishing trip.* A period of time between landings when fishing is conducted.

(12) *Harvest guideline.* A specified numerical harvest objective that is not a quota. Attainment of a harvest guideline does not require complete closure of a fishery.

(13) *Harvesting vessel.* A vessel involved in the attempt or actual catching, taking or harvesting of fish, or any activity that can reasonably be expected to result in the catching, taking or harvesting of fish.

(14) *Land* or *Landing.* To begin transfer of fish from a fishing vessel. Once transfer begins all fish onboard the vessel are counted as part of the landing.

(15) *Limited entry fishery.* The commercial fishery consisting of vessels fishing for CPS in the CPS Management Zone under limited entry permits issued under § 660.512.

(16) *Live bait fishery.* Fishing for CPS for use as live bait in other fisheries.

(17) *Monitored species (MS).* Those CPS the Secretary has determined not to need management by harvest guidelines or quotas according to the provisions of the FMP.

(18) *Nonreduction fishery.* Fishing for CPS for use as dead bait or for processing for direct human consumption.

(19) *Owner.* A person who is identified as the current owner in the Certificate of Documentation (CG–1270) issued by the U.S. Coast Guard for a documented vessel, or in a registration certificate issued by a state or the U.S. Coast Guard for an undocumented vessel.

(20) *Person.* Any individual, corporation, partnership, association or other entity (whether or not organized or existing under the laws of any

state), and any Federal, state, or local government, or any entity of any such government that is eligible to own a documented vessel under the terms of 46 U.S.C. 12102(a).

(21) *Processing* or *to process.* Preparing or packaging coastal pelagic species to render the fish suitable for human consumption, pet food, industrial uses or long–term storage, including, but not limited to, cooking, canning, smoking, salting, drying, filleting, freezing, or rendering into meal or oil, but does not mean heading and gutting unless there is additional preparation.

(22) *Prohibited Species.* All species of trout and salmon (*Salmonidae*) and Pacific Halibut (*Hippoglossus stenolepis*).

(23) *Quota.* A specified numerical harvest objective for a single species of CPS, the attainment (or expected attainment) of which causes the complete closure of the fishery for that species.

(24) *Reduction fishery.* Fishing for CPS for the purposes of conversion into fish flour, fish meal, fish scrap, fertilizer, fish oil, other fishery products, or byproducts for purposes other than direct human consumption.

(25) *Regional Administrator.* The Regional Administrator, Southwest Region, NMFS, 501 W. Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213, or a designee.

(26) *Reserve.* A portion of the harvest guideline or quota set aside at the beginning of the year for specific purposes, such as for individual harvesting groups to ensure equitable distribution of the resource or to allow for uncertainties in preseason estimates of DAP and JVP.

(27) *Secretary.* The Federal Secretary of Commerce.

(28) *Sustainable Fisheries Division (SFD).* The Assistant Regional Administrator for Sustainable Fisheries, Southwest Region, NMFS, or a designee.

(29) *Totally lost.* The vessel being replaced no longer exists *in specie,* or is absolutely and irretrievably sunk or otherwise beyond the possible control of the owner, or the costs of repair (including recovery) would exceed the repaired value of the vessel.

(30) *Trip limit.* The total allowable amount of a CPS species by weight or by percentage of weight of fish on board the vessel that may be taken and retained, possessed, or landed from a single fishing trip by a vessel that harvests CPS.

NOTE: Authority cited: Section 7652, Fish and Game Code. Reference: Sections 7650–7653, 8150.7 and 8411, Fish and Game Code.

HISTORY

1. New section filed 9–24–2001; operative 10–24–2001. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652(d) (Register 2001, No. 39).
2. Amendment of subsection (b)(9) filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

§ 163. Harvest of Herring.

Herring may be taken for commercial purposes only in those areas and by those methods specified in subsections (f)(1) and (f)(2) of this section under a revocable permit issued to an individual on a specified fishing vessel by the department. Transfer of permits from one boat to another may be authorized by the department upon written request by the permittee, accompanied by a copy of the current commercial boat registration of the new vessel. The fee for any approved transfer or substitution of a permit pursuant to this paragraph shall be $50 for any request received by the department after November 15, and must be submitted with the transfer or substitution request to the department's License and Revenue Branch office. Any permittee denied a transfer pursuant to this paragraph may request a hearing before the commission to show cause why his request should not be denied. Permittees shall have their permit in their possession (including the attachment of any changes approved by the department after the permit is issued) and shall be aboard the vessel named on their permit at all times during herring fishing operations, except that the department may authorize a permittee to have a crew member temporarily serve in his or her place aboard the vessel during a season. Requests for temporary permittee substitution must be submitted in writing by the permittee, accompanied by a copy of the temporary substitute's current California commercial fishing license. Two permits may be jointly fished on a single vessel upon approval of a written request by both permittees to the department. A permittee may simultaneously fish his or her own permit and a permit temporarily transferred to him or her on a single vessel within the same fishing group. A permittee serving as a temporary substitute on a permit while simultaneously fishing his or her own permit on a single vessel in the same fishing group shall incur the same penalties on his/her permit for all violations as those incurred against the permit for which he/she is serving as temporary substitute as prescribed in these regulations and in Section 163.5, Title 14, CCR. A person may not serve as a temporary substitute on more than one permit simultaneously on a single vessel in the same fishing group. Any request received by the department from November 1 to November 15 to transfer boats or substitute a permit or to simultaneously fish two permits on a single vessel shall be processed for approval by the department after November 15.

(a) Qualifications of Permittee. To obtain a permit to take herring a person shall:

(1) Be a currently licensed California commercial fisherman. When a permit is held in partnership (pursuant to the provisions of Section 8552.6 of the Fish and Game Code), both partners must be currently licensed California commercial fishermen.

(2) Have been a permittee during the previous herring season.

(3) Qualify for an odd– or even–numbered permit as specified in subsection (c)(1)(B).

(4) Qualify for a "DH" gill net permit as specified in subsection (c)(1)(C).

(5) Have submitted a release of property forms and payment for all herring landed in excess of the established quota as specified in subsection (e)(5) of these regulations, and all fees from prior seasons.

(6) Any person denied a permit under these regulations may request a hearing before the commission to show cause why his or her permit should not be denied.

(b) Permit Applications. Each applicant for a herring permit shall:

(1) Completely fill out and submit the required department application form (FG 1377 (Rev. 3/07), incorporated by reference herein available at the department's License and Revenue Branch, Sacramento). Applications shall include the filing fee, as specified in section 8550.5 of the Fish and Game Code, and copies of the current California boat registration and commercial fishing license of the applicant.

(2) Permittees will be issued permits for the same area and gear type they held during the previous season. In San Francisco Bay, round haul permittees who transferred gear type to gill net were designated as CH–(600–642)–SF permittees. For every conversion of gear type to gill net by a round haul permittee, the amount of herring allocated to each round haul permittee was transferred from the round haul quota to the gill net quota. For each round haul permit converted prior to October 6, 1995, fishing with gill net gear is authorized in two of the following fishing periods: odd–numbered permits, even–numbered permits, or December herring ("DH") permits. The permitholder of a converted round haul ("CH") permit is permanently assigned to the two fishing groups ("DH", odd–, or even–numbered permit) he or she designated. For every conversion of gear type to gill net by a round haul permittee after October 6, 1995 but before October 2, 1998, the permit is permanently in the two fishing groups ("DH", odd–, or even–numbered permit) assigned by the department. All remaining round haul permits as of October 3, 1998 were converted to gill net permits and assigned to a single gill net group.

Upon transfer, the department assigned each converted "CH" permit to a single gill net group ("DH", odd numbered, or even–numbered permit) as designated by the permitholder. A round haul herring permit, held in partnership prior to November 3, 1994 and subsequently converted to a "CH" permit prior to October 2, 1998, is not subject to assignment to a single gill net group upon transfer to one of the partners.

(3) Permit Renewal. Applications for renewal of all herring permits shall be received by the department, or if mailed, postmarked, on or before the first Friday of October each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(4) Subsections (a)(2) and (b) do not apply to permits issued for taking herring in ocean waters or to fresh fish market permits.

(c) Permits.

(1) Permits to take herring for roe purposes will be issued by the department beginning November 15. Permits will be sent by first class mail to the permittees. Not more than three permits shall be issued for Crescent City and not more than four permits shall be issued for Humboldt Bay.

No new round haul permits shall be issued for San Francisco Bay. No new gill net permits shall be issued for the Tomales Bay permit area until the maximum number of permits is less than 35. No new odd– or even–numbered gill net permits shall be issued for San Francisco Bay until the maximum number of permits is less than 160. No new "DH" permits shall be issued until the maximum number of permits is less than 80. The permittee shall be responsible for all crew members acting under his or her direction or control to assure compliance with all Fish and Game regulations as provided in this section, or in the Fish and Game Code, relating to herring.

(A) The total number of gill net permits issued to individuals not qualifying under subsection (a)(2) shall be the difference in number of permittees meeting such qualifications and the total number of gill net permits authorized by the commission in subsection (c)(1).

(B) Individuals not qualifying under subsection (a)(2) will be eligible to apply for any available odd– or even–numbered gill net permits provided they are a currently licensed California commercial fisherman.

(C) Individuals not qualifying and receiving permits under subsections (a)(2) or (c)(1)(B) will be eligible to apply for any available "DH" gill net permits provided they are a currently licensed California commercial fisherman.

(D) In the event that the number of eligible applicants qualifying under subsections (c)(1)(B) or (c)(1)(C) exceeds the available permits, a lottery shall be held.

(E) Preferential status will not be given for participation on vessels with permits specified in subsections (c)(2) and (c)(3) of this section.

(2) Fresh Fish Market. Ten permits will be issued to take herring for the fresh fish market in San Francisco Bay and five in Tomales Bay. See subsection 699(b) of these regulations for the fee for this permit. However, no permittee may take or possess herring except in the amount specified on a current daily market order, not to exceed 500 pounds, from a licensed fish dealer. Fresh fish market permits will be issued beginning November 1 at the department's License and Revenue Branch, Sacramento. In the event there are more applicants than the specified number of available fresh fish permits, a lottery will be held to determine the permittees. Applicants may apply for only one bay. Fresh fish market permits shall be in force from November 2 through November 15 and April 1 through October 31.

(3) Ocean Waters. Permits to take herring in ocean waters will be issued by the department at its offices in Monterey, the San Francisco Bay area and Eureka. See subsection 699(b) of these regulations for the fee for this permit.

Herring taken under the authority of subsections (c)(2) and (c)(3) may not be sold for roe purposes.

(d) Vessel Identification. The master of any boat engaged in taking herring under these regulations shall at all times while operating such boat, identify it by displaying on an exposed part of the superstructure, amidship, on each side of the house and visible from the air, the herring permit number of that vessel in 14–inch high, 2–inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently fixed to each side of the vessel.

(e) Monitoring of Herring.

(1) Herring taken for roe purposes may only be delivered to a person licensed pursuant to subsection (j) of these regulations.

(2) Gill net permittees shall notify the department's San Francisco Bay Area Marine Region office within 24 hours if they terminate fishing operations for the season prior to the overall quota being taken.

(3) The department will estimate from the current trend of individual boat catches the time at which the herring season catch will reach any quota permitted under these regulations and will publicly announce that time on VHF/Channel 16. It shall be the responsibility of all permittees to monitor this radio channel at all times. Any announcement made by the department on VHF/Channel 16 shall constitute official notice. All fishing gear must be removed from the water by the announced time terminating fishing operations. The department may announce a temporary closure for the gill net fishery in order to get an accurate tally of landings and to allow all boats to unload. If the fishery is reopened, permittees may be placed on allotted tonnages to preclude exceeding a quota and, if necessary, additional time may be granted to reach the quotas.

(4) It is unlawful to transfer herring or herring nets from one permittee to another or from one boat to another, or from one gear type to another except that, nonmotorized lighters may be used, provided they do not carry aboard any gear capable of taking herring, including net reels, and that the catches of not more than one permittee are aboard the lighters at any time. Permit vessels shall not serve as lighters for other permit boats. In San Francisco Bay a permittee and his/her gear must stay together when delivering fish to market. Except as specified in subsection (e)(6) of these regulations, all fish taken by gill nets shall be retained and landed. Gill net permit vessels may not be used to assist in herring fishing operations during their off–week.

(5) All herring landed in excess of any established permit quota shall be forfeited to the department by the signing of a Release of Property form (FG–MR–674 (Rev. 5/02)), which is incorporated by reference herein. Such fish shall be sold or disposed of in a manner determined by the department. The proceeds from all such sales shall be paid into the Fish and Game Preservation Fund.

(6) Sturgeon, halibut, salmon, steelhead and striped bass may not be taken by or possessed on any vessel operating under the authority of these regulations. All sturgeon, halibut, salmon, steelhead and striped bass shall be returned immediately to the water.

(f) Methods of Take.

(1) For purposes of this section regarding harvest of herring: San Francisco Bay is defined as the waters of Fish and Game districts 12 and 13 and that portion of district 11 lying south of a direct line extending westerly from Peninsula Point, the most southerly extremity of Belvedere Island (37 degrees 51 minutes 43 seconds N, 122 degrees 27 minutes 28 seconds W), to the easternmost point of the Sausalito ferry dock (37 degrees 51 minutes 30 seconds N, 122 degrees 28 minutes 40 seconds W); Tomales Bay is defined as the waters of district 10 lying south of a line drawn west, 252 degrees magnetic, from the western tip of Tom's Point (38 degrees 12 minutes 53 seconds N, 122 degrees 57 minutes 11 seconds W) to the opposite shore (38 degrees 12 minutes 44 seconds N, 122 degrees 57 minutes 42 seconds W); ocean waters are limited to the waters of districts 6 (excluding the Crescent City area), 7, 10 (excluding Tomales Bay), 16 and 17 (except as specified in subsection (h)(6) of these regulations); Humboldt Bay is defined as the waters of districts 8 and 9; Crescent City area is defined as Crescent City Harbor and that area of the waters of district 6 less than 20 fathoms in depth between two nautical measure lines drawn due east and west true from Point Saint George (41 degrees, 47 minutes, 07 seconds N, 124 degrees, 15 minutes, 16 seconds W) and Sister Rocks (41 degrees, 39 minutes, 31 seconds N, 124 degrees 08 minutes 43 seconds W).

(2) The use of round haul nets to take herring for roe purposes is prohibited. The use of round haul nets to take herring is prohibited except in ocean waters (as defined in subsection (f)(1) of these regulations).

(A) No permittee shall possess or fish more than a total of 65 fathoms (1 shackle) of gill net, as measured at the cork line, in San Francisco and Tomales bays. Said gill nets shall not exceed 120 meshes in depth. In Humboldt Bay and Crescent City Harbor, no permittee shall possess or fish in combination more than 150 fathoms of gill net. Fresh fish permittees shall not possess or fish more than 65 fathoms (1 shackle).

Set gill nets shall be anchored by not less than 35 pounds of weight at each end, including chain; however, at least one–half of the weight must be anchor. Gill nets shall be tended at all times in San Francisco Bay. Tended means the registered gill net permittee shall be in the immediate

proximity, not exceeding three nautical miles, of any single gill net being fished.

(B) In Tomales Bay, the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2 inches or greater than 2 1/2 inches, except that four permittees (designated by the department in writing) participating in department–sponsored research on mesh size may use gill nets approved by the department with mesh less than the size designated herein. In Humboldt Bay and Crescent City Harbor the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2 1/4 inches or greater than 2 1/2 inches. In San Francisco Bay the length of the meshes of any gill net used or possessed in the roe fishery shall not be less than 2 or greater than 2 1/2 inches, except that six permittees (designated by the department in writing) participating in department–sponsored research on mesh size may use gill nets of another size approved by the department. The meshes of any gill net used or possessed by fresh fish permittees shall not be greater than 2 inches.

Length of the mesh shall be the average length of any series of 10 consecutive meshes measured from the inside of the first knot and including the last knot when wet after use; the 10 meshes, when being measured, shall be an integral part of the net as hung and measured perpendicular to the selvages; measurements shall be made by means of a metal tape measure while 10 meshes are suspended vertically under one–pound weight, from a single stainless steel peg or nail of no more than 5/32 inch in diameter. In Humboldt Bay and Crescent City Harbor, the length of any series of 10 consecutive meshes as determined by the above specification shall not be less than 22 1/2 inches or greater than 25 inches. In Tomales Bay, the length of any series of 10 consecutive meshes as determined by the above specifications shall not be less than 20 inches or greater than 25 inches. In San Francisco Bay, the length of any series of 10 consecutive meshes as determined by the above specification shall not be less than 20 inches or greater than 25 inches.

(C) No net shall be set or operated to a point of land above lower low water or within 300 feet of the following piers and recreation areas: Berkeley Pier, Paradise Pier, San Francisco Municipal Pier between the foot of Hyde Street and Van Ness Avenue, Pier 7 (San Francisco), Candlestick Point State Recreation Area, the jetties in Horseshoe Bay, and the fishing pier at Fort Baker. No net shall be set or operated within 70 feet of the Mission Rock Pier. In the Crescent City area and Humboldt Bay gill nets may be set or operated within 300 feet of any pier.

(D) No nets shall be set or operated in Belvedere Cove north of a line drawn from the tip of Peninsula Point (37 degrees 51 minutes 43 seconds N, 122 degrees 27 minutes 28 seconds W) to the tip of Elephant Rock (southwest of Pt. Tiburon at 37 degrees 52 minutes 19 seconds N, 122 degrees 27 minutes 03 seconds W). Also, no gill nets shall be set or operated from November 15 through February 15 inside the perimeter of the area bounded as follows: beginning at the middle anchorage of the western section of the Oakland Bay Bridge (Tower C at 37 degrees, 47 minutes, 54 seconds N, 122 degrees, 22 minutes, 40 seconds W) and then in a direct line southeasterly to the Lash Terminal buoy #5 (G"5" buoy, flashing green 4s at 37 degrees, 44 minutes, 23 seconds N, 122 degrees, 21 minutes, 36 seconds W), and then in a direct line southeasterly to the easternmost point at Hunter's Point (Point Avisadero at 37 degrees, 43 minutes, 44 seconds N, 122 degrees, 21 minutes, 26 seconds W) and then in a direct line northeasterly to the Anchorage #9 buoy "A" (Y"A" buoy, flashing yellow 4s at 37 degrees, 44 minutes, 46 seconds N, 122 degrees, 19 minutes, 25 seconds W) and then in a direct line northwesterly to the Alameda N.A.S. entrance buoy #1 (G"1" buoy, flashing green 4s at the entrance to Alameda Carrier Channel, 37 degrees, 46 minutes, 38 seconds N, 122 degrees, 20 minutes, 27 seconds W) and then in a direct line northwesterly to the Oakland Harbor Bar Channel buoy #1 (G"1" buoy, flashing green 2.5s at 37 degrees, 48 minutes, 15 seconds N, 122 degrees, 21 minutes, 23 seconds W) and then in a direct line southwesterly to the point of beginning. (Tower C of the Oakland Bay Bridge, at 37 degrees, 47 minutes, 54 seconds N, 122 degrees, 22 minutes, 40 seconds W).

(E) No boats or nets shall be operated or set in violation of existing state regulations applying to the navigation or operation of fishing vessels in any area, including but not limited to San Francisco Bay, Tomales Bay, Humboldt Bay and Crescent City Harbor.

(F) Gill nets shall be marked at both ends with a buoy displaying above its waterline, in Roman alphabet letters and Arabic numerals at least 2 inches high, the official number of the vessel from which such net is being fished. Buoys shall be lighted at both ends using matching white or amber lights that may be seen for at least a distance of 100 yards and marked at both ends with matching flags or markers or placards, all of rigid or non–collapsible material of the same color, on a staff at least 3 feet above the water at each end, bearing the herring permit number in contrasting 4–inch black letters.

(G) The use of explosives, seal bombs, or marine mammal deterrent devices in the herring fishery is prohibited inside the waters of San Francisco Bay during the herring season.

(H) All San Francisco Bay herring permittees or their temporary substitutes shall recognize city ordinances governing transient noise sources, when fishing within 500 feet of any shoreline with residential dwellings, between the hours of 10:00 p.m. and 7:00 a.m. through implementation of noise reduction measures specified or developed by the herring fishing industry and approved by the department. Noise reduction measures include, but are not limited to: noise dampening devices for shakers and anchor chains, muffled engine exhaust systems, limited use of deck speakers, and/or reduced speed within 500 feet of shore.

(g) Quotas.

(1) Crescent City Area: The total take of herring in the Crescent City area for commercial purposes by use of gill net only shall not exceed 30 tons per season.

(2) Humboldt Bay: The total take of herring in Humboldt Bay for commercial purposes by use of gill net only shall not exceed 60 tons per season.

(3) Tomales Bay: The total take of herring for commercial purposes by use of gill net only shall be 350 tons per season.

(A) The total take of herring for the fresh fish market shall not exceed 10 tons per season.

(4) San Francisco Bay: The total take of herring in San Francisco Bay for commercial purposes shall not exceed 1,094 tons (gill net permittees plus fresh fish allocation) for the 2007–08 season. Tonnage shall be allocated on the following basis:

(A) Gill net permittees (including "CH" permittees): 1,074 tons (1,094 tons minus fresh fish allocation). Tonnage shall be allocated to each fishing group ("DH", odd, and even) in proportion to the number of permits that are assigned to each fishing group minus the number of permits in each platoon that are suspended for the entire season. Each gill net permittee (designated by the department in writing) participating in research sponsored by the department shall be assigned an individual quota equal to 0.5 percent of the season gill net quota per assigned platoon, unless provided for pursuant to subsection (g)(4)(B) of these regulations.

(B) The total take of herring for the fresh fish market shall not exceed 20 tons per season, except that 10 tons total may be transferred, in proportion determined by the department, to gillnet permittee(s) participating in research sponsored by the department pursuant to subsection (g)(4)(A) of these regulations.

(5) Ocean Waters: Herring may not be taken for roe purposes.

(h) Season.

(1) Humboldt Bay: The season shall be from noon on January 2 until noon on March 9.

(2) Crescent City: The season shall be from noon on January 14 until noon on March 23.

(3) San Francisco Bay: The season shall be from 5 p.m. on Sunday, December 2, 2007 until noon on Friday, December 21, 2007 and from 5 p.m. on Wednesday, January 2, 2008 until noon on Friday, March 21, 2008.

(A) In San Francisco Bay, gill net permittees with even permit numbers and "CH" permittees assigned to the "even" fishing group shall be permitted to fish only on the following dates: January 6–11, January 20–25, February 3–8, February 17–22, March 2–7, and March 16–21.

(B) In San Francisco Bay, gill net permittees with odd permit numbers and "CH" permittees assigned to the "odd" fishing group shall be permitted to fish only on the following dates: January 2–4, January 13–18, January 27–February 1, February 10–15, February 24–29, and March 9–14.

(C) In San Francisco Bay, gill net permittees with "DH" permit numbers and "CH" permittees assigned to the "DH" fishing group shall be permitted to fish only on the following dates: December 2–7, December 9–14 and December 16–21. In the event permittees described under subsections (h)(3)(A) and (h)(3)(B) both reach their quotas pursuant to subsection (g)(4)(A), "DH" permittees, on notification by the department, may resume fishing operations until such group has reached the successive established termination date or quota.

(D) No more than six gill net permittees (designated in writing by the department) participating in research sponsored by the department shall be permitted to fish, under the direction of the department, from 5 p.m. on Sunday, December 2, 2007 until noon on Friday, December 21, 2007 and from 5 p.m. on Wednesday, January 2, 2008 until noon on Friday, March 21, 2008.

(4) In Tomales Bay, the season shall be from noon on Wednesday, December 26, 2007 until noon Friday, February 29, 2008.

(5) Herring fishing in San Francisco Bay is not permitted from noon Friday through 5:00 p.m. Sunday night. Herring fishing is allowed in Tomales Bay from noon Friday through 5:00 p.m. Sunday night if the department is reimbursed for the cost of operations. The department shall submit a detailed invoice of its cost of operations within 30 days of providing the service. Party shall remit payment to the department within 30 days of the postmark date of the department's invoice.

(6) Ocean Waters: The season shall be from April 1 to October 31 for all authorized fishing gear except in districts 16 and 17 where the season shall be from April 1 to November 30.

(7) In the event permittees described under subsections (h)(3)(A) or (h)(3)(B) reach their quota pursuant to subsection (g)(4)(A), the alternate group of permittees on notification by the department may commence fishing operations until such group has reached the successive established termination date or quota.

(i) Any permit issued pursuant to this section may be suspended or revoked at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery by a court of competent jurisdiction. A permittee whose permit has been suspended or revoked for conviction of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery may request a hearing before the commission to show cause why his/her herring fishing privileges should be restored. A person whose herring permit has been revoked by the commission shall not participate in any herring fishery during the following season. A person whose herring permit has been suspended for the entire season by the commission shall not participate in any herring fishery during the season the permit is suspended. A person whose herring permit has been suspended for a period less than the entire season by the commission shall not participate in any herring fishery during the period that the permit is suspended. If a herring permit that had a temporary substitute is suspended by the commission due to the actions of the temporary substitute, the person who acted as the temporary substitute shall not participate in any herring fishery during the following season during the period that the permit is suspended. If a herring permit that had a temporary substitute is revoked by the commission due to the actions of the temporary substitute, the person who acted as the temporary substitute shall not participate in any herring fishery during the following season. If a herring permittee is convicted of a violation, or if the permit is suspended or revoked, due to the actions of a temporary substitute who is simultaneously fishing his or her own permit on a single vessel in the same fishing group, the person who was acting as the temporary substitute will receive the same penalty against his/her own permit as received by the permittee, pursuant to these regulations and Section 163.5, Title 14, CCR. For Category II violations prescribed in Section 163.5(f) against a permit due to the actions of a temporary substitute while simultaneously fishing his/her own permit, equal points or penalties shall be assigned to the permit owned by the temporary substitute.

(j) Herring Buyer's Permit. A holder of a current fish receiver's license shall obtain a permit to buy herring for roe purposes for each fishing area specified in subsection (f)(1) of these regulations and approved by the department. After approval of an application and payment of the $750 filing fee (filing fees in Humboldt Bay and Crescent City area shall be waived), a revocable, nontransferable permit to buy herring for roe purposes may be issued subject to the following regulations:

(1) The permittee shall permanently mark all vehicles, containers or pallets with individualized serial numbers and predetermined tare weights.

The serial number and predetermined tare weight shall be permanently marked in letters, and numerals at least 3 inches high on each side of vehicle container or pallet.

(2) A landing receipt must be made out immediately upon completion of weighing of any single boat load (hereinafter "load") of herring of a permittee. A sample of herring for roe testing purposes shall be taken from every load. No herring shall be taken for testing purposes from a load that has not first been weighed and recorded.

(A) The landing receipt for each vessel must be completed and signed by both the herring permittee and a certified weighmaster or his/her deputy prior to commencing unloading operations of another vessel.

(B) The weighmaster or deputy filling out the landing receipt must include all information required by Fish and Game Code Section 8043 and shall sign the landing receipt with his/her complete signature. The weighmaster shall list on the landing receipt the number of fish in, and the weight of, each roe test for the landing reported on the receipt.

(C) All landing receipts that have not been delivered to the department must be immediately available to the department at the weigh station.

(D) A reasonable amount of herring will be made available by the herring buyer to the department, at no cost, for management purposes.

(3) Prior to weighing herring, each permittee shall have each weighing device currently certified and sealed by the County Division of Weights and Measures.

(4) Weight tally sheets shall be used when any load of fish is divided and placed into more than one container prior to the completion of the landing receipt. Weight tally sheets shall include the time unloading operations begin.

(A) The tally sheets shall be composed of four columns:

1. The serial or I.D. number of all containers in which the load is initially placed and all subsequent containers, if any, in which the load is placed until, and including for, shipment from the buyer's premises.

2. The gross weight;

3. The tare weight of the bin or containers; and

4. The net weight of fish. Net weight will include the weight of the herring taken for testing purposes.

(B) The work or weight tally sheets shall be retained by the permittee for one year, and must be available at all times for inspection by the department.

(C) When requested by the department, the buyer shall submit to the department a California Highway Patrol weighing certificate for any truck load designated by the department. Such certificate shall be placed in the U.S. Postal system to the department's San Francisco Bay Area Marine Region office within twenty–four (24) hours of the truck's departure from the buyer's premises.

(5) In San Francisco Bay, herring may not be unloaded between the hours of 10 p.m. and 6 a.m., or at any time on Saturdays and Sundays, unless the permittee has notified and received prior approval from the department to conduct such activities during those hours.

(6) Every permittee shall comply with all applicable sections of the Fish and Game Code.

(7) The permittee is responsible to ensure that all provisions of the herring buyer's permit are complied with, even though the tasks may be delegated to others.

(8) The permit may be revoked upon violation of any provisions contained herein by the holder of the permit, his/her agents, servants, employees, or those acting under his/her direction or control and shall not be renewed for a period of one year from the date or revocation.

NOTE: Authority cited: Sections 1050, 5510, 8550, 8553 and 8555, Fish and Game Code. Reference: Sections 1050, 7852.2, 8043, 8550, 8552, 8552.6, 8553, 8554, 8555, 8556, 8557 and 8559, Fish and Game Code.

HISTORY

1. Amendment of subsections (a), (e)–(h) and (j) filed 9–15–88; operative 10–15–88 (Register 88, No. 39). For prior history, see Register 87, No. 47.
2. Amendment of subsection (h) filed 12–21–88 as an emergency; operative 12–21–88 (Register 89, No. 1). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–20–89.
3. Amendment filed 11–27–89 as an emergency; operative 11–27–89 (Register 90, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–27–90.
4. Certificate of Compliance as to 11–27–89 order transmitted to OAL 3–26–90 and filed 4–24–90 (Register 90, No. 19).
5. Amendment of subsection (c) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
6. Amendment of first paragraph, subsections (a)(4)–(5), (b)(2), (c)(1), (c)(1)(C), (c)(1)(D)2, (c)(2), (e)(2), (e)(4), (f)(2), (f)(2)(C)–(E), (g)(3)(A)–(B), (g)(4), (h) and (j) and adoption of subsection (e)(7) filed 12–13–91; operative 12–13–91 pursuant to Government Code section 11346.2 (d) (Register 92, No. 13).
7. Amendment of subsections (b)(2), (c)(1), (c)(3), (e)(3), (e)(7), (e)(7)(B)(4), (f)(2)(B)–(C), (g)(3)(A)–(B), (g)(4)–(g)(4)(B), and (h)(1)–(7) filed 11–10–92; operative 12–10–92 (Register 92, No. 46).
8. Amendment of section text and NOTE filed 10–28–93; operative 11–28–93 (Register 94, No. 45).
9. Amendment of section text and NOTE filed 11–3–94; operative 11–3–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 45).
10. Amendment of section and NOTE filed 11–7–95; operative 11–7–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 45).
11. Amendment filed 11–12–96; operative 11–12–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 46).
12. Amendment of section and NOTE filed 10–8–97; operative 10–8–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 41).
13. Amendment filed 10–30–98; operative 10–30–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 44).
14. Amendment of subsections (a)(1), (c)(1)(B), (c)(1)(C), (c)(2), (f)(2)(B), (f)(2)(D), (g)(3)(A), (g)(4), (g)(4)(A), (h)(3)–(h)(3)(D), (h)(4), (i) and (j)(2)(B) and repealer of subsections (g)(3)(A)1.–4. filed 11–1–99; operative 11–1–99 pursuant to Fish and Game Code section 202 (Register 99, No. 45).
15. Amendment filed 10–27–2000; operative 10–27–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).
16. Amendment of first paragraph and amendment of subsections (a)(6), (b)(2), (e)(3), (e)(4), (e)(6), (f)(2)(B) and (f)(2)(F), new subsections (f)(2)(G)–(H) and amendment of subsections (g)(3)(A), (g)(4)–(g)(4)(B), (h)(3)–(h)(3)(D), (h)(4), (i), (j)(2) and (j)(8) filed 10–31–2001; operative 11–1–2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 44).
17. Amendment of first paragraph and subsections (a)(4), (b)(2), (c)(1)(D)2., (e)(5), (f)(1), (f)(2)(B), (f)(2)(D), (g)(3)(A), (g)(4)–(g)(4)(B) and (h)(3)–(h)(4) filed 10–21–2002; operative 10–21–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 43).
18. Amendment of subsections (f)(2)(B), (f)(2)(D), (g)(3)(A), (g)(4)–(g)(4)(B) and (h)(3)–(h)(4) and amendment of NOTE filed 11–13–2003; operative 11–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 46).
19. Amendment of subsections (f)(2)(B), (g)(3)(A), (g)(4), (h)(3)–(4) and (h)(7) filed 11–3–2004; operative 11–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 45).
20. Amendment of subsections (f)(2)(A)–(B), (g)(3)(A), (g)(4)–(g)(4)(A) and (h)(3)–(h)(5) filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).
21. Amendment filed 12–1–2006; operative 12–1–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).
22. Amendment of first paragraph and subsections (b)(1), (b)(3), (f)(2)(A), (g)(4)–(g)(4)(A) and (h)(3)–(4) filed 11–28–2007; operative 11–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 48).
23. Repealer and new subsection (b)(3) and amendment of NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 163.1. Herring Permit Transfers.

(a) Definitions.

Individual means a single natural person.

Individually held means a permit that is not held by a partnership under Fish and Game Code Section 8552.6.

Permit means a valid entitlement issued pursuant to Fish and Game Code Section 8552, which has not been suspended or revoked, to take herring for roe purposes.

Fishing group means those platoons whose season is designated in Section 163(a) of these regulations.

(b) Multiple permits. In the San Francisco Bay fishery, no person may ever hold, either individually or in partnership, more than a total of three permits, and/or more than one permit in any fishing group.

(c) Notice/application to transfer and transfer fee. A transfer under this regulation does not require the notice to qualified point holders required by Fish and Game Code Section 8552.2. The permit holder must submit a notarized letter, signed by the permit holder, to the department's San Francisco Bay Area Marine Region office requesting transfer of the permit, identifying the individual to whom the permit is to be transferred. Notwithstanding Fish and Game Code Section 8552.7 the fee to transfer a herring permit is one thousand dollars ($1000). The fees shall be deposited in the Fish and Game Preservation Fund and shall be expended for research and management activities to maintain and enhance herring resources pursuant to subsection 8052(a) of the Fish and Game Code.

(d) Permit Renewal. Each permit individually held shall be separately renewed according to the procedures in Section 163 of these regulations.

(e) Appeals. Any individual who is denied the transfer of a permit may appeal in writing to the department's San Francisco Bay Area Marine Region office not more than 60 days from the date of denial. The appeal shall describe the basis for the appeal and contain all supporting evidence. If the denial is sustained, the individual may appeal in writing to the commission within 60 days of the date of the department's decision.

NOTE: Authority cited: Sections 8552.1, 8552.3 and 8553, Fish and Game Code. Reference: Sections 8552, 8552.1, 8552.2, 8552.3 and 8552.7, Fish and Game Code.

HISTORY

1. New section filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).
2. Amendment of section heading, section and NOTE filed 3–27–2006; operative 3–27–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 13).

§ 163.5. Penalties in Lieu of Suspension or Revocation—Herring Permittees.

(a) Pursuant to the provisions of section 309 of the Fish and Game Code and sections 163 and 746, Title 14, CCR, any permit issued pursuant to Section 8550 of the Fish and Game Code may be suspended or revoked at any time by the Commission for cause, after notice and an opportunity to be heard, or without a hearing upon conviction of the permittee or his/her substitute (pursuant to Section 163, Title 14, CCR) of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery by a court of competent jurisdiction. A permittee whose permit has been suspended or revoked for conviction of a violation of Fish and Game Code statutes or Division 1, Title 14, CCR, while fishing as a participant in the herring fishery may request a hearing before the commission to show cause why his or her herring fishing or buying privileges should be restored.

(b) Notwithstanding subsection (a), the Executive Secretary of the Commission shall enter into a stipulated compromise settlement agreement with the consent of the permittee for category I violations, and may enter into a compromise for category II violations with the consent of the permittee. The provisions of this section regarding compromise settlement agreements shall not apply if action is brought to recover civil damages under Section 2014 of the Fish and Game Code from the person subject to action under this section.

(c) Terms and Conditions of a stipulated compromise agreement may include, but are not limited to, the payment of monetary penalties, the reduction of a revocation to a suspension for a specified period of time, a

period of probation not to exceed three years or any other terms and conditions, mutually agreed upon by the Executive Secretary acting for the Commission and the permittee, without further hearing or appeal.

(d) A compromise settlement agreement may be entered before, during or after the Commission hearing on the matter, but is valid only if executed and signed by the Executive Secretary and the permittee prior to the adoption of the decision by the Commission. Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties as prescribed in subsection (f) of these regulations and shall be due and payable within 30 days after the compromise is entered into. Any and all funds submitted as payment in whole or in part by a permittee of any monetary penalties stipulated in a compromise settlement agreement shall be nonrefundable.

(e) If the permittee fails to perform all of the terms and conditions of the compromise settlement agreement, such agreement is thereby declared void and the Commission, notwithstanding the compromise settlement agreement, may take any action authorized by section 163 of these regulations against the permittee.

(f) Procedures for determining monetary penalties:

(1) Monetary penalties (score range multiplied by the monetary range) for compromise settlement agreements shall be based on the following point system:

SCORE RANGE (Total Points)	*MONETARY RANGE*
1–10	$200 per point as provided in subsection (f)(2) below.
11+	$400 per point as provided in subsection (f)(2) below.

(2) The score range shall be based on a cumulative total of the points assigned in this subsection:

(A) POINTS ASSIGNED FOR CATEGORY I VIOLATIONS ARE AS FOLLOWS:

1. Failure to properly identify vessel (Sec. 163(d))	1 point
2. Improperly marked buoys or flags (Sec. 163(f)(2)(F))	1 point
3. Failure of permittee to have herring permit, commercial fishing license, or boat registration aboard the permit vessel (Sec. 163, para. 1)	2 points
4. Setting or operating nets within 300 feet of specified piers and jetties (Sec. 163(f)(2)(C) and (f)(2)(E))	3 points
5. Failure to "tend" nets (Sec. 163(f)(2)(A))	5 points
6. Failure of herring buyer to permanently mark all vehicles, containers or pallets (Sec. 163(j)(1))	5 points

(B) POINTS ASSIGNED FOR CATEGORY II VIOLATIONS ARE AS FOLLOWS:

1. Unloading fish without recovering both nets and having them aboard vessel (Sec. 163(e)(4))	6 points
2. Fishing in a closed area (Sec. 163(f)(1) and 163(f)(2)(D))	12 points, plus all fish and nets on the vessel at the time of the violation shall be forfeited to the department and such fish and nets shall be sold or disposed of in a manner determined by the department with the proceeds from all such sales paid into the Fish and Game Preservation Fund
3. Failure to remove fishing gear from water by announced time terminating fishery operations (Sec. 163(e)(3))	6 points, plus 1/2 point for each hour, or portion thereof, after closing time
4. Possession or use of nets with undersized mesh (Sec. 163 (f)(2)(B))	12 points, plus all fish and nets on the vessel at the time of the violation shall be forfeited to the department and such fish and nets shall be sold or disposed of in a manner determined by the department with the proceeds from all such sales paid into the Fish and Game Preservation Fund
5. Failure to immediately return all halibut, sturgeon, salmon, steelhead and striped bass to the water (Sec. 163(e)(6))	10 points
6. Possession or use of extra nets or nets which exceed maximum length restrictions (Sec. (f)(2)(A))	12 points, plus 1/2 point for every 5 fathoms of net, or portion thereof, exceeding maximum, plus all fish and nets on the vessel at the time of the violation shall be forfeited to the department and such fish and nets shall be sold or disposed of in a manner determined by the department with the proceeds from all such sales paid into the Fish and Game Preservation Fund
7. Failure of permittee or his or her temporary substitute, authorized by the department, to be aboard the vessel during herring fishing operations (Sec. 163, para 1)	10 points
8. Failure to complete and maintain weight tally sheets (Sec. 163(j)(4))	10 points
9. Failure to immediately complete a Fish and Game receipt upon completion of weighing any load or lot of fish (Sec. 163(j)(2))	15 points

(C) For each prior conviction of the permittee within the past three years for violations of the laws or regulations pertaining to the commercial take of herring:

1. The following additional points shall be assessed:

(i) For one prior conviction for a violation of the commercial herring fishing laws or regulations within the past three years, the monetary assessment shall be doubled if the total point score (points from prior violation added to points for current violation) is 10 or less, and tripled if such total point score is 11 points or more.

(ii) For two prior convictions for violations of the commercial herring fishing laws or regulations within the past three years, the monetary assessment shall be quadrupled if the total point score (points from prior convictions added to points for current violation) is 17 or less.

2. The permit shall be revoked, or suspended for a period of at least 1 year, if the total point score is 18 points or more.

(3) Conviction of multiple violations, committed at the same time, shall be treated as one conviction for the purposes of implementing the provisions of this section.

(4) All monetary penalties for compromise agreements assessed under this section shall be deposited by the Department to the Fish and Game Preservation Fund.

NOTE: Authority cited: Sections 1050, 8553 and 8555, Fish and Game Code. Reference: Sections 309, 1050, 7852.2, 8552, 8553 and 8555, Fish and Game Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 1). For history of former section, see Register 76, No. 35.
2. Amendment of subsections (a), (f)(1), (f)(2)(A)4., (f)(2)(A)6., and (f)(2)(B)3. and repealer of subsection (f)(4) filed 1–15–92 as an emergency; operative 2–14–92 (Register 92, No. 12).
3. Amendment of subsections (a), (f)(2)(B)3., (f)(2)(B)5. and (f)(2)(B)7. filed 11–12–96; operative 11–12–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 46).
4. Repealer of subsection (f)(2)(A)3., subsection renumbering and amendment of subsection (f)(2)(B)6. filed 10–30–98; operative 10–30–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 44).
5. Amendment of subsection (a) filed 10–27–2000; operative 10–27–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).
6. Repealer of subsection (f)(1)(B)1. and subsection renumbering filed 10–31–2001; operative 11–1–2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 44).
7. Amendment of subsection (f)(2)(B)7. filed 10–21–2002; operative 10–21–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 43).
8. Repealer of subsection (f)(2)(A)3., subsection renumbering and amendment of NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 163.6. Commercial Harvesting of Herring.

NOTE: Authority cited: Section 8550, Fish and Game Code. Reference: Section 8550, Fish and Game Code.

HISTORY

1. New section filed 5–4–76 as an emergency; effective upon filing (Register 76, No. 19).
2. Certificate of Compliance filed 6–30–76 (Register 76, No. 27).
3. Repealer filed 8–27–76; effective thirtieth day thereafter (Register 76, No. 35).

§ 164. Harvesting of Herring Eggs.

(a) Herring eggs may be taken for commercial purposes only under a revocable, nontransferable permit issued by the department. A department–issued copy of the permit shall be aboard each vessel harvesting, processing or transporting herring eggs under the authority of the permit. The permittee or his/her authorized agent shall be aboard any vessel that is harvesting, processing or transporting herring eggs under the authority of the permit. The permit shall list the names of all authorized agents and all vessels used for harvesting, processing or transporting herring eggs under the authority of the permit (This includes the attachment of any changes approved by the department after the permit is issued).

(b) Herring eggs may be harvested only from the waters of San Francisco Bay. The harvest season is December 1 to March 31.

(c) For purposes of this section, San Francisco Bay is defined as the waters of Fish and Game districts 11, 12, 13 and that part of district 2 known as Richardson Bay.

(d) No more than 11 permits may be issued under the provisions of these regulations. No new permits shall be issued until the maximum number of permits is less than 10. The commission will review and determine annually whether further action, other than permit attrition, is deemed necessary to achieve a reduction to 10 permits.

(e) Fishing, Harvesting, and Processing Defined. Unless the context requires otherwise, the following definitions shall apply to the herring eggs on kelp (HEOK) fishery:

(1) "Fishing" means the act of suspending giant kelp (*Macrocystis pyrifera*) for the purposes of taking herring eggs, and/or the subsequent act of removing herring eggs on kelp from the water for the purposes of transport or harvest. Any person engaged in fishing shall possess a commercial fishing license pursuant to Section 7850 of the Fish and Game Code.

(2) "Harvesting" means the act of removing herring eggs on kelp from the water for the purposes of processing for sale and/or transport to market. Any person engaged in harvesting shall possess a commercial fishing license pursuant to Section 7850 of the Fish and Game Code.

(3) "Processing" means the act of separating or removing kelp blades (with herring eggs attached) from the stipe of harvested herring eggs on kelp, and loading the processed blades into bins or totes. Any person engaged in, or employed for the specific purpose of, processing herring eggs on kelp shall fall under the category of nonapplicability in regard to possession of a commercial fishing license pursuant to Section 7850.5 of the Fish and Game Code. Pursuant to Section 7850.5 of the Fish and Game Code, a person engaged in processing (permittees and authorized agents excepted) may stand aboard a herring eggs on kelp vessel while at a dock or landing, but any not be transported aboard the vessel. A person engaged in processing (permittees and authorized agents excepted) may not stand on the herring eggs on kelp raft, nor physically participate in the removal of herring eggs on kelp from the water.

(f) Permits. Permits shall be issued in two categories:

(1) Prior permittee. Permits shall be issued to all prior permittees. A prior permittee is defined as a person who has:

(A) met the requirements under subsection (g) of these regulations, and

(B) renewed their herring eggs on kelp permit for the immediately preceding herring eggs on kelp season, and

(C) submitted all fees from prior seasons.

(2) New permittee. A new permittee is defined as any applicant who held a herring permit issued pursuant to Section 163 of these regulations during the preceding herring season, but does not qualify as a prior permittee as defined above. The total number of permits available to new permittees shall be the difference between the 10 permit limit and the number of permits issued to individuals qualifying as prior permittees. In the event that the number of eligible applicants qualifying for new permits exceeds the number of available permits, a lottery shall be held.

(g) Permit conditions: Every person operating under a permit to harvest herring eggs shall:

(1) Forfeit his or her herring fishing privileges authorized pursuant to Section 163 of these regulations during the same season.

(2) In addition to any license fees required by the Fish and Game Code, pay a royalty of $500 per ton of herring eggs on kelp taken. (The royalty fee shall include the landing tax imposed pursuant to Article 7.5, (commencing with Section 8040) Chapter 1, Part 3, Division 6, of the Fish and Game Code, and the royalty fee required for the harvesting of kelp pursuant to Section 165, Title 14 CCR).

(3) Submit a Herring–Eggs–on–Kelp Monthly Landings and Royalty Report (FG 143 HR (Rev. 5/01), which is incorporated by reference herein (available at the department's San Francisco Bay Area Marine Region office), with payment due to the department's San Francisco Bay Area Marine Region office for each month of the season, within 60 days after the close of the month for which it is due.

(h) Permit applications. Each applicant for a herring eggs on kelp permit shall:

(1) Completely fill out and submit the required department Herring–Eggs–on–Kelp Permit Application (FG 1406 5/07)) which is incorporated by reference herein (available at the department's License and Revenue Branch, Sacramento), for the season to which the application applies. No person shall submit more than one application per season. Applications shall include a performance deposit as specified in subsection (i).

(2) Permit Renewal. Applications for renewal of all Herring–Eggs–on–Kelp permits shall be received by the department, or if mailed, postmarked, on or before August 1 each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Have submitted all fees from prior seasons.

(i) Each application shall include a performance deposit equal to 50% of the royalty price for the permit (i.e., allotment). The deposit shall be credited to the amount payable by the successful applicants and shall not be refundable. The performance deposit shall be returned to an applicant who does not qualify for a permit.

(j) Method of Take. Herring eggs may only be taken by harvesting giant kelp (*Macrocystis* sp.), with spawn (i.e., eggs) attached, which has been artificially suspended using the following two methods: rafts and/or lines, a technique commonly known as the "open pond" method. For the purpose of this Section, a raft is defined as a temporary, mobile structure with a metal, wood or plastic frame. The total surface area of each raft is not to exceed 2,500 square feet. Rafts used by a licensed herring eggs on kelp permittee, prior to the 1995–96 season, are exempt from these size specifications. Such rafts may not be modified to exceed 2,500 square feet total surface area. Any new raft built after the 1995–96 herring eggs on kelp season must meet the specified dimensions. A line is defined as a piece of line of no more than 1200 feet in overall length that is suspended under a suitable permanent structure (e.g., pier or dock), or between two permanent structures (e.g., piers or docks). Kelp lines shall have floats or cork over the entire length of line. Each end of the line must be attached to a permanent structure. Kelp lines suspended from a permanent structure (e.g., pier or dock) shall not be placed as to hinder navigation. If kelp lines are suspended under a permanent structure (e.g., pier or dock), or if a raft is tied up to a permanent structure (e.g., pier, dock or rock wall, natural stationary shoreline structures), the permittee shall obtain prior written approval from the appropriate owners or controlling agency (e.g., wharfinger, Coast Guard, Navy or private owner). Buoys are not permanent structures.

(1) Not more than two rafts and/or two lines may be used per permit. Two permits may be simultaneously fished on the same raft if each line on the raft is clearly identified with the permit number of the owner. Each raft shall have a light at each corner that may be seen for at least a distance of 100 yards. Each raft shall be further identified with the herring eggs on kelp permit number in 14–inch high, 2–inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently affixed to the raft. Lines shall be marked at the beginning and the end with a light that may be seen for at least a distance of 100 yards. Each line shall be further identified with the herring eggs on kelp permit number in 14–inch high, 2–inch wide black Roman alphabet letters and Arabic numerals painted on a white background, permanently affixed to the line.

(2) Not more than ten sets of test kelp may be used per permit. Test kelp is defined as one stipe with blades, attached to a length of line for the purpose of testing for spawning activity. A set is defined as one length of line with test kelp attached. Each set must be attached to a permanent structure (e.g., pier, dock) and marked with the herring eggs on kelp permit number, in Roman alphabet letters and Arabic numerals at least 3 inches high, at a point above the waterline. No herring eggs on kelp shall be retained from test kelp sets for testing purposes that have not been weighed and recorded, pursuant to subsection 164(k).

(3) Rafts and/or lines may not be placed in any waters or areas otherwise closed or restricted to the use of herring gill nets operating pursuant to Section 163 of these regulations, except where written approval is granted by the owners or controlling agency (e.g., Navy, Coast Guard). Rafts and/or lines may be placed in Belvedere Cove or Richardson Bay, only if permittees tie their rafts and/or lines to a permanent structure (e.g., pier, dock or rock wall, natural stationary shoreline structures), and obtain prior written approval. Buoys are not permanent structures.

(4) The total amount of herring eggs on kelp that may be harvested by each permittee shall be based on the previous season's spawning population assessment of herring in San Francisco Bay, as determined by the department. This assessment is used to establish the overall herring fishing quotas pursuant to Section 163 of these regulations.

The total amount of herring eggs on kelp that may be harvested by an individual possessing a gill net permit issued pursuant to Section 163 of these regulations shall be 0.9 tons per season. The total amount of herring eggs on kelp that may be harvested by an individual possessing a "CH" permit issued pursuant to Section 163 of these regulations shall be 1.9 tons per season.

(5) Each vessel operating under or assisting in fishing operations under a permit issued pursuant to these regulations shall have a current Fish and Game commercial boat registration and be further identified with the permittee's herring eggs on kelp permit number in 14–inch high, 2–inch wide black Roman alphabet letters and Arabic numerals painted on a white background permanently affixed to each side of the vessel. If a herring eggs on kelp vessel is also used as an assist vessel in another permittee's fishing operation, it must be identified with the number of the permit it is assisting.

(6) The permittee shall notify the department's License and Revenue Branch, Sacramento in writing with the name and registration number of any vessel that will be used for harvesting, processing or transporting herring eggs under the authority of the permit. The permittee shall provide a copy of the current California certificate of boat registration with the permittee's written notification. The permittee shall receive written approval from the department before using a vessel for harvesting, processing or transporting herring eggs.

(7) Permittee shall notify the department's San Francisco Bay Area Marine Region office at the telephone number designated on the herring eggs on kelp permit within a 4–hour period prior to the suspension of kelp on a raft and/or lines and supply the following information:

(A) Where the kelp suspension will take place; and

(B) Where the permittee plans to fish the rafts and/or lines; and

(C) A local fax number or mailing address where confirmation of kelp suspension notification can be sent.

(k) Harvesting, Landing and Processing Requirements. Every person who harvests, receives, processes or wholesales herring eggs shall comply with the following requirements.

(1) Obtain all appropriate commercial fish business licenses and permits required by Fish and Game Code sections 8030–8038.

(2) Permittee shall notify the department's San Francisco Bay Area Marine Region office at the telephone number designated on the herring eggs on kelp permit a minimum of 12 hours prior to harvesting herring eggs on kelp on a weekday and supply the following information: description and point of departure of the vessel used; the exact location of each raft and/or line and estimated time of beginning of each operation; and if harvesting occurs, the point of landing and time of landing or off–loading of the herring eggs on kelp harvested. If any of this information changes after notification is given, the permittee shall again notify the department at the telephone number designated on the herring eggs on kelp permit.

(3) Herring eggs on kelp may be harvested any time on weekdays, but shall not be off–loaded between the hours of 10:00 p.m. and 6:00 a.m.

(4) Herring eggs on kelp may be harvested on Saturdays and Sundays at any time if the permittee reimburses the department for the cost of operations. The department shall submit a detailed invoice of its cost of operations within 30 days of providing the services. Permittee shall remit payment to the department within 30 days of the postmark date of the department's invoice. Permittee shall notify the department at the phone number designated on the herring eggs on kelp permit, during normal business hours (between 8:00 a.m. and 5:00 p.m., Mondays through Friday) prior to harvesting herring eggs on kelp on Saturday or Sunday, and shall supply the following information:

(A) Description and point of departure of the vessel used.

(B) The exact location of each raft and estimated time of the beginning of the harvesting operation, the estimated time of off–loading of the harvested product, and the point of off–loading.

(C) A local telephone number of the permittee for the immediate confirmation or clarification of the information required in subsection 164(k)(4).

(5) Permittee shall have a certified scale aboard the vessel at all times if any brining is conducted aboard that vessel. This scale shall be used to determine the total weight of herring eggs on kelp prior to brining. For the purposes of this section, all portions of the kelp blade, including all trimmed–off portions (trim), shall be considered part of the harvested product and included in the total weight of herring eggs on kelp. The stipe and pneumatocyst shall not be considered a part of the harvested product;

therefore, the weight of the stipe and pneumatocyst shall not be considered in determining the total weight of herring eggs on kelp.

(6) All bins or totes shall be permanently marked with individualized serial numbers, beginning with the prefix CA, and predetermined tare weights (including lids). The serial number and predetermined tare weight shall be permanently marked in letters and numerals at least 3 inches high on each side of the bin or tote.

(7) Prior to weighing herring eggs on kelp, each receiver of herring eggs on kelp shall have a scale currently certified and sealed by the County Division of Weights and Measures.

(8) Weight tally sheets and a landing receipt shall be immediately completed upon the landing and weighing of any single permittee's boat load of harvested herring eggs on kelp (hereinafter "load").

(A) The landing receipt for each herring eggs on kelp permittee shall be completed and signed by the permittee prior to commencing unloading operations of another permittee's load.

(B) The landing receipt for each load shall include all information required by Fish and Game Code Section 8043. Tally sheets shall indicate the serial number, the tare weight of the bin or tote, the net weight of the product (eggs on kelp), excluding the salt and brine and the gross weight of each bin or tote. Filled bins or totes shall be weighed when landed on–shore, or before they are moved from the premises if processing takes place on–shore. The weight tally sheet shall be retained by the permittee for one year and shall be available at all times for inspection by the department. All herring eggs on kelp landed in excess of any established permit quota shall be forfeited to the department by the signing of a Release of Property form (FG–MR–674 (Rev. 5/02)), which is incorporated by reference herein). Such excess of herring eggs on kelp shall be sold or disposed of, and the proceeds from all such sales shall be paid into the Fish and Game Preservation Fund.

(9) There shall be no landing or off–loading of herring eggs on kelp from a permittee's vessel, from 10:00 p.m. Friday to 6:00 a.m. Monday, unless brining is conducted at a shore–based facility. If brining occurs on–shore, the permittee shall notify the department's designated contact 12 hours prior to the shipping or removal of the bins or totes from the premises.

(*l*) These regulations and all sections of the Fish and Game Code pertaining thereto shall be set forth in all permits. Permits shall be issued upon the conditions contained in the application and signed by the applicant that he has read, understands, and agrees to be bound by all terms of the permit.

(m) A permit may be suspended by the Department of Fish and Game for breach or violation of the terms of the permit by the permittee, or any other person(s) operating under the terms of the permit. Any such suspension may be appealed to the Fish and Game Commission pursuant to section 746 of these regulations.

(n) Authorized agents. Each herring eggs on kelp permittee may designate two authorized agents to operate under his or her permit. To designate an authorized agent, the permittee shall submit to the department's License and Revenue Branch, Sacramento a completed, signed Authorized Agent Form (MRD 164 (8/97)) which is incorporated by reference herein. A permittee may replace an authorized agent by submitting a new Authorized Agent Form to the department's License and Revenue Branch, Sacramento. A copy of the current California commercial fishing license for each authorized agent shall be submitted with each Authorized Agent Form. A person designated on the Authorized Agent Form shall act as an authorized agent only after the permittee has received written approval from the department. An authorized agent:

(1) May serve in the place of the permittee for all fishery activities requiring the presence or action of the permittee, including the signing of landing receipts;

(2) Shall possess a current California commercial fishing license;

(3) Shall not be another herring eggs on kelp permittee unless the other permittee has stopped fishing his or her permit for the season;

(4) Who does not hold a herring eggs on kelp permit, may act as an authorized agent for more than one herring eggs on kelp permittee.

NOTE: Authority cited: Sections 1050, 5510, 8389, 8553 and 8555, Fish and Game Code. Reference: Sections 1050, 7850. 7850.5, 7852.2, 8043, 8053, 8389 and 8550–8556, Fish and Game Code.

HISTORY

1. New section filed 10–8–69 as an emergency; designated effective 11–10–69 (Register 69, No. 41). For history of prior section, see Register 63, No. 1.
2. Certificate of Compliance—section 11422.1, Government Code, filed 12–17–69 (Register 69, No. 51).
3. Amendment filed 6–30–78; effective thirtieth day thereafter (Register 78, No. 26).
4. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
5. Amendment filed 3–29–90; operative 3–29–90 (Register 90, No. 19).
6. Amendment of subsections (i) and (j) filed 10–23–91; operative 11–22–91 (Register 92, No. 5).
7. Amendment of subsections (f)(2), (i) and (i)(2) filed 11–10–92; operative 12–10–92 (Register 92, No. 46).
8. Amendment of subsections (i)(2) and (j)(2), new subsection (j)(2)(D) and amendment of NOTE filed 10–28–93; operative 11–28–93 (Register 94, No. 45).
9. Amendment of subsections (i)(2), (i)(4), (j)(2), (j)(3), (j)(5) and (j)(6) filed 11–30–94; operative 11–3–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 45).
10. Amendment filed 11–7–95; operative 11–7–95 pursuant to Fish and Game Code section 202 and 215 (Register 95, No. 45).
11. Amendment of subsections (j)(3)(D)– (j)(4) and NOTE filed 11–15–95; operative 11–15–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 46).
12. Amendment of subsections (c), (i)(4)(A), (i)(5), (j)(7) and (j)(7)(B) filed 11–12–96; operative 11–12–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 46).
13. Amendment of section and NOTE filed 10–17–97; operative 10–17–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 42).
14. Amendment of subsection (i)(4), repealer of subsection (j)(3)(A)–(C) designators and amendment of newly reorganized subsection (j)(3) filed 10–30–98; operative 10–30–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 44).
15. Amendment of subsections (a), (f)(2), (g)(1), (i)–(i)(5), (j)(5) and (m) and new subsections (f)(3) and (i)(6) filed 11–1–99; operative 11–1–99 pursuant to Fish and Game Code section 202 (Register 99, No. 45).
16. Amendment filed 10–27–2000; operative 10–27–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 43).
17. Amendment of section and NOTE filed 10–31–2001; operative 11–1–2001 pursuant to Fish and Game Code section 215 (Register 2001, No. 44).
18. Amendment of subsections (h)(1), (j), (j)(4) and (k)(8)(B) filed 10–21–2002; operative 10–21–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 43).
19. Amendment of subsections (h)(1), (i) and (j)(4) filed 11–13–2003; operative 11–15–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 46).
20. Amendment of subsections (e) and (f)(1)(B), new subsection (f)(1)(C) and amendment of subsections (h)(1), (i)–(j), (j)(4), (k)(5) and (k)(9) filed 11–3–2004; operative 11–3–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 45).
21. Amendment of subsections (h)(1) and (j)(4) filed 12–19–2005; operative 12–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 51).
22. Amendment of subsections (h)(1), (j)(6) and (n) filed 12–1–2006; operative 12–1–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 48).
23. Amendment of subsections (h)(1) and (j)(4) filed 11–28–2007; operative 11–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 48).
24. Amendment of subsection (h)(1), repealer and new subsection (h)(2) and amendment of NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 165. Harvesting of Kelp and Other Aquatic Plants.

(a) General License Provisions. Pursuant to the provisions of Section 6651 of the Fish and Game Code, no kelp or other aquatic plants may be harvested for commercial purposes except under a revocable license issued by the department.

(1) Who Shall be Licensed. Each company or individual harvesting kelp and other aquatic plants for industrial, human consumption or aquaculture purposes shall apply each year for a license on forms provided by the department. Application forms and a list of laws and regulations governing the harvest of kelp and other aquatic plants are available on request from the department's Marine Region, 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940, and from the department's field offices in Eureka, Belmont, Los Alamitos and San Diego.

(2) Cost of License. See section 6651 of the Fish and Game Code.

(3) Where to Submit Applications. Application forms, together with the fee authorized by Section 6651 of the Fish and Game Code, shall be submitted to the department's Los Alamitos office, 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720.

(4) License Limitation. All provisions of sections 6650–6680 of the Fish and Game Code, and sections 165 and 165.5 of the commission regulations shall become a condition of all licenses issued under this section to be fully performed by the holders thereof, their agents, servants, employees or those acting under their direction or control.

(b) General Harvesting Provisions.

(1) Weighing of Kelp. A kelp harvester shall determine the weight of harvested kelp or other aquatic plants upon landing or delivery to the harvester's place of business. The harvester may determine the weight of harvested kelp or other aquatic plants using either direct weighing or a volume conversion that has been approved by the department. If the weight is determined by a certified or licensed weighmaster, the harvester shall obtain a receipt and maintain the receipt in the landing record required under subsection (b)(3) below.

(2) Harvesting Records. Every person harvesting kelp and other aquatic plants and licensed pursuant to section 6650 of the Fish and Game Code shall keep a book or books recording the following:

(A) Category of plants harvested as defined in Section 165(c), (d) and (e).

(B) The wet weight of harvested kelp or other aquatic plants recorded in pounds or tons (1 ton = 2000 pounds).

(C) Name and address of the person or firm to whom the plants are sold, unless utilized by the harvester. The book(s) shall be open at all times for inspection by the department.

(3) Landing Records. Records of landing shall be prepared by all harvesters licensed pursuant to Section 6650 of the Fish and Game Code. Records of landing shall be made in triplicate using forms FG 113 (Rev. 1/97, see Appendix A) and FG 114 (Rev. 1/07, see Appendix A). The landing records shall show:

(A) The wet weight of all aquatic plants harvested in units as defined in subsection (b)(2)(B) above.

(B) Name of harvester.

(C) Department of Fish and Game kelp harvester number.

(D) Dates of landing and report period.

(E) Kelp bed number and, if applicable, harvest control area or marine protected area where plants were harvested.

(F) A duplicate copy of the landing record shall be kept by a kelp harvester for a period of one year and shall be available for inspection at any time within that period by the department. A kelp harvester who harvests kelp from a harvest control area established under subsection (c)(4)(E) below or from a marine protected area established under subsection 632(b) shall maintain a copy of the landing record on board the harvest vessel for all harvesting conducted during that harvest control period. The original and one copy of the record shall be delivered to the department at the address indicated within 10 days after the close of each month, with the specified royalty required for all kelp and other aquatic plants harvested. Failure to submit the required landing record and royalty fees within the prescribed time limit are grounds for revocation of the harvester's license.

(4) No eel grass (Zostera) or surf grass (Phyllospadix) may be cut or disturbed.

(5) No kelp or other aquatic plant may be harvested in a state marine reserve or state marine park as per subsection 632(a). Commercial harvest of kelp or other aquatic plants may be limited in state marine conservation areas as per subsection 632(b).

(6) It is unlawful to cause or permit waste of any kelp or other aquatic plants taken in the waters of this state or to take, receive or agree to receive more kelp or other aquatic plants than can be used without waste or spoilage.

(c) Harvesting of Macrocystis and Nereocystis (giant and bull kelp). In this subsection, kelp means both giant and bull kelp.

(1) A kelp harvester may harvest kelp by cutting and removing portions of attached kelp or by collecting unattached kelp.

(2) A kelp harvester may not cut attached kelp at a depth greater than four feet below the surface of the water at the time of cutting.

(3) No kelp received aboard a harvesting vessel shall be allowed to escape from the vessel or be deposited into the waters of this state.

(4) If, at any time, the commission finds that the harvesting of kelp will tend to destroy or impair any kelp bed or beds, or parts thereof, or tend to impair or destroy the supply of food for fish or marine mammals, the commission may limit or prohibit the harvest of kelp within a bed or portion of a bed for any length of time.

(A) In beds north of Point Montara, Nereocystis (bull kelp) may only be taken by hand harvesting. No mechanical harvesters of any kind are allowed.

(B) Between April 1 and July 31, a kelp harvester may not harvest bull kelp from a nonleased kelp bed that lies partially or totally within the boundary of the Monterey Bay National Marine Sanctuary extending from Santa Rosa Creek, San Luis Obispo County, northward to Rocky Point, Marin County. This subsection does not preclude the removal of bull kelp from beaches within the Monterey Bay National Marine Sanctuary during the seasonal closure.

(C) Prior commission approval of a kelp harvest plan is necessary before a kelp harvester may use a mechanical harvester to harvest giant kelp in a nonleased kelp bed north of Santa Rosa Creek, San Luis Obispo County. For approval of a kelp harvest plan, a harvester must identify how a mechanical harvester will be used while avoiding: 1) repetitive harvest from individual giant kelp plants; 2) harvest of bull kelp from those portions of kelp beds that contain both giant kelp and bull kelp; and 3) harvest giant kelp near sea otter rafting sites used by female sea otters with dependent pups.

(D) A kelp harvester may not harvest kelp in that portion of kelp bed 220 in Monterey County that lies in the area bounded by the mean high tide line, a line extending due north from the tip of the Monterey breakwater and latitude 36° 36.83 N.

(E) With a finding as determined in subsection (c)(4) above, the commission may designate, through emergency regulation, a nonleased kelp bed or portion of a bed as a harvest control area for a specified period of time. The commission shall set a cumulative harvest tonnage limit for each kelp harvester that may not be exceeded while harvesting within the control area during any consecutive 7–day period. The department shall maintain a list of active harvest control areas, their effective time period, and their cumulative harvest tonnage limit on its web page (www.dfg.ca.gov). The same information may be obtained by contacting the Marine Region office at 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940.

Bed. No.	*Square Miles*
10	0.00
15	0.04
22	0.05
24	0.05
203	0.00
206	0.04
224	0.06
225	0.00
226	0.00
301	0.00
302	0.00
303	1.33
304	0.89
305	1.11
306	1.03
307	0.93
310	0.00
311	0.00
Total	5.53

(6) Only a lessee authorized by the commission may harvest kelp from the following beds:

Bed No.	*Square Miles*
308	0.20
309	0.14
312	0.20
Total	0.54

(7) In addition to the license fee, a kelp harvester shall pay a royalty of $1.71 for each ton (2,000 pounds) of wet kelp harvested from a non-leased bed.

(d) Harvesting of marine plants of the genera *Gelidium, Pterocladia, Gracilaria, Iridaea, Gloiopeltis* or *Gigartina* which are classified as agar-bearing plants.

(1) General Provisions.

(A) All agar-bearing plants must be harvested by cutting, except that drift or loose plants may be picked up by the harvester. Agar-bearing plants may be cut no closer than two inches to the holdfast and no holdfast may be removed or disturbed. All agar-bearing plants which are removed from a bed must be taken from the water for weighing and processing.

(B) While harvesting agar-bearing plants, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(C) License numbers of the harvesters will be displayed on both sides of the boat from which they are operating in 10-inch black numbers on a white background.

(D) A harvester may use conventional underwater diving gear or SCUBA when harvesting agar-bearing plants.

(2) Kelp Drying Permits. Pursuant to section 6653.5 of the Fish and Game Code, no company or individuals shall reduce the moisture content or otherwise dry agar-bearing plants harvested from waters of the state except under the authority of a kelp drying permit issued by the department. Drying permits shall be issued under the following conditions:

(A) Where Issued. Requests for kelp drying permits shall be submitted to the Department of Fish and Game at the address listed in section 165(a)(3).

(B) Cost of Permit. See subsection 699(b) of these regulations for the fee for this permit.

(C) Permit Review. The department shall return permit application forms to the applicant within three working days of receipt.

(D) Duration of Permits. Except as otherwise provided, kelp drying permits shall be valid for a term of one year from date of issue.

(E) Weighing of Kelp. All agar-bearing marine plants shall be weighed upon landing pursuant to the provisions of subsection (b)(1) of these regulations.

(F) Plant Delivery. Every person taking delivery of agar-bearing marine plants for drying purposes from persons licensed pursuant to section 6650 of the Fish and Game Code or harvesters drying their own plants shall keep a book or books recording the following:

1. A full and correct record of all agar-bearing plants received from other licensed agar harvesters or taken by permittee.

2. Names of the different species.

3. The number of pounds received.

4. Name, address and kelp harvester number of the person from whom the agar-bearing plants were received. The book(s) shall be open at all times for inspection by the department.

(G) Landing Receipts. Receipts shall be issued by all kelp drying permittees to harvesters licensed pursuant to subsection (b)(3) of these regulations and shall show:

1. Price paid.

2. Department origin block number where the agar-bearing plants were harvested.

3. Such other statistical information the department may require.

(H) The original signed copy of receipt shall be delivered to the agar harvester at the time of purchase or receipt of the agar-bearing plants. The duplicate copy shall be kept by the kelp drying permittee for a period of one year and shall be available for inspection at any time within that period by the department, and the triplicate shall be delivered to the department at the address indicated within 10 days after the close of each month, with a royalty of $17.00 per wet ton (2,000 lbs.) for all agar-bearing seaweed received. Failure to submit the required landing receipts and royalty fees within the prescribed time limit is grounds for revocation of the permittee's drying permit.

(e) Harvesting of marine plants, including the genera Porphyra, Laminaria, Monostrema, and other aquatic plants utilized fresh or preserved as human food and classified as edible seaweed.

(1) General Provisions.

(A) Edible varieties of marine plants must be harvested by cutting or picking, except that drift or loose plants may be picked up by the harvester. All harvested plants must be processed.

(B) Edible seaweed may be harvested from state waters throughout the year, except as provided under section 164.

(C) While harvesting edible seaweed, it is unlawful to harvest abalone or to have abalone harvesting equipment in possession.

(D) A harvester may use conventional underwater diving gear or SCUBA while harvesting edible seaweed.

(2) Harvest of Bull Kelp for Human Consumption. Notwithstanding subsection 165(c) (5)(A), persons operating under the authority of an edible seaweed harvesters license may take, not to exceed, 2 tons (4,000 lbs) of bull kelp per year. The entire plant may be harvested.

(3) Weighing of Edible Marine Plants. All edible marine plants shall be weighed pursuant to the provisions of subsection (b)(1) of these regulations and landing receipts in duplicate issued as per subsection (b)(3).

(4) The original copy of the receipt shall be delivered to the department at the address indicated within 10 days after the close of each month with a royalty of $24 per wet ton (2,000 lbs.) of edible marine plants harvested from state waters other than San Francisco Bay and Tomales Bay.

(f) All Other Species of Kelp.

(1) Applicant shall apply to the commission, outlining the species to be harvested, amount and location. The commission may set conditions and amount of royalty after review of the application.

NOTE: Authority cited: Sections 6653 and 6653.5, Fish and Game Code. Reference: Sections 6650–6680, Fish and Game Code.

HISTORY

1. Amendment of subsection (a)(3) filed 10–8–69 as an emergency; designated effective 11–10–69 (Register 69, No. 41). For prior history, see Register 69, No. 15.
2. Certificate of Compliance—section 11422.1, Gov. Code, filed 12–17–69 (Register 69, No. 51).
3. Amendment of subsection (a)(1)(E) filed 6–30–77 as an emergency; effective upon filing (Register 77, No. 27).
4. Certificate of Compliance filed 8–24–77 (Register 77, No. 35).
5. Amendment filed 3–9–81; effective thirtieth day thereafter (Register 81, No. 11).
6. Amendment filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
7. Change without regulatory effect of subsection (e)(3) filed 5–5–86; effective thirtieth day thereafter (Register 86, No. 19).
8. Amendment of subsections (a)(2), (a)(3) and (c)(5) filed 1–27–87; effective thirtieth day thereafter (Register 87, No. 5).
9. Amendment of subsection (c) filed 12–3–90; operative 1–2–91 (Register 91, No. 4).
10. Amendment of subsections (a) and (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
11. Editorial correction of printing error in subsection (c)(3) (Register 91, No. 31).
12. Amendment of subsections (a)(3) and (c)(2), new subsections (c)(5)–(c)(5)(B), subsection renumbering and amendment of newly designated subsection (c)(6), and new subsection (e)(3) and subsection renumbering filed 3–26–96; operative 3–26–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 13).
13. Amendment filed 10–25–2001; operative 11–24–2001 (Register 2001, No. 43).
14. Amendment of subsection (b)(5) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).
15. Change without regulatory effect amending subsection (a)(3) filed 5–5–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 18).

16. Amendment of subsections (b)(1), (b)(3), (b)(3)(D)–(F) and (c)(4)(D) filed 8–22–2007; operative 9–21–2007 (Register 2007, No. 34).

§ 165.5. Lease of Kelp Beds for Exclusive Harvest of *Macrocystis* and *Nereocystis*.

(a) The commission may lease to any person the exclusive privilege to harvest kelp in any designated kelp bed or beds, or part thereof described in subsection (j). In this section, kelp means giant kelp, bull kelp, or both.

(b) A current list of kelp beds considered by the commission to be available for leasing may be obtained through written request to the department's Marine Region at 20 Lower Ragsdale Drive, Suite 100, Monterey, CA 93940. Any person desiring to lease the exclusive privilege of harvesting kelp shall make a written application to the Fish and Game Commission, 1416 Ninth Street, Sacramento, CA 95814. The application for kelp bed lease shall include:

(1) The number of the designated bed or beds as shown in subsection (j), a description of the kelp bed or portion of the kelp bed requested and the designated number of square miles in each bed or portion thereof.

(2) A minimum deposit of $2,565 per square mile for kelp beds lying south of Point Arguello and $1,368 per square mile for kelp beds lying north of Point Arguello. (The deposit shall be returned to the applicant if a lease is not executed.)

(3) A detailed development plan for the proposed kelp bed lease showing the intended use, the manner of harvesting and transporting the kelp and the amount of kelp the lessee proposes to harvest during each of the next five years.

(4) The financial capabilities of the lessee to carry out the proposed plan of development. The department shall evaluate the submitted plans, and provide its evaluation to the commission.

(5) Applicants for the lease of Kelp Beds 300–312 shall, in addition to the above requirements, submit evidence of a scientifically acceptable survey of the requested kelp bed, conducted within one year of the date of the application, showing the extent of the kelp bed and the quantity (biomass) of kelp present. Evidence of such a survey must be submitted annually prior to beginning harvest. Harvest of bull kelp from leased beds shall be limited to not more than 15 percent of the bull kelp biomass revealed by the survey.

(c) Kelp leases may be awarded to applicants determined by the commission to possess the capabilities to harvest and utilize kelp in a manner beneficial to the state.

(1) In case more than one application is received for the lease of a specified kelp bed or beds, the lease shall be awarded to the highest qualified bidder.

(2) Bids tendered for the exclusive right to harvest kelp from designated kelp beds will be for the dollar amount of royalty to be paid on each wet ton of kelp harvested. The minimum acceptable bid will be for a royalty rate of no less than $1.71 per wet ton of kelp harvested.

(3) The commission may reject any or all applications for the lease of the exclusive privilege to harvest kelp, if it deems the rejection to be in the public interest.

(d) If the specified kelp harvesting area applied for is found to be available for lease, and that the lease would be in the public interest, the commission shall have legal notices published in a newspaper of general circulation in each county where the kelp bed, or any part thereof, is located. The department shall, in addition, notify by mail all current holders of kelp harvesting licenses that a kelp lease is being considered.

(e) Upon termination of a kelp bed lease for any reason, the commission shall notify all current holders of kelp licenses of the availability of such bed(s) for lease.

(f) Kelp bed leases shall be awarded for a maximum term of 20 years.

(g) The royalty rate for kelp harvested from leased kelp beds shall be no less than $1.71 per wet ton of kelp harvested from such beds. A nonrefundable advance payment computed on the basis of the harvest of 800 tons of kelp annually times the bid royalty rate per square mile for kelp beds located north of Point Arguello and the harvest of 1,500 tons of kelp annually times the bid royalty rate per square mile for beds lying south of that point is due and payable to the department on January 1 each year. Kelp harvested from each bed during the calendar year will be credited against the advance payment at the specified royalty rate until the deposit has been depleted. Kelp harvested from each bed in excess of the amount covered by the advance deposit shall be assessed at the basic royalty rate established by Section 165(c)(5).

(h) Each kelp lease shall specify a period prior to expiration when renewal of the lease may be requested by lessee. If during the notification period the lessee successfully demonstrates to the commission that all conditions of the lease have been met, the lessee shall have a prior right to renew the lease on terms agreed upon between the commission and the lessee. If terms of a lease renewal are not agreed upon prior to termination of a lease agreement, the commission shall advertise for bids on the individual kelp beds comprising the lease. If a request for renewal is not made during the specified period by the lessee, the commission shall advertise for bids on the individual kelp beds comprising the lease.

(i) Notwithstanding the provisions of subsections (f) and (h), at any time during the term of a lease, a lessee may notify the commission of its desire to enter into a new lease. If the lessee can successfully demonstrate to the commission that all conditions of its lease have been met and that a new lease would be in the best interest of the state, a new lease may be drawn on terms agreed upon between the two parties, provided a new lease is negotiated for an additional period not to exceed 20 years.

(j) There is established a "Revised Official Map and Description of Kelp Beds, Pt. Arguello to U.S.–Mexico Boundary" dated August 1, 1963 revised March 3, 1967, a new "Official Map and Description of Kelp Beds, Pt. Arguello to Pt. Montara" dated March 3, 1967, and a new map "Official Map and Description of Kelp Beds, Pt. Montara to California–Oregon Boundary" dated June 15, 1995. These maps are based upon U.S. Coast and Geodetic Survey Charts No. 5020, dated April 1961, No. 5302, dated October 12, 1964, and No. 5402, dated September 6, 1965, as filed with the Fish and Game Commission. Beds are described as follows: (all bearings are true bearings)

(1) Mainland Beds (Pt. Arguello to Mexico)

Bed 1. From a line drawn 264° from the U.S.A.–Mexico International Boundary to a line drawn 270° from the southern tip of San Diego Bay. 0.20 square miles.

Bed 2. From a line drawn 270° from the southern tip of San Diego Bay to a line drawn 259° from the southern tip of Point Loma. 0.10 square miles.

Bed 3. From a line drawn 259° from the southern tip of Point Loma to a line drawn 272° from the south jetty of Mission Bay. 2.58 square miles.

Bed 4. From a line drawn 272° from the south jetty of Mission Bay to a line drawn 283° from Scripps Pier. 2.53 square miles.

Bed 5. From a line drawn 283° from Scripps Pier to a line drawn 269° from the mouth of the San Dieguito River. 0.00 square miles.

Bed 6. From a line drawn 269° from the mouth of the San Dieguito River to a line drawn 236° from the middle of Loma Alta Lagoon (at South Oceanside). 1.52 square miles.

Bed 7. From a line drawn 236° from the middle of Loma Alta Lagoon to a line drawn 215° from the middle of the city of San Onofre. 0.66 square miles.

Bed 8. From a line drawn 215° from the middle of the city of San Onofre to a line drawn 219° from the middle of San Juan Creek. 1.53 square miles.

Bed 9. From a line drawn 219° from the middle of San Juan Creek to a line drawn 220° from Abalone Pt. 0.39 square miles.

Bed 10. From a line drawn 220° from Abalone Pt. to a line drawn 220° from the south jetty of Newport Bay. 0.00 square miles.

Bed 13. From a line drawn 156° from the San Pedro Breakwater Lighthouse to a line drawn 232° from Pt. Vicente. 0.54 square miles.

Bed 14. From a line drawn 232° from Pt. Vicente to a line drawn 256° from the southern tip of the Redondo Beach Breakwater. 0.74 square miles.

Bed 15. From a line drawn 223° from the Santa Monica Pier to a line drawn 156° from Malibu Pt. 0.04 square miles.

Bed 16. From a line drawn 156° from Malibu Pt. to a line drawn 185° from Pt. Dume. 0.21 square miles.

Bed 17. From a line drawn 185° from Pt. Dume to a line drawn 207° from Pt. Mugu. 0.62 square miles.

Bed 18. From a line drawn 217° from the middle of the mouth of Ventura River to a line drawn 214° from Pitas Pt. 0.14 square miles.

Bed 19. From a line drawn 214° from Pitas Pt. to a line drawn 218° from Rincon Pt. 0.05 square miles.

Bed 20. From a line drawn 218° from Rincon Pt. to a line drawn 198° from Loon Pt. 0.24 square miles.

Bed 21. From a line drawn 198° from Loon Pt. to a line drawn 184° from the eastern boundary of the Montecito Hotel (2.4 miles 072° from tip of S.B. Breakwater). 0.19 square miles.

Bed 22. From a line drawn 184° from the eastern boundary of the Montecito Hotel to a line drawn 166° from the tip of the Santa Barbara Breakwater. 0.05 square miles.

Bed 23. From a line drawn 166° from the tip of the Santa Barbara Breakwater to a line drawn 195° from the Santa Barbara Lighthouse. 0.10 square miles.

Bed 24. From a line drawn 195° from the Santa Barbara Lighthouse to a line drawn 197° from the middle of Rogue Creek (Arroyo Burro). 0.05 square miles.

Bed 25. From a line drawn 197° from the middle of Rogue Creek to a line drawn 185° from the middle of Hope Ranch Creek. 0.18 square miles.

Bed 26. From a line drawn 185° from the middle of Hope Ranch Creek to a line drawn 176° from Goleta Pt. 0.60 square miles.

Bed 27. From a line drawn 176° from Goleta Pt. to a line drawn 210° from Coal Oil Pt. 0.43 square miles.

Bed 28. From a line drawn 210° from Coal Oil Pt. to a line drawn 200° from the Middle of Gato Canyon (about 1.5 miles west of Naples). 0.60 square miles.

Bed 29. From a line drawn 200° from the middle of Gato Canyon to a line drawn 183° from the middle of Refugio Creek. 0.17 square miles.

Bed 30. From a line drawn 183° from the middle of Refugio Creek to a line drawn 180° from the middle of Canada de Molino (about 5 miles west of Refugio Creek). 0.39 square miles.

Bed 31. From a line drawn 180° from the middle of Canada de Molino to a line drawn 180° from the middle of Alegria Canyon (about 3.4 miles west of Gaviota). 0.16 square miles.

Bed 32. From a line drawn 180° from the middle of Alegria Canyon to a line drawn 180° from Pt. Conception. 2.76 square miles.

Bed 33. From a line drawn 180° from Pt. Conception to a line drawn 231° from Expada Bluff. 0.97 square miles.

Bed 34. From a line drawn 231° from Espada Bluff to a line drawn 270° from Pt. Arguello. 0.31 square miles.

Total Area Mainland Beds (Pt. Arguello to Mexico). ..... 19.05 square miles

(2) Island Beds

Bed 101. San Clemente Island. From a line drawn 120° from Pyramid Head to a line drawn 210° from China Pt. 0.66 square miles.

Bed 102. San Clemente Island. From a line drawn 210° from China Pt. to a line drawn 226° from Seal Cove. 2.39 square miles.

Bed 103. San Clemente Island. From a line drawn 226° from Seal Cove to a line drawn 0° from Northwest Harbor. 2.89 square miles.

Bed 104. San Clemente Island. From a line drawn 0° from Northwest Harbor to a line drawn 120° from Pyramid Head. 0.22 square miles.

Bed 105. Santa Catalina Island. Entire island. 0.75 square miles.

Bed 106. Santa Barbara Island. Entire island. 0.23 square miles.

Bed 107. San Nicolas Island. South of a line drawn 75° from the east end to a line drawn 283° from the west end. 1.15 square miles.

Bed 108. San Nicolas Island. North of a line drawn 283° from the west end to a line drawn 75° from the east end. 2.85 square miles.

Bed 109. Anacapa Islands. All islands. 0.32 square miles.

Bed 110. Santa Cruz Island. From a line drawn 86° from San Pedro Pt. to a line drawn 170° from Bowen Pt. 0.64 square miles.

Bed 111. Santa Cruz Island. From a line drawn 170° from Bowen Pt. to a line drawn 306° from West Pt. 0.61 square miles.

Bed 112. Santa Cruz Island. From a line drawn 306° from West Pt. to a line drawn 86° from San Pedro Pt. 0.11 square miles.

Bed 113. Santa Rosa Island. From a line drawn 61° from Skunk Pt. to a line drawn 180° from South Pt. 0.59 square miles.

Bed 114. Santa Rosa Island. From a line drawn 180° from South Pt. to a line drawn 285° from Sandy Pt. 2.17 square miles.

Bed 115. Santa Rosa Island. From a line drawn 285° from Sandy Pt. to a line drawn 45° from Carrington Pt. 1.59 square miles.

Bed 116. Santa Rosa Island. From a line drawn 45° from Carrington Pt. to a line drawn 61° from Skunk Pt. 0.62 square miles.

Bed 117. San Miguel Island. South of a line drawn 60° from Cardwell Pt. to a line drawn 231° from Pt. Bennett. 1.35 square miles.

Bed 118. San Miguel Island. North of a line drawn 231° from Pt. Bennett to a line drawn 60° from Cardwell Pt. 1.51 square miles.

Total Island Beds ..... 20.65 square miles

(3) Mainland Beds (Pt. Arguello to Point Montara)

Bed 202. From a line drawn 270° from Pt. Arguello to a line drawn 270° from Point Sal. 0.10 square miles.

Bed 203. From a line drawn 270° from Point Sal to a line drawn 270° from Pismo Beach Pier. 0.00 square miles.

Bed 204. From a line drawn 270° from Pismo Beach Pier to a line drawn 180° from Point San Luis. 0.72 square miles.

Bed 205. From a line drawn 180° from Point San Luis to a line drawn 250° from Point Buchon. 0.64 square miles.

Bed 206. From a line drawn 250° from Point Buchon to a line drawn 270° from Morro Rock. 0.04 square miles.

Bed 207. From a line drawn 270° from Morro Rock to a line drawn 190° from Point Estero. 1.46 square miles.

Bed 208. From a line drawn 190° from Point Estero to a line drawn 230° from Von Helm Rock. 2.61 square miles.

Bed 209. From a line drawn 230° from Von Helm Rock to a line drawn 200° from San Simeon Point. 2.20 square miles.

Bed 210. From a line drawn 200° from San Simeon Point to a line drawn 230° from Point Piedras Blancas. 2.02 square miles.

Bed 211. From a line drawn 230° from Point Piedras Blancas to a line drawn 240° from Salmon Head. 1.50 square miles.

Bed 212. From a line drawn 240° from Salmon Head to a line drawn 240° from Cape San Martin. 1.26 square miles.

Bed 213. From a line drawn 240° from Cape San Martin to a line drawn 240° from Lopez Point. 2.14 square miles.

Bed 214. From a line drawn 240° from Lopez Point to a line drawn 240° from Partington Point. 2.03 square miles.

Bed 215. From a line drawn 240° from Partington Point to a line drawn 200° from Pfeiffer Point. 0.80 square miles.

Bed 216. From a line drawn 200° from Pfeiffer Point to a line drawn 200° from Point Sur. 3.08 square miles.

Bed 217. From a line drawn 200° from Point Sur to a line drawn 270° from Yankee Point. 2.38 square miles.

Bed 218. From a line drawn 270° from Yankee Point to a line drawn 270° from Point Lobos. 0.50 square miles.

Bed 219. From a line drawn 270° from Point Lobos to a line drawn 270° from Point Cypress. 1.28 square miles.

Bed 220. From a line drawn 270° from Point Cypress to a line drawn 000° from Monterey Pier. 1.88 square miles.

Bed 221. From a line drawn 000° from Monterey Pier to a line drawn 180° from Santa Cruz Pier. 0.90 square miles.

Bed 222. From a line drawn 180° from Santa Cruz Pier to a line drawn 240° from Sand Hill Bluff. 0.81 square miles.

Bed 223. From a line drawn 240° from Sand Hill Bluff to a line drawn 240° from Point Ano Nuevo. 0.19 square miles.

Bed 224. From a line drawn 240° from Point Ano Nuevo to a line drawn 270° from Pescadero Point. 0.06 square miles.

Bed 225. From a line drawn 270° from Pescadero Point to a line drawn 270° from Point Montara. 0.00 square miles.

Total area of Mainland Beds (Pt. Arguello to Point Montara) ..... 28.60 square miles

(4) Mainland Beds (Point Montara to Oregon).

Bed 226. From a line drawn 270° from Point Montara to a line drawn 270° from Fort Point. 0.00 square miles.

Bed 301 From a line drawn 270° from Fort Point to a line drawn 270° from Point Reyes. 0.00 square miles.

Bed 302 From a line drawn 270° from Point Reyes to a line drawn 240° from Duncan's Point. 0.00 square miles.

Bed 303. From a line drawn 240° from Duncan's Point to a line drawn 270° from Gualala Point. 1.33 square miles.

Bed 304. From a line drawn 270° from Gualala Point to a line drawn 240° from Iverson Point 0.89 square miles.

Bed 305. From a line drawn 240° from Iverson Point to a line drawn 330° from Point Arena. 1.11 square miles.

Bed 306. From a line drawn 330° from Point Arena to a line drawn 270° from Stillwell Point. 1.03 square miles.

Bed 307. From a line drawn 270° from Stillwell Point to a line drawn 270° from the middle of Ten-mile River. 0.93 square miles.

Bed 308. From a line drawn 270° from the middle of Ten-mile River to a line drawn 180° from Point Delgada. 0.20 square miles.

Bed 309. From a line drawn 180° from Point Delgada to a line drawn 260° from Point Mendocino. 0.14 square miles.

Bed 310. From a line drawn 260° from Cape Mendocino to a line drawn 300° from the South jetty of Humboldt Bay. 0.0 square miles.

Bed 311. From a line drawn 300° from the South jetty of Humboldt Bay to a line drawn 270° from the middle of the Klamath River. 0.00 square miles.

Bed 312. From a line drawn 270° from the middle of the Klamath River to a line drawn 250° from the California–Oregon Boundary

Total of mainland beds, Point Montera to Oregon Boundary ..... 5.83 square miles

Grand Total 74.13 square miles

(k) Those beds not subject to lease are as follows:

Mainland Beds (Pt. Arguello to Mexico)

Bed No.	*Square Miles*
1	0.20
2	0.10
7	0.66
8	1.53
9	0.39
13	0.54
14	0.74
18	0.15
23	0.10
25	0.18
28	0.60
33	0.97
Total	6.16

Mainland Beds (Pt. Arguello to Pt. Montara)

Bed No.	*Square Miles*
205	0.64
213	2.14
215	0.80
217	2.38
218	0.49
219	1.28
220	1.88
221	0.90
222	0.81
Total	11.32

Mainland Beds (Pt. Montara to California–Oregon Border

Bed No.	*Square Miles*
303	1.33
304	0.89
305	1.11
306	1.03
307	0.93
Total	5.29

Island Beds

Bed No.	*Square Miles*
101	0.66
104	0.22
105	0.75
109	0.32
110	0.64
112	0.11
113	0.59
114	2.18
115	1.59
116	0.62
117	1.35
118	1.51
Total	10.54

NOTE: Authority cited: Sections 6653 and 6700, Fish and Game Code. Reference: Sections 6653 and 6700–6707, Fish and Game Code.

HISTORY

1. Amendment and renumbering from Section 165 filed 6–11–68; effective thirtieth day thereafter (Register 68, No. 22). For prior history, see Register 67, No. 50.
2. Amendment of subsection (d) filed 8–28–68; effective thirtieth day thereafter (Register 68, No. 33).
3. Amendment of subsection (f) filed 6–30–77 as an emergency; effective upon filing (Register 77, No. 27).
4. Certificate of Compliance filed 8–24–77 (Register 77, No. 35).
5. Amendment of subsection (f) filed 3–9–81; effective thirtieth day thereafter (Register 81, No. 11).
6. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
7. Amendment filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
8. Amendment of subsection (k) filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
9. Change without regulatory effect of subsections (j)(1)–(3) filed 5–5–86; effective thirtieth day thereafter (Register 86, No. 19).
10. Amendment of subsections (b)(2), (c)(2), (g), (j)(3) and (k) filed 1–27–87; effective thirtieth day thereafter (Register 87, No. 5).
11. Amendment of subsections (b)(1), (c)(1) and (j)(3) filed 7–14–88; operative 8–13–88 (Register 88, No. 30).
12. Amendment of subsections (b)(2), (c)(2), (g), and (j) filed 12–3–90; operative 1–2–91 (Register 91, No. 4).
13. Amendment filed 3–26–96; operative 3–26–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 13).
14. Amendment of subsections (b), (b)(1) and (k) filed 10–25–2001; operative 11–24–2001 (Register 2001, No. 43).

§ 165.7. Granting and Issuance of Permits to Control Sea Urchins in Kelp Beds.

NOTE: Authority cited: Section 6653, Fish and Game Code. Reference: Sections 6650–6751, Fish and Game Code.

HISTORY

1. New section filed 1–24–75; effective thirtieth day thereafter (Register 75, No. 4).
2. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 166. Salmon: Importation and Sale.

Regulations prescribed for importation of salmon into the state, and for the sale of salmon during the closed season. As used herein, the word "salmon" means all such fish except those caught under authority of a sport fishing license.

(a) Importation of Salmon. All salmon, fresh or frozen, imported into this state for human consumption shall be in such condition that the size and species can be determined as set forth by Section 2361 of the Fish and Game Code. Salmon legally taken and imported into this state for sale may be transported overland provided:

(1) Such salmon are shipped under a bill of lading issued at point of origin of shipment, a copy of which is possessed by the carrier during transport, showing the point of origin of shipment, the point of delivery to consignee, and listing all fish by species and weight;

(2) Prior notice of at least 12 hours for each shipment shall be provided the department office nearest the point of entry into the state during normal working hours (8:00 a.m.–5:00 p.m., Monday–Friday). Notice shall include approximate time of entry into the state and the route of travel through the state;

(3) The importer shall furnish the office, notified in sub–paragraph (2), a copy of the bill of lading covering each importation received by said importer within 24 hours of the receipt of the shipment;

(4) Within 14 days after the close of the season the owner or possessor of salmon, which are being held for sale during the closed season, shall furnish the department with a written inventory of all salmon held in possession. The inventory shall declare the address of each cold storage plant where salmon are stored as well as the amount in pounds of such salmon held in each of the cold storage plants.

All withdrawals of salmon from such cold storage plants shall be accompanied by a delivery manifest, and a copy of said manifest shall be mailed to the nearest department office on the same date as the withdrawal. The cold storage delivery manifest shall declare: weight of salmon, name and address to whom delivery was made, and date and time of withdrawal.

(b) Sale of Salmon During the Closed Season. Salmon legally taken or imported may be sold during the closed season as herein provided:

(1) Salmon transported during the period when such fish may not be taken for commercial purposes shall be accompanied by sale receipt or bill of lading. Lots of salmon exceeding fifty pounds shall be transported under bill of lading. The original copy of the bill of lading shall be retained by the consignee for a period of one year and be shown upon demand of any officer authorized to enforce regulations dealing with salmon.

NOTE: Authority cited: Section 8213, Fish and Game Code. Reference: Section 8213, Fish and Game Code.

HISTORY

1. Amendment filed 4–5–77; effective thirtieth day thereafter (Register 77, No. 15). For prior history, see Register 64, No. 3.)

§ 167. Penalties in Lieu of Suspension or Revocation—Salmon Permittees.

Pursuant to the provisions of Section 8237 of the Fish and Game Code, the Commission, after notice and an opportunity to be heard, may suspend or revoke the commercial salmon fishing privileges of any person licensed or required to be licensed under the authority of Sections 7852.5 and 7860 of the Fish and Game Code upon conviction of a commercial salmon fishing violation. Notwithstanding this provision, the Executive Secretary of the Commission may enter into a stipulated compromise settlement agreement with the agreement of the licensee on terms and conditions which may include, but are not limited to, the payment of monetary penalties, the reduction of a revocation to a suspension for a specified period of time, a period of probation not to exceed three years or any other terms and conditions, mutually agreed upon by the Executive Secretary acting for the Commission and the licensee, without further hearing or appeal. Conviction of multiple violations, committed at the same time shall be treated as one conviction for the purposes of implementing the provisions of this section.

A compromise settlement agreement may be entered before, during or after the Commission hearing on the matter, but is valid only if executed and signed by the Executive Secretary and the licensee prior to the adoption of the decision by the Commission. Any monetary penalty included in a compromise settlement agreement shall be within the range of monetary penalties as prescribed in subsection (a) of these regulations and shall be due and payable within 30 days after the compromise is entered into. Any and all funds submitted as payment in whole or in part by a licensee of any monetary penalties stipulated in a compromise settlement agreement shall be nonrefundable.

If the licensee fails to perform all of the terms and conditions of the compromise settlement agreement, such agreement is thereby declared void and the Commission, notwithstanding the compromise settlement agreement, may take any action authorized by Section 8237 of the Fish and Game Code against the licensee.

(a) Procedures for determining monetary penalties:

(1) Monetary penalties (score range multiplied by the monetary range) for compromise settlement agreements shall be based on the following point system:

SCORE RANGE (Total Points)	MONETARY RANGE
1–20	$200 per point as provided in subsection (a)(2) below.
21+	$400 per point as provided in subsection (a)(2) below.

(2) The score range shall be based on a cumulative total of the points assigned in this subsection:

(A) GRAVITY OF THE VIOLATION.

1. Take of undersize salmon, when such fish comprise (Note: the following points assigned shall be doubled if any part of the load or lot was intentionally hidden by the licensee):

a. 1–25 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.	1 point, plus 1/2 point for each undersized fish
(ii) When there are more than 3 undersized salmon in the total load or lot.	3 points, plus 1/2 point for each undersized fish

b. 26–50 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.	2 points, plus 1/2 point for each undersized fish
(ii) When there are more than 3 undersized salmon in the total load or lot.	4 points, plus 1/2 point for each undersized fish

c. 51–100 percent of the total load or lot of salmon.

(i) When there are 3 or less undersized salmon in the total load or lot.	3 points, plus 1/2 point for each undersized fish
(ii) When there are more than 3 undersized salmon in the total load or lot.	1 point, plus 1 point for each fish

2. Take of silver salmon which are unlawfully retained during the closed season for silver salmon but during the open season for king salm-

on, when such fish comprise (Note: The following points assigned shall be doubled if any part of the load or lot was intentionally hidden by the licensee):

a. 1–25 percent of the total load or lot of silver salmon.

(i) When there are 3 or less silver salmon in the total load or lot. for each silver salmon — 1 point, plus 1/2 point

(ii) When there are more than 3 silver salmon in the total load or lot. — 3 points, plus 1/2 point for each silver salmon

b. 26–50 percent of the total load or lot of silver salmon.

(i) When there are 3 or less silver salmon in the total load or lot. — 2 points, plus 1/2 point for each silver salmon

(ii) When there are more than 3 silver salmon in the total load or lot. — 4 points, plus 1/2 point for each silver salmon

c. 51–100 percent of the total load or lot of silver salmon.

(i) When there are 3 or less silver salmon in the total load or lot. — 3 points, plus 1/2 point for each silver salmon

(ii) When there are more than 3 silver salmon in the total load or lot. — 1 point, plus 1 point for each silver salmon

3. Take of salmon during closed salmon season. — 5 points

4. Take of salmon within a closed area.

a. When the vessel is found fishing within one mile inside the closure boundary. — 2 points

b. When the vessel is found fishing within more than one mile inside the closure boundary. — 5 points

5. Transfer of salmon from nonpermitted vessel to a permitted vessel. — 10 points

6. Use of more than six wires or lines. — 10 points

7. Use of barbed hooks: for each 5 hooks or portion thereof. — 1 point

8. Take of salmon; no valid commercial license in possession. — 2 points, plus purchase of required license

9. Take of salmon; no valid commercial salmon vessel permit in possession. — 10 points

10. Take of salmon; no valid commercial fishing salmon stamp in possession. — 2 points, plus purchase of required stamps

11. Failure to document landing. — 2 points

12. Any other commercial salmon fishing violation. — 1 point

(B) PRIOR VIOLATIONS.

1. For each prior conviction of the licensee within the past three years for violations of the laws or regulations pertaining to the commercial take of salmon, the following additional points shall be assessed:

a. For one prior conviction for a violation of the commercial salmon fishing laws or regulations within the past three years, the accumulative point score shall be doubled to determine the total point score.

b. For two prior convictions for violations of the commercial salmon fishing laws or regulations within the past three years, the accumulative point score shall be tripled to determine the total point score.

c. The provisions of this section regarding compromise settlement agreements shall not apply to any person who has been convicted of three or more convictions, as defined in this section, of the commercial salmon laws or regulations within the past three years or if action is brought to recover civil damages under Section 2014 of the Fish and Game Code from the person subject to action under this section.

(2) All monetary penalties for compromise agreements for points assigned under subsection (a)(2)(A)1. through (a)(2)(A)7. are resource oriented and, therefore, all monetary penalties assessed under these subsections shall be deposited by the Department into the special account established by Section 7861 of the Fish and Game Code. All other monetary penalties assessed under this section shall be deposited by the Department to the Fish and Game Preservation Fund.

NOTE: Authority cited: Sections 8246 and 8246.2, Fish and Game Code. Reference: Sections 8246 and 8246.2, Fish and Game Code.

HISTORY

1. New section filed 6–9–87; operative 7–9–87 (Register 87, No. 24). For prior history, see Register 81, No. 43.
2. Amendment of subsections (a)(1), (a)(3), (a)(4) and NOTE filed 1–15–92; operative 2–14–92 (Register 92, No. 12).

§ 167.2. Domestically Reared Striped Bass.

NOTE: Authority cited: Sections 2361, 2363, 2430, 2431, 7701, 7708, 8213 and 8431, Fish and Game Code. Reference: Sections 2353, 2361, 2430–2433, 7700–7710.5, 8213 an 8431, Fish and Game Code.

HISTORY

1. New section filed 4–5–77; effective thirtieth day thereafter (Register 77, No. 15).
2. Repealer filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 167.3. Sale of Marine Life Produced Under Mariculture License.

NOTE: Authority cited: Sections 7708, 15005, 15200, 15202 and 15402, Fish and Game Code. Reference: Sections 7708, 15005, 15200, 15202 and 15402, Fish and Game Code.

HISTORY

1. New section filed 12–30–81; effective thirtieth day thereafter (Register 82, No. 1).
2. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).

§ 168. Fish, Packaged or Tagged.

NOTE: Authority cited: Sections 1038, 2430–2433, 8435 and 8436, Fish and Game Code. Reference: Sections 2430–2433, 8435 and 8436, Fish and Game Code.

HISTORY

1. Amendment filed 8–24–73; effective thirtieth day thereafter (Register 73, No. 34). For prior history, see Register 67, No. 36.
2. Repealer filed 7–28–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 31).

§ 169. Permit to Operate Domesticated Anadromous Fishery on Davenport Landing Creek (Santa Cruz County).

NOTE: Authority cited: Sections 1050, 6570, 15005, 15101 and 15200, Fish and Game Code. Reference: Sections 1050, 6570–6578, 15101 and 15200–15202, Fish and Game Code.

HISTORY

1. New section filed 1–14–69; effective thirtieth day thereafter (Register 69, No. 3).
2. Amendment of subsection (o) filed 12–14–72; effective thirtieth day thereafter (Register 72, No. 51).
3. Repealer and new section filed 1–21–77; effective thirtieth day thereafter (Register 77, No. 4).
4. Amendment of subsection (a)(12) filed 7–28–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 31).
5. Amendment to subsection (a)(1) filed 1–15–81; effective thirtieth day thereafter (Register 81, No. 3).
6. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
7. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).

§ 169.1. Permits to Operate Domesticated Anadromous Fishery in Elk Creek (Mendocino County).

NOTE: Authority cited: Sections 6550 and 6555, Fish and Game Code. Reference: Sections 6550 and 6555, Fish and Game Code.

HISTORY

1. Repealer filed 1–21–77; effective thirtieth day thereafter (Register 77, No. 4). For prior history, see Register 74, No. 31.

§ 170. Commercial Packaging of Dead, Domestically–Reared Fish.

NOTE: Authority cited: Sections 1050, 15005 and 15101, Fish and Game Code. Reference: Sections 1050, 15000–15005 and 15101, Fish and Game Code.

HISTORY

1. Amendment filed 7–28–77 as an emergency; effective upon filing. Certificate of Compliance included (Register 77, No. 31). For prior history, see Register 71, No. 31.
2. Editorial correction of subsection (d) (Register 78, No. 11).
3. Repealer and new section filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
4. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).

§ 170.5. Domesticated Fish Breeders' Signs.

NOTE: Authority cited: Section 15400, Fish and Game Code. Reference: Section 15400, Fish and Game Code.

HISTORY

1. New section filed 7–31–75; effective thirtieth day thereafter (Register 75, No. 31).
2. Amendment filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Repealer filed 4–1–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 14).

§ 171. Importation of Live Catfish.

No live catfish of the following species: channel catfish (*Ictalurus Punctatus*), blue catfish (*Ictalurus furcatus*), white catfish (*Ictalurus catus*), flathead catfish (*Pylodictis olivaris*), brown bullhead (*Ictalurus nebulosus*), black bullhead (*Ictalurus melas*) or yellow bullhead (*Ictalurus natalis*) may be imported into California.

NOTE: Authority cited: Section 6401, Fish and Game Code. Reference: Sections 2270–2272, 6300–6306, and 6400–6401, Fish and Game Code.

HISTORY

1. New section filed 5–2–72 as an emergency; effective upon filing (Register 72, No. 19).
2. Certificate of Compliance filed 8–2–72 (Register 72, No. 32).
3. Amendment filed 8–24–73; effective thirtieth day thereafter (Register 73, No. 34).
4. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 171.1. Importation of Live Striped Bass.

NOTE: Authority cited: Sections 2118 and 6401, Fish and Game Code. Reference: Sections 2116–2191, 2270–2272 and 2301–2304, Fish and Game Code.

HISTORY

1. New section filed 4–5–77; effective thirtieth day thereafter (Register 77, No. 15).
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Repealer filed 7–25–88; operative 7–25–88 (Register 88, No. 32).

§ 171.5. Importation of Eggs of Fishes of the Family Salmonidae (Trout, Char, and Salmon).

NOTE: Authority cited: Sections 2118, 6401 and 15600, Fish and Game Code. Reference: Sections 2116–2191, 6401 and 15600, Fish and Game Code.

HISTORY

1. New section filed 7–6–72; effective thirtieth day thereafter (Register 72, No. 28).
2. New NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Repealer filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).

§ 172. Possession of Trawl or Drag Nets in Districts 4, 19, 19A, 19B, and 21.

Trawl or drag nets may be possessed for the purpose of transportation in Fish and Game Districts 4, 19, 19A, 19B, and 21.

NOTE: Authority cited: Section 8833, Fish and Game Code. Reference: Sections 8830–8843, Fish and Game Code.

HISTORY

1. New section filed 10–5–65 as an emergency; effective upon filing. Certificate of Compliance included (Register 65, No. 19).
2. Repealer and new section filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 173. Midwater Trawls.

NOTE: Authority cited: Section 8830.5, Fish and Game Code. Reference: Sections 8830–8843, Fish and Game Code.

HISTORY

1. New section filed 12–11–70; effective thirtieth day thereafter (Register 70, No. 50).
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. New subsection (h) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
4. Change without regulatory effect repealing section filed 5–16–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 20).

§ 174. Permit to Use Gill Nets or Trammel Nets for Commercial Purposes.

(a) Permit Required.

(1) The owner or operator of a vessel using a gill net or trammel nets shall have obtained a valid gill net/trammel net permit and shall be in possession of said permit when engaged in gill netting or trammel netting activities except as provided under subsection (i). Pursuant to Fish and Game Code Section 7857(c), the permittee shall be present when fish are being taken, possessed aboard a boat, or landed for commercial purposes.

(2) To Whom Issued. The department shall issue permits to the owner or operator of a currently registered commercial fishing vessel who has qualified pursuant to subsection (b).

(b) Qualifications for the Permit. To qualify for a permit, an applicant shall:

(1) Have worked as a crewmember for at least 12 months on vessels using gill nets or trammel nets and shall have worked at least 180 days at sea on such vessels; or

(2) Pass a proficiency examination administered by the department. The proficiency examination shall include written and performance tests which demonstrate knowledge of the proper use of gill nets or trammel nets.

(3) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 10,000 pounds of fish during a 12–month period, or has landed fish during a 12–month period for which he was paid at least $10,000. Only landings of fish caught by the use of gill nets or trammel nets shall be used to satisfy the catch requirements of this subsection; or

(4) Prove to the director's satisfaction that as the owner or operator of a legally registered commercial fishing vessel, he has landed at least 1,000 pounds of fish taken in gill nets or trammel nets in 4 of the 5 license years prior to the date of application; or

(5) Have possessed a permit issued pursuant to this section during the previous season and shall have complied with subsection (f) of these regulations.

(6) Only landings and crewmember experience occurring during the five year period prior to the date of application shall be used to meet the requirements of subsection (b). The applicant shall supply documentation that he was a legally licensed commercial fisherman when he made the required landings or met the crewmember experience requirements. Crewmember experience shall be documented by fishing records submitted to the department as required by subsection (f), or by a notarized document signed by the owner or operator of vessels on which the applicant has completed the required experience. Landings of fish shall be verified by the submission of copies of landing receipts.

(c) Limitations of Permit. Permits must be renewed annually.

(d) Permit Renewal. Beginning April 1, 2009, and thereafter, applications for renewal of gill net/trammel net permits shall be received by the department, or if mailed, postmarked, on or before April 30 of each permit year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(e) Cost of Permit. See section 8683 of the Fish and Game Code.

(f) Records. Pursuant to section 190 of these regulations, each permittee shall complete and submit an accurate record of all gill net and trammel net fishing activities on a form (Gill and Trammel Net Log, DFG 174 (10/89), see Appendix A) provided by the department.

(g) Conditions of Permit. Provisions of the Fish and Game Code relating to commercial fish except as modified by the provisions of these regulations, shall be a condition of all permits to be fully performed by the holders thereof, their agents, servants, employees or those acting, under their direction or control.

(h) Revocation. As specified in Fish and Game Code Section 8681, the commission may suspend, revoke, or cancel a permit, license, and commercial fishing privileges pursuant to Fish and Game Code Section 7857.

(i) Exemptions from Permit. The owner or operator of a vessel operating under a permit issued pursuant to section 163 of these regulations is not required to possess the permit authorized by this section.

NOTE: Authority cited: Sections 1050 and 8682, Fish and Game Code. Reference: Sections 1050, 1700, 7852.2, 8568, 8680, 8681, 8682 and 8683, Fish and Game Code.

HISTORY

1. New section filed 3–25–81; effective thirtieth day thereafter (Register 81, No. 13).
2. Amendment of section heading and subsections (a)(1), (b)(2)–(4.) and (f) filed 3–17–82; effective thirtieth day thereafter (Register 82, No. 12).
3. New subsections (j)–(l) filed 7–8–82 as an emergency; effective upon filing (Register 82, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–5–82.
4. Amendment of subsections (j) and (1) filed 8–13–82 as an emergency; effective upon filing (Register 82, No. 33). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–11–82.
5. Reinstatement of section as it existed prior to emergency adoption of subsections (j)–(l) filed 7–8–82 and the amendment of subsections (j) and (l) filed 8–13–82 by operation of Government Code section 11346.1(f) (Register 83, No. 34).
6. New subsections (j) and (k) filed 8–12–83 as an emergency; effective upon filing (Register 83, No. 34). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–10–83.
7. Amendment of subsection (i) filed 5–9–84; effective thirtieth day thereafter (Register 84, No. 19).
8. Amendment of subsection (b)(5) and repealer of subsections (j) and (k) filed 5–19–86; effective thirtieth day thereafter (Register 86, No. 21).
9. Amendment of subsection (f) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
10. Amendment of subsection (e) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
11. Amendment of subsection (a)(1), repealer of subsection (a)(3), amendment of subsections (b)(6) and (c), repealer and new subsections (d) and (h) and amendment of subsection (i) and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 174.5. Gill Nets and Trammel Nets—Areas with Restricted Fishing.

NOTE: Authority cited: Section 8664.5, Fish and Game Code. Reference: Sections 1700, 3515 and 4500, Fish and Game Code.

HISTORY

1. New section filed 3–31–87 as an emergency; designated effective 4–1–87 (Register 87, No. 14). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–30–87. For prior history, see Register 87, No. 14.
2. New section filed 7–23–87 as an emergency; operative 7–23–87 (Register 87, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–20–87.
3. Repealed by operation of Government Code section 11346.1(g) on 11–20–87 (Register 89, No. 16).
4. New section filed 4–12–89 as an emergency; operative 4–12–89 (Register 89, No. 16). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–10–89.
5. New subsection (a)(2) filed 6–5–89 as an emergency; operative 6–5–89 (Register 89, No. 23). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–3–89.
6. Certificate of Compliance as to 4–12–89 and 6–5–89 orders including amendment transmitted to OAL 8–7–89 and filed 8–31–89 (Register 89, No. 35).
7. Amendment of subsection (c) filed 12–8–89 as an emergency; operative 12–8–89 (Register 89, No. 50). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 4–9–90.
8. Expired by its own terms on 3–31–90 (Register 91, No. 31).

§ 174.7. Gill Nets and Trammel Nets—District 18.

NOTE: Authority cited: Section 8664.5(b), Fish and Game Code. Reference: Sections 1700, 4500, 4700 and 8664.5, Fish and Game Code.

HISTORY

1. New section filed 9–7–89 as an emergency; operative 9–7–89 (Register 89, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 1–5–90. For prior history, see Register 87, No. 27.
2. Expired by its own terms on 11–30–89 (Register 91, No. 31).

§ 175. Trawl Nets.

NOTE: Authority and reference cited: Section 7652, Fish and Game Code.

HISTORY

1. New section filed 1–3–83; designated effective 1–3–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 2).
2. Expired by own terms (Register 83, No. 28).

§ 176. Trawl Fishing Activity Records.

Pursuant to Section 190 of these regulations, the master or his designee of any vessel operating any trawl net in the public waters under the jurisdiction of the state, or taking fish by such net without the state and bringing them into the state, shall complete and submit an accurate record of fishing activities on a form (Trawl Trip Log, DFG 176 (10/89), see Appendix A) provided by the department.

NOTE: Authority cited: Section 8026, Fish and Game Code. Reference: Section 8026, Fish and Game Code.

HISTORY

1. New section filed 12–8–89; operative 1–1–90 (Register 89, No. 50).

§ 180. Traps.

Revocable, nontransferable permits to use traps for commercial purposes may be issued by the department to take fish, mollusks and crustaceans except market crabs (*Cancer magister*) and lobster under the following conditions:

(a) Permits will include conditions under which traps shall be used to take fish, mollusks or crustaceans. No person shall use any trap except as authorized in a permit. The taking of spot prawns shall be subject to the conditions of this section and section 180.1.

(b) Every person who takes or assists in taking fish, mollusks, or crustaceans with any trap or who possesses or transports fish, mollusks, or crustaceans on any boat, barge, or vessel when any trap is aboard, shall have in his possession a valid permit issued to him pursuant to this section while engaged in any such activity.

(c) The department may inspect the traps at any time.

(d) Records. Pursuant to section 190 of these regulations, each permittee may be required by the department to complete and submit an accurate log of the fishing operations on a form (Daily Trap Log, DFG 180A (10/89) or Daily Sablefish Trap Log, DFG 180B (10/89), see Appendix A) provided by the department.

(e) Traps must be marked by buoys as specified by the department.

(f) All traps must have at least one destruct device of a type authorized by the department.

(g) The permit may be suspended temporarily by the Director for a breach or violation of the terms of the permit by the holder thereof, or any member of his crew on the designated vessel. In addition, the permit may be temporarily suspended or denied by the Director if he determines that the trap or its operation is detrimental to any of the ocean's living marine resources. The commission shall be notified of any such suspension, and subsequently may revoke or reinstate the permit or fix the period of its suspension after written notice to the permittee and after he has been afforded an opportunity to be heard. In the event a permit is denied by the Director the applicant may apply to the commission for an experimental gear permit under Section 8606 of the Fish and Game Code.

(h) The permit number of the boat operator shall be displayed on both sides of the boat in ten-inch black numbers on a white background. All permittees aboard the boat shall be mutually responsible for the proper display of the numbers.

(i) Cost of Permit. The fee for this permit shall be the amount specified in Section 9001, Fish and Game Code.

(j) Exemption from Tidal Invertebrate Permit. A commercial fisherman operating under the provisions of a commercial trap permit and lobster operator permit is not required to possess a Tidal Invertebrate Permit, but is subject to the provisions of Section 123.

NOTE: Authority cited: Sections 7701, 7708, 8491 and 8500, Fish and Game Code. Reference: Sections 7700–7710.5, 8490, 8491, 8500, 9000–9011 and 9015, Fish and Game Code.

HISTORY

1. New section filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
2. Amendment filed 3–17–76 as an emergency; effective upon filing (Register 76, No. 12).
3. Certificate of Compliance filed 5–4–76 (Register 76, No. 19).
4. Amendment of subsections (b) and (f) and new subsection (k) filed 4–11–78; effective thirtieth day thereafter (Register 78, No. 15).
5. Amendment filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).
6. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
7. Amendment of subsection (f) filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
8. New subsection (*l*) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Amendment of subsections (a), (e)(2), (f) and NOTE filed 11–14–95; operative 11–14–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 46).
10. Repealer of subsections (c), (e)–(e)(6), and (j), subsection relettering, amendment of newly designated subsection (i) and amendment of NOTE filed 9–19–97; operative 10–19–97 (Register 97, No. 38).
11. New subsection (j) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 180.1. Spot Prawn *(Pandalus platyceros)* Fishing.

Spot prawns may only be taken by trawl nets for commercial purposes pursuant to subsection 120.3(g) of these regulations, or by traps, pursuant to sections 180, 180.2, 180.5 and this section.

(a) No trap may be used to take spot prawns from November 1 through January 31, between a line drawn due west from Point Arguello, Santa Barbara County and the United States — Mexico boundary. No trap may be used to take spot prawns from May 1 through July 31 between a line drawn due west from Point Arguello, Santa Barbara County, and the California–Oregon boundary.

(1) Spot prawn traps may be set and baited no earlier than 0600 hours (6:00 a.m.) on January 31 in waters south of a line drawn due west from Point Arguello, and no earlier than 0600 hours (6:00 a.m.) on July 31 in waters north of a line drawn due west from Point Arguello.

(2) In areas in which the season closure begins November 1, all traps must be removed from the water prior to November 1, weather and sea conditions permitting. In areas in which the season closure begins May 1, all traps must be removed from the water prior to May 1, weather and sea conditions permitting. In the event that a permittee is unable to comply with this subdivision, then that person must notify the nearest department office via telephone or FAX and certified mail not later than 1600 hours (4:00 p.m.) on November 1 or May 1, whichever is applicable, stating the reason for the delay and the anticipated date of trap removal. Notification does not relieve the permittee of responsibility for complying with this subdivision unless approved by the department.

(3) All spot prawns taken in any trap during the closed season shall be immediately returned to the water and no spot prawn may be possessed aboard, or landed from, any vessel operating under authority of a spot prawn trap permit in any area during the closed season in that area.

(b) All spot prawn traps shall be made of mesh with a minimum inside measurement of 7/8 inch by 7/8 inch, such that a 7/8 inch square peg passes through the mesh without stretching the mesh. (Note: Fathom Plus Traps may be used to take spot prawns.)

(c) Trap Limits.

(1) Tier 1 and Tier 3 trap limits. Not more than 500 traps may be used from any Tier 1 or Tier 3 vessel to take spot prawns except that not more than 300 traps may be used from any Tier 1 or Tier 3 vessel to take spot prawns within three miles of the mainland shore between a line drawn due west from Point Arguello, Santa Barbara County, and the California–Oregon boundary.

(2) Tier 2 trap limits. Not more than 150 traps may be used from any Tier 2 vessel.

(d) Each string of spot prawn traps shall be marked with a buoy bearing the commercial fishing license identification number issued to the owner or operator of the vessel.

NOTE: Authority cited: Sections 711 and 8591, Fish and Game Code. Reference: Sections 710.7, 711, 8140, 8590, 8591, 8593, 8594, 8595, 8842, 9000, 9001, 9004–9008 and 9015, Fish and Game Code.

HISTORY

1. New section filed 11–14–95; operative 11–14–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 46).
2. Amendment of subsections (a)–(a)(3) and and amendment of NOTE filed 9–19–97; operative 10–19–97 (Register 97, No. 38).
3. Amendment of section heading, section and NOTE filed 5–3–2000; operative 5–3–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 18).
4. Editorial correction of NOTE (Register 2000, No. 28).
5. Amendment of subsection (a)(2), new subsection (e) and amendment of NOTE filed 7–14–2000; operative 7–14–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 28).
6. Amendment filed 12–13–2004; operative 12–13–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 51).
7. Amendment of subsection (b) and NOTE filed 10–31–2005; operative 11–30–2005 (Register 2005, No. 44).

§ 180.2. Trap Destruction Devices.

Pursuant to the provisions of Section 9003 of the Fish and Game Code, every trap used to take fin fish, mollusks or crustaceans shall contain at least one destruction device that complies with the specifications described in this Section. The use of any structures or materials that defeat or interfere with the purpose of the destruct device is prohibited.

(a) Escape openings.

(1) Each trap destruct device shall create an unobstructed escape opening in the top or upper half of the trap of at least 5 inches in diameter when the destruct attachment material corrodes or fails, except for traps used under authority of a Tanner Crab Trap Vessel Permit.

(2) Traps used under authority of a Tanner Crab Trap Vessel Permit shall have an unobstructed escape opening in any sidewall or on the top of the trap; the escape opening shall not be on the floor of the trap. The opening shall measure not less than 11 inches taken at its smallest inside diameter. If the opening is non–rigid or contained within pliable mesh, the smallest inside diameter measurement shall be taken so that a rigid cylindrical measuring device 11 inches in its outside diameter and at least 6.5 inches in length shall be able to pass easily through the opening.

(b) The escape opening on each trap must be closed with one of the following destruct attachment materials:

(1) 14 gauge (.080 + or – .003 inch) or smaller metal hog rings excluding stainless steel or other non–corrodible materials;

(2) untreated cotton twine size No. 21–thread or less, except that traps used to take Dungeness, Tanner or rock crabs are limited to a single strand of untreated cotton twine size No. 120 or less;

(3) 24 gauge (.028 + or – .003 inch) or smaller uncoated bare metal crimps excluding stainless steel or other non–corrodible materials;

(4) magnesium pins not larger than one–quarter (.25) inch in diameter which may be used to hold together each half of plastic or fiberglass traps or may be used to attach the lid or door; or

(5) The use of rubber straps attached to metal or plastic hooks with a single loop of untreated cotton twine size No. 120 or less may be used to close the trap provided they are attached in such a manner as to aid the destruct process. The use of any rubber strap or non–corrosive material that defeats or interferes with the purpose of the destruct panel is prohibited.

(c) [Operative until July 16, 2006] Notwithstanding subsection (a) above, traps used to take Dungeness crabs, which are constructed of wire mesh, may have up to three meshes (described as "V"s or a "W" and a "V") that protrude into the destruct device opening provided that the points of each of these meshes are separated by at least one side (bar) of an adjoining mesh that has been removed and each of the meshes extend into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct ma-

terial must be constructed of a single wire no greater than .050 inches in diameter. This subsection shall become inoperative on July 16, 2006 and is repealed effective that date.

(c) [Operative July 16, 2006] Notwithstanding subsection (a) above, traps used to take Dungeness crabs, which are constructed of wire mesh, may have not more than a single wire mesh (described as a "V") that protrudes into the destruct device opening provided that mesh extends into the opening a distance of not more than 2 1/2 inches, as measured from the perimeter of the opening along either edge of the protruding wire mesh, to serve as an anchor for the destruct attachment material. On Dungeness crab traps constructed of wire mesh, the panel containing the destruct device and the wire mesh acting as an anchor for the destruct material must be constructed of a single wire no greater than .050 inches in diameter. This subsection shall become operative on July 16, 2006.

NOTE: Authority cited: Sections 7090, 7708, 8500 and 9003, Fish and Game Code. Reference: Sections 7090, 8500, 9003 and 9008, Fish and Game Code.

HISTORY

1. New section filed 9–19–85, operative 10–19–85; Register 85, No. 40)
2. Amendment to add subsections (d) and (e) filed 9–23–86, operative 10–23–86; Register 86, No. 39.
3. Amendment filed 3–2–94; operative 4–1–94 (Register 94, No. 9).
4. Amendment of subsection (a)(2) and NOTE filed 11–13–95 as an emergency; operative 11–13–95 (Register 95, No. 46). A Certificate of Compliance must be transmitted to OAL by 3–12–96 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (a)(2) and NOTE as they existed prior to emergency amendment that was filed 11–3–95 by operation of Government Code section 11346.1(f). Operative 3–13–96 (Register 96, No. 23).
6. Amendment of subsection (a)(2) and NOTE filed 6–7–96; operative 7–7–96 (Register 96, No. 23).
7. Amendment of section and NOTE filed 3–4–2003; operative 4–3–2003 (Register 2003, No. 10).
8. Amendment of subsection (b)(3) and both versions of subsection (c) filed 9–18–2003; operative 10–18–2003 (Register 2003, No. 38).
9. Amendment of introductory paragraph and subsections (a)–(a)(1), new subsection (a)(2), amendment of subsections (b), (b)(2) and (b)(5) and amendment of NOTE filed 3–14–2006; operative 3–14–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 11).

§ 180.3. Restricted Access Spot Prawn Trap Fishery.

(a) Control Date. A control date of January 1, 1999, is established for the purpose of developing a restricted access spot prawn trap fishery. Only those vessels which have made at least one spot prawn landing with trap gear before this date may be considered for inclusion in the restricted access trap fishery. Additional vessels which have made landings of spot prawns with trawl gear between 1994 and 2001 also may be considered for inclusion in the restricted access spot prawn trap fishery (trawl conversion program).

(b) Permit Requirement, Classification of Permits and Permit Conditions. Effective April 1, 2002, no person shall use a vessel to land spot prawns for commercial purposes using traps authorized pursuant to Sections 8591 and 9001 of the Fish and Game Code, unless the owner of that vessel has a general trap permit, issued pursuant to Section 9001 of the Fish and Game Code, and a spot prawn trap vessel permit for that vessel that has not been suspended or revoked.

(1) Tier 1 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(1) shall be considered as Tier 1 permits, and permitted vessels are authorized to use the number of traps specified for Tier 1 permits pursuant to Section 180.1(c), Title 14.

(2) Tier 2 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(2) shall be considered as Tier 2 permits, and permitted vessels are authorized to use the number of traps specified for Tier 2 permits pursuant to Section 180.1(c), Title 14. Permitted vessels with Tier 2 permits may not exceed a maximum of 5000 pounds of spot prawns landed in any permit year. The revenue from any landings in excess of 5000 pounds in any permit year shall be forfeited to the department.

(3) Tier 3 Permits. Spot prawn trap vessel permits issued pursuant to subsection (c)(3) shall be considered as Tier 3 permits, and permitted vessels are authorized to use the number of traps specified for Tier 3 permits pursuant to Section 180.1(c), Title 14. Tier 3 permits shall also be known as trawl conversion permits.

(c) Initial Issuance Criteria. A spot prawn trap vessel permit for a specific tier shall be issued only to the following persons for use on qualifying vessels:

(1) Tier 1 Permits. A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997–98, 1998–99, and 1999–2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who has satisfied at least one of the following minimum vessel–based landing requirements:

(A) at least 20 landings of spot prawns, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(B) at least 2,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1997, 1998, and 1999;

(C) at least 10,000 pounds of spot prawns landed, utilizing traps, in each of the calendar years 1998 and 1999.

(2) Tier 2 Permits.

(A) A person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code in each of the 1997–98, 1998–99, and 1999–2000 permit years, and has made landings of spot prawns utilizing traps on or before January 1, 1999, as documented by landing receipts that were delivered to the department pursuant to Section 8046 of the Fish and Game Code, and who does not satisfy any of the minimum landing requirements in subsection (c)(1) and has satisfied at least one of the following minimum vessel–based landing requirements:

1. at least 10 landings of spot prawns, utilizing traps, in calendar year 1998;

2. at least 1,000 pounds of spot prawns landed, utilizing traps, in calendar year 1998.

(B) Any individual, who has been licensed as a California commercial fisherman for at least 20 years, and who has participated in the commercial spot prawn trap fishery for at least one of those years, and who has made at least 20 landings of spot prawns, using traps, totaling at least 10,000 pounds in one of those years, shall be issued a Tier 2 permit.

(3) Tier 3 Permits. Prawn points will be used to determine eligibility for initial issuance of Tier 3 permits. Any person who is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code between 1994 and 2001 will receive points based on spot prawn landings made utilizing trawl gear.

(A) Points will be awarded to a vessel based on landing history between January 1, 1994 through December 31, 2001 as documented by fish landing receipts that were submitted to the department pursuant to Section 8046 of the Fish and Game Code in the vessel's name and commercial boat registration number as follows:

1. One hundred prawn points will be earned for each calendar year in which the vessel made a landing of spot prawn with trawl gear between 1994 and 2001.

2. One prawn point will be earned for every 500 pounds of spot prawn the vessel landed with trawl gear between 1994 and 2001; and

3. One prawn point will be earned for each landing of spot prawn a vessel made with trawl gear between 1994 and 2001;

(B) A vessel must have in excess of 1,000 prawn points to qualify for initial issuance of a Tier 3 permit.

(d) Capacity Goal. The commission has determined that the spot prawn trap fishery capacity goal for Tier 1 and Tier 3 permits combined shall be 17. The commission has determined that the spot prawn trap fishery capacity goal for Tier 2 permits shall be 0.

(e) Application Deadline for Initial Issuance of Spot Prawn Trap Vessel Permits.

(1) Tier 1 and Tier 2 Permits. All applications and permit fees for initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits must be re-

ceived by the department or, if mailed, must be postmarked no later than June 30, 2002. Applications for initial issuance of a spot prawn trap vessel permit received from July 1 through July 31, 2002 shall be considered late and will be assessed a late fee. Applications and monies due for the initial issuance of Tier 1 and Tier 2 spot prawn trap vessel permits not received or, if mailed, not postmarked, by July 31, 2002 shall be returned to the applicant unissued.

(2) Tier 3 Permits. All applications (FG 1424 (new, 8/04) incorporated by reference herein) and permit fees for initial issuance of Tier 3 spot prawn trap vessel permits must be received by the department or, if mailed, must be postmarked no later than February 28, 2005. Applications for initial issuance of Tier 3 spot prawn trap vessel permits received from March 1 through March 31, 2005 shall be considered late and will be assessed a late fee pursuant to subsection (n). Applications and monies due for initial issuance of Tier 3 spot prawn trap vessel permits not received or, if mailed, not postmarked, by March 31, 2005 shall be returned to the applicant unissued.

(f) Minimum Landing Requirements for Spot Prawn Trap Vessel Permit Renewal. No minimum landings of prawns shall be required to be eligible for renewal of a spot prawn trap vessel permit.

(g) Annual Spot Prawn Trap Vessel Permit Renewal. Applications [FG 1422 (Rev. 11/05) incorporated by reference herein] for renewal of a spot prawn trap vessel permit shall be received by the department, or, if mailed, postmarked, by April 30 of each year. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(h) Presence of Owner on Vessel. An owner of the vessel to which the spot prawn trap vessel permit has been issued must be on the vessel when spot prawns are being taken or landed, except that one additional operator may be designated during a license year by informing the department in writing with a letter sent to the department's office in Monterey.

(i) Revocation of Permit. A spot prawn trap vessel permit shall be revoked if the permittee submits false information for the purposes of obtaining a spot prawn trap vessel permit.

(j) Transfer of a Spot Prawn Trap Vessel Permit to Another Vessel. A transfer of a spot prawn trap vessel permit to another vessel may be approved for use on a replacement vessel only if all of the following criteria are met:

(1) In the form of a notarized letter, the owner of the vessel which has a valid Spot Prawn Trap Vessel Permit shall submit a request for transfer of a Spot Prawn Trap Vessel Permit to the department.

(2) The vessel owner pays the non–refundable transfer fee specified in subsection (m) to the department.

(3) Unless the vessel was lost, stolen, or destroyed, a permit may not be transferred more than once during any permit year.

(4) The spot prawn trap vessel permit for the permitted vessel is valid, and has not been suspended or revoked.

(5) The owner of a vessel with a valid Spot Prawn Trap Vessel Permit has written authority from the legal owner and/or partners, or mortgager, of the replacement vessel, to which the permit shall be transferred, to transfer the Spot Prawn Trap Vessel Permit from the permitted vessel to the replacement vessel.

(k) Change of Ownership of a Spot Prawn Trap Vessel Permit.

(1) All Tier 1 spot prawn trap vessel permits shall be transferable to another person, but not more than once within any 3–year period. Upon the death of the permittee, transfer of a Tier 1 spot prawn vessel permit may be considered if the estate submits a notarized letter for the change of ownership to the department, within one year of the death of the permittee as listed on the death certificate.

(2) A change of ownership of a Tier 1 spot prawn trap vessel permit to another person may be approved only if the vessel owner submits a notarized statement for change of ownership to the department. Thereafter, upon notice to the department, the person purchasing the spot prawn trap vessel permit may use that permit for the taking and landing of spot prawns for any and all of the unexpired portion of the permit year, provided the following requirements are met:

(A) the person purchasing the permit shall have a valid commercial fishing license issued pursuant to Section 7852 of the Fish and Game Code that has not been suspended or revoked, and a general trap permit issued pursuant to Section 9001 of the Fish and Game Code that has not been suspended or revoked.

(B) the person is the owner of a commercial fishing vessel that has been registered with the department pursuant to Section 7881 of the Fish and Game Code that has not been suspended or revoked. The person receiving the permit shall be eligible for a permit, pursuant to the provisions of this section, for the use of that vessel in subsequent years.

(3) Notwithstanding the transfer of ownership provisions in subsection (k) for Tier 1, upon the death of a spot prawn trap vessel Tier 1 permittee the estate may apply to the department to transfer that permit to the estate. The request for transfer shall be received by the department within one year of the death of the permittee.

(4) The vessel owner pays the non–refundable transfer fee specified in subsection (m) to the department.

(5) Tier 2 spot prawn trap vessel permits shall not be transferred to another person. Tier 2 permits shall become null and void upon death of the permit holder.

(6) Tier 3 spot prawn trap vessel permits shall not be transferred to another person. Tier 3 permits shall become null and void upon death of the permit holder.

(*l*) Appeals.

(1) Any applicant who is denied initial issuance of a spot prawn trap vessel Tier 1 or Tier 2 permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than March 31, 2003. Any applicant who is denied initial issuance of a Tier 3 spot prawn trap vessel permit for any reason may appeal that denial to the department in writing describing the basis for the appeal. The appeal shall be received or, if mailed, postmarked no later than September 30, 2005. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision

(2) Renewal Appeals. Late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Any applicant who is denied transfer of a spot prawn trap vessel permit may appeal the denial to the department in writing describing the basis for the appeal. The appeal shall be reviewed and decided by the department. The decision of the department may be appealed in writing to the commission within 60 days of the date of the department's decision.

(m) Fees.

(1) Tier 3 Initial Issuance Fee. The department shall charge a fee for each Tier 3 spot prawn trap vessel permit of $1,015.

(2) Annual Renewal Fee. The department shall charge an annual fee for each Tier 1 and Tier 2 spot prawn trap vessel permit of $266.50. The department shall charge an annual renewal fee for each Tier 3 spot prawn trap vessel permit of $1,066.25. Late fees, late fee deadlines, and late renewal appeal provisions are specified in Fish and Game Code Section 7852.2.

(3) Vessel Transfer Fee. The department shall charge a non–refundable fee of $200 for each vessel transfer.

(4) Change of Ownership Fee. The department shall charge a non–refundable fee of $50 for each change of ownership of the spot prawn trap vessel permit.

(5) Initial Issuance Late Fees. The department shall charge a non–refundable late fee of $50 if an application for initial issuance of a Tier 1 or Tier 2 spot prawn trap vessel permit is received from July 1 to July 31, 2002. The department shall charge a non–refundable late fee of $50 if an application for initial issuance of a Tier 3 spot prawn trap vessel permit is received from March 1 to March 31, 2005.

NOTE: Authority cited: Sections 713, 1050 and 8591, Fish and Game Code. Reference: Sections 1050, 7852.2, 8101, 8591, 8593, 8594, 8595, 9000, 9001 and 9015, Fish and Game Code.

HISTORY

1. New section filed 5–3–2000; operative 5–3–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 18).
2. Amendment of section and NOTE filed 3–14–2002; operative 3–15–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 11).
3. Amendment of subsections (b)(2)(C), (j)(2) and (k)(1)–(2) filed 7–12–2004; operative 8–11–2004 (Register 2004, No. 29).
4. Amendment of section heading, section and NOTE filed 12–13–2004; operative 12–13–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 51).
5. Change without regulatory effect amending subsections (n)(1)–(n)(6) and amending NOTE filed 5–12–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
6. Change without regulatory effect amending subsections (g) and (n)(2) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).
7. Amendment of section and NOTE filed 7–8–2008; operative 7–8–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 28).

§ 180.4. Finfish Trap Construction.

The entrance funnels of finfish traps used in waters between Point Arguello, Santa Barbara County and Point Montara, San Mateo County, shall have a rigid inside entrance diameter of not greater than 5.00 inches. Funnels constructed of a readily deformable material such as "chicken wire" and commonly referred to as "pulled" shall have a rigid metal ring of not greater than 5.00 inches in diameter permanently affixed in each entrance funnel.

NOTE: Authority cited: Section 8587.1, Fish and Game Code. Reference: Section 8587.1, Fish and Game Code.

HISTORY

1. New section filed 12–19–2001; operative 1–18–2002 (Register 2001, No. 51).

§ 180.5. Trap Buoy Identification.

Pursuant to the provisions of Section 9005 of the Fish and Game Code, every trap or string of traps placed in waters of the state to take fin fish, mollusks or crustaceans for commercial purposes shall be marked with a buoy. Buoys used to mark any trap or string of traps shall be clearly and distinctly marked with a buoy identification number as required by Section 9006 of the Fish and Game Code. The specified identification number shall be at least one and one–half inches in height and one–quarter inch in width. Each trap marker buoy shall bear the specified number in a color which contrasts with that of the buoy and the number shall be applied so that it is visible and legible.

NOTE: Authority cited: Sections 9003, 9005 and 9006, Fish and Game Code. Reference: Sections 9002, 9003, 9005, 9006, 9007 and 9008, Fish and Game Code.

HISTORY

1. New section filed 9–19–85; effective thirtieth day thereafter (Register 85, No. 40).

§ 180.15. Coonstripe Shrimp *(Pandalus danae)* Fishing.

(a) No person shall use a vessel to take, possess or land coonstripe shrimp for commercial purposes unless the owner of that vessel has been issued a coonstripe shrimp vessel trap permit for that vessel that has not been suspended or revoked.

(b) The fee for a coonstripe shrimp vessel trap permit is $80.00.

(c) Coonstripe shrimp may only be taken for commercial purposes by traps pursuant to this section and sections 180, 180.2, and 180.5, Title 14, CCR.

(1) Coonstripe shrimp may not be taken from November 1 through April 30.

(2) All coonstripe shrimp taken during the closed season shall immediately be returned to the water. No coonstripe shrimp shall be possessed or landed aboard any commercial fishing vessel during the closed season.

(3) Coonstripe shrimp traps may be set and baited no earlier than noon on April 30.

(4) All traps must be removed from the water prior to November 1, weather and sea conditions permitting. In the event that a permittee is unable to comply with this subsection, then the permittee must notify an officer from the department's Enforcement Branch in the nearest department office via telephone or fax not later than noon on October 31. The permittee must state the reason for the delay and the anticipated date of removal. Notification does not relieve the permittee of the responsibility for complying with this subsection unless approved by the department.

(d) A control date of November 1, 2001, is established for the purpose of considering a future restricted access coonstripe shrimp trap fishery. Landings on or after this date may not apply toward a permit in a future restricted access program for the coonstripe shrimp trap fishery if one is developed.

NOTE: Authority cited: Sections 713, 1050, 8591 and 8842, Fish and Game Code. Reference: Sections 1050, 8590, 8591, 8595, 8842, 9001 and 9015, Fish and Game Code.

HISTORY

1. New section filed 3–25–2002; operative 3–29–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 13).
2. Amendment of section and NOTE filed 1–17–2003; operative 2–16–2003 (Register 2003, No. 3).
3. Change without regulatory effect pursuant to section 100, title 1, California Code of Regulations, amending subsection (b) and NOTE in accordance with section 713 of the Fish and Game Code, filed 5–11–2005; operative 6–10–2005 pursuant to the Commission's instructions (Register 2005, No. 19).
4. Change without regulatory effect amending subsection (b) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).

§ 181. Commercial Salmon Fishing.

NOTE: Authority cited: Section 7710, Fish and Game Code. Reference: Section 7710, Fish and Game Code.

HISTORY

1. Expired by own terms 5–1–80 (Register 80, No. 22). For prior history, see Registers 77, Nos. 19 and 37; 78, No. 26; 79, No. 14; 79, No. 17; 79, No. 19; 79, No. 36; and 80, No. 14.

§ 182. Commercial Salmon Fishing.

(a) General Provisions. No person shall engage in commercial salmon fishing except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of Commerce pursuant to the Magnuson Fishery Conservation and Management Act and published in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660 are hereby incorporated and made a part of these regulations. Federal regulations shall be made available upon request from the Department of Fish and Game, Marine Region, 1416 Ninth Street, BOX 944209, Sacramento, CA 94244–2090, phone number 916–651–7670.

(b) Reporting Requirements

(1) Any person required to complete a landing receipt pursuant to FGC Section 8043 for the landing of salmon shall on the same landing receipt accurately record the total number of salmon landed in the "Note Pad" field of the landing receipt (F&G 625–D rev. 10/00), which may be found in Appendix A of these regulations.

(2) Any person who lands salmon shall keep a copy of all landing receipts documenting salmon landings on board the fishing vessel that caught the salmon until 15 days after the last salmon season closure for the calendar year.

(c) General Definitions. For purposes of these regulations, the following definitions shall apply:

(1) Closures. Taking or taking and retaining any species of salmon is prohibited. Legally caught salmon may be landed on closed areas if they meet the minimum size limit or other special requirements for the area in which they were caught and are not otherwise prohibited by these regulations.

(2) Transit Through Closed Areas. Vessels with an ocean salmon permit from any state with salmon on board shall not have fishing gear in the water while transiting any area closed to commercial salmon fishing.

(3) Size Limits and Length Measurement. All salmon on board must meet the minimum size or other special requirements for the area being fished and the area in which they are landed if that area is open. Total length is measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail.

(4) Gear Definitions. Troll fishing gear is defined as no more than six lines that drag hooks with bait or lures behind a moving fishing vessel.

Salmon may be taken only by hook and line using barbless hooks. Barbless circle hooks are required when fishing with bait by any means other than trolling.

(5) Barbless Hook Definition. A hook with a single shank and point, with no secondary point or barb curving or projecting in any other direction. Hooks manufactured with barbs can be made "barbless" by removing or completely closing the barb.

(6) Circle Hook Definition. A hook with a generally circular shape, and a point which turns inwards, pointing directly to the shank at a 90 degree angle.

(7) Trolling Definition. Angling from a boat or floating device that is making way by means of a source of power, other than drifting by means of the prevailing water current or weather conditions.

(8) Freezer Trolling Vessel. Frozen salmon may be possessed in a dressed, head–off condition, subject to the following minimum size limit: king salmon, 19–1/2″ in dressed, head–off length when salmon no less than 26 inches total length may be possessed; king salmon, 20–1/4″ in dressed, head–off length when salmon no less than 27 inches total length may be possessed. Dressed, head–off length is the distance measured along the lateral line between the mid–point of the clavicle and the fork of the tail.

(9) Federal Designated Routine Management Measures. Routine Management Measures, identified as catch restrictions intended to keep landings within the harvest levels announced by the Secretary of Commerce and noticed in the Federal Register by the National Marine Fisheries Service, are hereby incorporated and made a part of these regulations. Should any federal management measures conflict with existing statutes, including Fish and Game Code Sections 8210.2 and 8215, the provisions in the statutes which conflict with the federal management measures are made inoperative.

NOTE: Authority cited: Sections 7652 and 8043, Fish and Game Code. Reference: Sections 1700, 7600, 7650, 7652, 7652.1, 7652.2, 7652.3, 8046, 8210.2 and 8215, Fish and Game Code; and Title 50, Code of Federal Regulations, Part 660.

HISTORY

1. New section filed 4–30–91 as an emergency; operative 5–1–91 (Register 91, No. 24). A Certificate of Compliance must be transmitted to OAL by 8–29–91 or emergency language will be repealed by operation of law on the following day.
2. Change without regulatory effect amending subsection (f) filed 6–20–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 39).
3. Certificate of Compliance as to 4–30–91 order transmitted to OAL 8–21–91 and filed 8–29–91 (Register 92, No. 3).
4. Repealer and new section filed 4–30–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 8–31–92 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4–30–92 order including amendment of subsections (e), (f) and (h), adoption of new subsection (g) and subsection relettering transmitted to OAL 7–23–92 and filed 7–31–92 (Register 92, No. 31).
6. Repealer and new section filed 4–29–93 as an emergency; operative 5–1–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.
7. Repealer of subsection (g) and amendment of subsections (a), (e) and (f) filed 5–25–93 as an emergency; operative 6–1–93 (Register 93, No. 22). A Certificate of Compliance must be transmitted to OAL 9–29–93 or emergency language will be repealed by operation of law on the following day.
8. New subsections (g)–(g)(3) filed 9–3–93 as an emergency; operative 9–6–93 (Register 93, No. 36). A Certificate of Compliance must be transmitted to OAL by 1–4–94 or emergency language will be repealed by operation of law on the following day.
9. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 16).
10. New section refiled 4–19–94 as an emergency; operative 5–1–94 (Register 94, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance transmitted to OAL 8–24–94 and filed 9–7–94 (Register 94, No. 36).
12. Editorial correction of HISTORY 10 (Register 94, No. 36).
13. Repealer and new section filed 4–27–95 as an emergency; operative 5–1–95 (Register 95, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–25–95 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 4–27–95 order transmitted to OAL 8–28–95 and filed 8–30–95 (Register 95, No. 35).
15. Expired by its own terms on 4–30–96 (Register 96, No. 18).
16. New section filed 5–1–96 as an emergency pursuant to Fish and Game Code section 7652; operative 5–1–96 (Register 96, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–29–96 or emergency language will be repealed by operation of law on the following day.
17. Editorial correction of subsections (b) and (e) (Register 96, No. 35).
18. Certificate of Compliance as to 5–1–96 order transmitted to OAL 8–26–96 and filed 8–28–96 (Register 96, No. 35).
19. Expired by its own terms on 4–30–97 (Register 97, No. 18).
20. New section filed 5–2–97; operative 5–2–97. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 97, No. 18).
21. Editorial correction amending HISTORY 16 and HISTORY 19 and adding HISTORY 20 (Register 98, No. 21).
22. Expired by its own terms on 4–30–98 (Register 98, No. 21).
23. New section filed 5–18–98; operative 5–18–98. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 98, No. 21).
24. Expired by its own terms on 4–30–99 (Register 99, No. 25).
25. New section filed 6–14–99; operative 6–14–99. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 99, No. 25).
26. Expired by its own terms on 4–30–2000 (Register 2000, No. 24).
27. New section filed 6–13–2000; operative 6–13–2000. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 2000, No. 24).
28. Repealer and new section filed 5–9–2001; operative 5–9–2001. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 2001, No. 19).
29. Amendment of subsection (a), new sections (b)–(b)(2), subsection relettering and amendment of NOTE filed 5–17–2006; operative 5–17–2006. Submitted to OAL for printing only (Register 2006, No. 20).

§ 182.1. Commercial Salmon Fishing.

Under the authority of Sections 7652 and 7652.2 of the Fish and Game Code, Section 8210.2 of said Code and Section 182, Title 14, California Code of Regulations are made temporarily inoperative for the period May 1, 1988 through April 30, 1989 and the following provisions are adopted, such provisions to be effective My 1, 1988 through April 30, 1989 and on April 30, 1989 are repealed. Upon expiration of these provisions in any district or portion thereof, Section 8210.2 of the Fish and Game Code shall become effective in such districts or portions or districts.

(a) In Districts 6, 7, 10, 11, 15, 16, 17, 18, and 19, no king (chinook) salmon may be possessed that is less than 26 inches in length and no silver (coho) salmon less than 22 inches, such lengths to be measured from the tip of the snout to the extreme tip of the tail without resorting to any force other than swinging or fanning the tail. Salmon may be taken only by hook and line and there is no bag limit except as modified in subsections (g), (h), (i) and (n) of these regulations.

(b) In Districts 6, 7, 10, 11, 15, 16, 17, 18, and 19, no person shall engage in commercial salmon fishing using other than single barbless hooks. Single barbless hook means a hook with a single shank and point, with no secondary point or barb curving or projecting in any other direction. Hooks manufactured with barbs can be made "barbless" by forcing the point of the barb flat against the main part of the point.

(c) Except as prohibited under Section 8215 of the Fish and Game Code and subsection (j) of these regulations, frozen salmon may be possessed in Districts 6, 7, 10, 11, 15, 16, 17, 18, and 19, and landed in a dressed, head–off condition, subject to the following minimum size limits: king salmon, 19 1/2″ in dressed, head–off length; silver salmon, 16 1/2″ in dressed, head–off length. Dressed, head–off length is the distance between the mid–point of the clavicle arch and the fork of the tail measured along the lateral line.

(d) In Districts 6, 7, 10, 11, 15, 16, 17, 18, and 19, commercial salmon fishing vessels shall use no more than six troll lines at any time to drag hooks with bait or lures.

(e) In Districts 7, 10, 11, 15, 16, 17, 18, and 19, south of Point Arena (39° 00′ 00″ N. lat.), under the authority of a commercial fishing license, all salmon species other than silver salmon, which are provided for in subsection (i), may be taken between May 1 and September 30.

(f) In District 7 between Point Arena and Cape Vizcaino (39° 43′ 30″ N. lat.), under the authority of a commercial fishing license, all salmon species except silver salmon may be taken between May 1 and May 31. In District 7 between Point Arena and Horse Mountain (40° 5′ 00″ N. lat.), all species other than silver salmon, which are provided for in subsection (i), may be taken from June 5 through September 30, except no

commercial salmon fishing is permitted in the area on Thursdays, Fridays or Saturdays from June 9 through July 16.

(g) In District 7 between Cape Vizcaino and Horse Mountain, under the authority of a commercial fishing license, all salmon species except silver salmon may be taken from May 1 through the earlier of May 31 or the date that the Director of the California Department of Fish and Game determines that a total of 8,000 king salmon will be taken, with the following exceptions and restrictions:

(1) No commercial salmon fishing is permitted in the area on Thursdays, Fridays or Saturdays.

(2) All salmon taken or possessed in the area must be landed in the area.

(h) In District 6 and that portion of District 7 north of Punta Gorda (40° 15′ 30″ N. lat.), under the authority of a commercial fishing license, all salmon species other than silver salmon, which are provided for in subsection (i), may be taken from June 5 through the earlier of August 31 or the date that the Regional Director of the National Marine Fisheries Service (NMFS) determines that a total of 55,500 king salmon will be taken in the commercial fishery since May 1, 1988, in the commercial fishery between Port Orford, in southern Oregon (42° 45′ 11″ N. lat.) and Punta Gorda, with the following provisions, exceptions and clarifications:

(1) No commercial fishing is permitted in the area on Thursdays, Fridays or Saturdays, and the area is closed to all commercial salmon fishing from June 29 through July 16.

(2) On or about July 27, the Regional Director of the NMFS will determine if the commercial king salmon quota in the area through August 31 can be increased, due to a projected underage in the ocean landings of Klamath River fall king salmon in the following two ocean fisheries, through August 31: (1) the recreational fishery in the same general area and (2) the commercial fishery provided for under subsection (g) of these regulations.

(3) The commercial salmon fishing closure specified under subsection (k) of these regulations is in effect.

(i) Silver salmon may be taken for commercial purposes during the same time periods and in the same areas as commercial fishing for all other salmon species is allowed with the following clarifications and exceptions:

(1) The commercial fishing closure specified under subsection (k) of these regulations is in effect.

(2) Commercial fishing for, or possession of, silver salmon is not permitted from May 1 through May 1.

(3) Commercial fishing for silver salmon is prohibited, except as provided under subsection (n), upon the earlier date of the projected attainment of a commercial salmon fishery impact south of Cape Falcon in northern Oregon (45° 46′ 00″ N. lat.) or Port Orford in southern Oregon of 684,700 or 100,000 fish, respectively, as determined by the Director of the NMFS.

(j) In District 6 and that portion of District 7 north of Point Arena, during all three-day closures, except for the 12-hour period immediately following the closure, no vessel may be underway at sea inside the closed area with salmon on board except if prior notification is given the nearest Coast Guard Station of intent to transport commercially-caught salmon through the closed area. Furthermore, it is unlawful for a vessel with an ocean salmon permit from any state to have troll fishing gear in the water in these districts between May 1 and October 31 during those times that commercial salmon fishing is not permitted.

(k) Notwithstanding any of the provisions of this Section, commercial salmon fishing in Districts 6 and 7 north of Punta Gorda is prohibited for three consecutive days upon attainment of 85 percent of the silver salmon quota for the commercial salmon fishery south of Cape Falcon, as determined by the Regional Director of the NMFS.

(*l*) Troll fishing gear is defined as one or more lines that drag hooks with bait or lures behind a moving fishing vessel.

(m) In District 6, no salmon may be taken for commercial purposes in state waters off the mouth of the Klamath River within an area bounded on the north by 41° 38′ 48″ N. latitude (approximately 6 nautical miles north of the Klamath River mouth) and on the south by 41° 26′ 48″ N. latitude (approximately 6 nautical miles south of the Klamath River mouth).

(n) In Districts 6 and 7 between Trinidad Head (41° 3′ 20″ N. lat.) and Punta Gorda, under the authority of a commercial fishing license, all salmon species may be taken between September 1 and the earlier of October 31 or the date that the Regional Director of the NMFS determines that a total of 15,000 king salmon will be taken.

(o) It is unlawful for any person to fish for, or take and retain any species of salmon in Districts 6, 7, 10, 11, 15, 16, 17, 18, and 19: i) during closed seasons or in closed areas; ii) while possessing on board any species of salmon not allowed to be taken in the area at the time, iii) once any catch limit is attained; or iv) by means of gear or methods other than troll fishing gear.

(p) All other provisions, exceptions and restrictions for commercial salmon fishing off California are described in Title 50—Code of Federal Regulations, Part 661.

NOTE: Authority cited: Sections 7652 and 7652.2, Fish and Game Code. Reference: Sections 1700, 7600, 7650, 7652 and 7652.2, and 8210.2 Fish and Game Code; Section 182, Title 14, California Code of Regulations; and Title 50, Code of Federal Regulations, Part 661.

HISTORY

1. New section filed 4–29–85 as an emergency; designated effective 5–1–85 (Register 85, No. 18). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–29–85. For prior history, see Register 85, No. 2.
2. Repealed by operation of Government Code Section 11346.1(g) (Register 85, No. 37).
3. New section filed 8–30–85 as an emergency; effective upon filing (Register 85, No. 37). Expires by own terms on 9–30–85.
4. Expired by own terms (Register 86, No. 18).
5. New section filed 4–30–86 as an emergency; designated effective 5–1–86 (Register 86, No. 18). Expires by own terms on 9–30–86.

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6. Section refiled 8–29–86 as an emergency; effective upon filing (Register 86, No. 35). Expires by own terms on 9–30–86.
7. Expired by own terms on 9–30–86 (Register 87, No. 16).
8. New section filed as an emergency 4–15–87; operative upon filing (Register 87, No. 16). Expires by own terms on 9–30–87.
9. Certificate of Compliance transmitted to OAL 8–10–87 and filed 9–2–87 (Register 87, No. 36).
10. Expired by own terms on 9–30–87 (Register 88, No. 18).
11. New section filed 4–29–88 as an emergency; operative 5–1–88 (Register 88, No. 18). Expires by own terms on 4–30–89.
12. Certificate of Compliance filed 8–25–88 (Register 88, No. 39).

§ 183. Commercial Salmon Vessel Permit.

The annual fee for a commercial salmon vessel permit, created pursuant to Section 8235 of the Fish and Game Code, shall be $32.00 and shall be valid from April 1 through March 31 of the following year.

NOTE: Authority cited: Sections 713 and 8235, Fish and Game Code. Reference: Section 8235, Fish and Game Code.

HISTORY

1. New section filed 2–18–83; effective thirtieth day thereafter (Register 83, No. 8). For prior history, see Register 81, No. 47.
2. Change without regulatory effect amending section and NOTE filed 8–24–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 34).
3. Change without regulatory effect amending section and NOTE filed 11–2–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 44).

§ 185. Commercial Take, Possession, Purchase, Sale, Transport, Export or Import of Native Reptiles and Amphibians.

NOTE: Authority cited: Sections 5061 and 6896, Fish and Game Code. Reference: Sections 5061 and 6896, Fish and Game Code.

HISTORY

1. New section filed 7–31–75; effective thirtieth day thereafter (Register 75, No. 31).
2. Amendment of subsections (a)(1), (b)(1) and (g), and new subsection (h) filed 12–9–75; effective thirtieth day thereafter (Register 75, No. 50).
3. Amendment filed 2–22–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 8).
4. Amendment filed 6–11–79; effective thirtieth day thereafter (Register 79, No. 24).
5. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
6. New subsection (d) filed 10–1–82; effective thirtieth day thereafter (Register 82, No. 40).
7. Amendment filed 1–20–87; effective upon filing pursuant to Fish and Game Code section 215 (Register 87, No.4).
8. Amendment of subsections (c) and (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Repealer of subsections (a)–(f) and new subsections (a)–(d) filed 4–23–92; operative 5–25–92 (Register 92, No. 20).
10. Repealer filed 9–10–96; operative 9–10–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 185.5. Captive Propagation of Native Reptiles and Amphibians for Commercial Purposes.

NOTE: Authority cited: Sections 5061 and 6896, Fish and Game Code. Reference: Sections 5061 and 6896, Fish and Game Code.

HISTORY

1. New section filed 4–23–92; operative 5–25–92 (Register 92, No. 20).
2. Repealer of section and forms filed 9–10–96; operative 9–10–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 186. Commercial Take and Use of Frogs for Human Consumption.

NOTE: Authority cited: Sections 6851 and 15005, Fish and Game Code. Reference: Sections 6850–6885, 15000 and 15005, Fish and Game Code.

HISTORY

1. New section filed 3–17–76; effective thirtieth day thereafter (Register 76, No. 12).
2. Amendment of NOTE filed 10–19–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).
4. Repealer filed 9–10–96; operative 9–10–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 37).

§ 187. Weight in the Round Conversion Factors for Swordfish, Salmon, Angel Shark, Bonito Shark, Thresher Shark, and Tanner Crab.

For purposes of computing the appropriate landing tax, pursuant to Sections 8042 and 8051 of the Fish and Game Code, the following weight conversion factors must be used by those persons and businesses responsible for remitting such landing taxes as required under Division 6, Part 3, Chapter 1, Article 7.5 of the Fish and Game Code.

(a) Salmon, 110% of the weight landed.

(b) Swordfish, 145% of the weight landed.

(c) Angel shark, 200% of the weight landed.

(d) Bonito shark, 145% of the weight landed.

(e) Thresher shark, 170% of the weight landed.

(f) Tanner crab (*Chionecetes* spp.), 161% of the weight landed.

NOTE: Authority cited: Section 8042, Fish and Game Code. Reference: Sections 8040, 8041, 8042 and 8051, Fish and Game Code.

HISTORY

1. New section filed 10–1–86 as an emergency; operative 10–1–86 (Register 86, No. 40). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–29–87.
2. Order of Repeal of 10–1–86 emergency order pursuant to Government Code Section 11349.6 (Register 87, No. 7).
3. Editorial correction deleting text of Section 187 which inadvertently remained in print during production of Register 87, No.7 (Register 87, No. 27).
4. New section filed 1–5–88; operative 2–4–88 (Register 88, No. 15).
5. Amendment of section heading and new subsection (f) filed 3–28–2006; operative 3–28–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 13).

§ 188. Marine Aquaria Receiver's License.

NOTE: Authority cited: Section 8033.2, Fish and Game Code. Reference: Sections 8043.1 and 8596–8598.6, Fish and Game Code.

HISTORY

1. New section filed 12–7–92 as an emergency; operative 12–7–92 (Register 92, No. 50). A Certificate of Compliance must be transmitted to OAL 4–5–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 12–29–93 as an emergency; operative 12–29–93 (Register 93, No. 53). A Certificate of Compliance must be transmitted to OAL by 4–28–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–29–93 order transmitted with amendment of NOTE to OAL 4–13–94 and filed 5–23–94 (Register 94, No. 21).
4. Change without regulatory effect repealing section filed 8–24–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 34).

§ 189. Commercial Groundfish Fishing.

(a) General Provisions. No person shall engage in commercial groundfish fishing except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of Commerce pursuant to the Magnuson Fishery Conservation and Management Act and published in Title 50, Code of Federal Regulations (CFR), Parts 600 and 660 are hereby incorporated and made a part of these regulations. Federal regulations shall be made available upon request from the Department of Fish and Game, Marine Region, 1416 Ninth Street, BOX 944209, Sacramento, CA 94244–2090, phone number 916–653–6281.

(b) General Definitions. For the purposes of these regulations, the following definitions shall apply:

(1) Land or Landing. The transfer of fish from a fishing vessel. Once offloading begins, all fish aboard the vessel are counted as part of the landing.

(2) Closure. Taking and retaining, possessing, or landing the particular species or species group is prohibited. Unless otherwise announced in the Federal Register, offloading must begin before the time the fishery closes.

(3) Sorting. It is unlawful for any person to fail to sort prior to the first weighting after offloading, those groundfish species or species groups for which there is a trip limit, size limit, quota, or optimum yield, if the vessel fished or landed in an area during a time when such trip limit, size limit, quota, or optimum yield applied. This provision applies to both the limited entry and open access fisheries.

(4) Trip Limits. Trip limits specify the amount of fish that a vessel may legally land per fishing trip or cumulatively per unit of time or the number of landings of fish that may be made by a vessel in a given period of time.

(A) Daily Trip Limit. Daily trip limit is the maximum amount of groundfish that may be taken and retained, possessed, or landed per vessel in 24 consecutive hours, starting at 0001 hours local time. Only one landing of groundfish shall be made in that 24-hour period. Daily trip limits shall not be accumulated during multiple day trips.

(B) Cumulative Trip Limit. Cumulative trip limit is the maximum amount of groundfish that may be taken and retained, possessed, or landed per vessel in a cumulative fishing period, without a limit on the number of landings or trips.

(5) Size Limits and Length Measurement. Total length is measured from the tip of the snout (mouth closed) to the tip of the tail (pinched together) without mutilation of the fish or the use of additional force to extend the length of the fish.

(6) Limited Entry Fishery. Limited entry fishery includes vessels using trawl gear, longline, and trap (or pot) gear fished pursuant to the harvest guidelines, quotas, and other management measures governing the limited entry fishing. Limited entry gear includes only longline, trap (or pot) or trawl gear used under the authorization of a valid limited entry permit.

(7) Open Access Fishery. Open access fishery includes vessels using exempted gear, and longline and trap (or pot) gear fished pursuant to the harvest guidelines, quotas, and other management measures governing open access fishing. Exempted gear includes all types of fishing gear except longline, trap (or pot), and groundfish trawl gear, and includes trawl gear used to take pink shrimp, and spot and ridgeback prawns, and south of 38° 57′ 30″ N (Point Arena), California halibut and sea cucumber. A State of California limited entry permit is required for the take of sea cucumbers.

(8) Federally Designated Routine Management Measures. Routine Management Measures, identified as catch restrictions intended to keep landings within the harvest levels announced by the Secretary of Commerce and noticed in the Federal Register by the National Marine Fisheries Service, and hereby incorporated and made a part of these regulations. Should any federal management measures conflict with existing statutes, including Fish and Game Code Sections 8496 and 8842(b), or regulations of the commission, the provisions in the statutes or regulations which conflict with the federal management measures are made inoperative.

NOTE: Authority cited: Section 7652, Fish and Game Code. Reference: Sections 7652, 7652.2, and 8607, Fish and Game Code.

HISTORY

1. New section filed 5-1-96 as an emergency; operative 5-1-96 (Register 96, No. 18). A Certificate of Compliance must be transmitted to OAL by 8-29-96 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of HISTORY 1 (Register 96, No. 37).
3. Editorial correction of subsections (c)(4), (d)(1)(E) and (d)(2)(A)1. and HISTORY 1 (Register 96, No. 40).
4. Certificate of Compliance as to 5-1-96 order transmitted to OAL 8-29-96 and filed 10-1-96 (Register 96, No. 40).
5. Amendment filed 10-10-97; operative 10-10-97. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 97, No. 41).
6. Amendment filed 9-17-98; operative 9-17-98 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 98, No. 38).
7. Amendment filed 5-26-99; operative 5-26-99. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 99, No. 22).
8. Amendment of subsection (a) filed 9-18-2000; operative 10-18-2000. Submitted to OAL for printing only pursuant to Fish and Game Code section 7652 (Register 2000, No. 38).

Chapter 6.5. Fishing Activity Records

§ 190. Fishing Activity Records.

Pursuant to Sections 7923 and 8026, Fish and Game Code, the owner and operator of a commercial fishing vessel or the holder of a commercial fishing license or permit participating in specified fisheries, and the owner and license holder of a commercial passenger fishing vessel shall keep and submit a complete and accurate record of fishing activities.

(a) Fishing activity records shall be kept on forms provided by the department.

(b) Fishing activity records shall be kept on the vessel while it is engaged in, or returning from, fishing operations and shall be completed before the end of a trip, at the time of sale of the catch or at the end of each day's fishing.

(c) Fishing activity records shall be delivered to the department at 4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720, or such other department office as may be specified in regulation on or before the 10th day of each month following the month to which the records pertain. Fishing activity records that are mailed shall be postmarked on or before the 10th day of each month following the month to which the records pertain.

(d) Failure to keep and submit required records of fishing activity may result in revocation or suspension (including non-renewal) of the license or permit for the taking of all fish or for the particular species for which the records are required, by the Department, for a period not to exceed one year. Any revocation, suspension or nonrenewal may be appealed to the Commission.

(e) All fishing activity records shall be deemed confidential upon receipt by the Department.

NOTE: Authority cited: Sections 7923 and 8026, Fish and Game Code. Reference: Sections 7923 and 8026, Fish and Game Code.

HISTORY

1. New chapter 6.5 (section 190) filed 12-8-89; operative 1-1-90 (Register 89, No. 50).
2. Amendment of subsection (d) filed 9-11-92; operative 10-12-92 (Register 92, No. 37).
3. Editorial correction of subsection (d) (Register 95, No. 4).
4. Amendment of subsection (d) filed 1-25-95; operative 2-24-95 (Register 95, No. 4).
5. Amendment of subsection (c) filed 10-6-2003; operative 11-5-2003 (Register 2003, No. 41).

§ 191. Far Offshore Longline Logbook.

NOTE: Authority cited: Sections 7701, 7708 and 8026, Fish and Game Code. Reference cited: Section 8026, Fish and Game Code.

HISTORY

1. New section filed 9-14-94; operative 10-14-94 (Register 94, No. 37).
2. Repealer filed 11-22-99; operative 11-22-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 48).

§ 195. Report of Fish Taken To Be Made by Owner of Barge or Vessel for Hire, and Boat Limits.

(a) Records required by Sections 7923 and 8026 of the Fish and Game Code shall be made on a form provided by the department (Skipper's Log Book-Marine Sportfishing — Southern California F&G 656 and Skipper's Log Book-Marine Sportfishing Central and Northern California F&G 623, DFG 195, which is incorporated by reference, and hereafter referred to as logbook for purposes of this section). The logbook shall include the following information and be completed and available for inspection as specified in this section:

(1) A full and correct record of fish taken, including species or specified species groups, filled out before the trip is completed (see Section 190(b) of Title 14, CCR). The names used for designating the species of fish shall be those in common usage unless otherwise designated by the department.

(2) The owner/operator copy of the logbook shall be maintained and kept on the vessel for a period of one year, and upon request, shall be made available for inspection by any authorized representative of the Department.

(3) The numbered logbook shall be completed sequentially. A voided log shall have the word "Void" plainly and noticeably written on the face of the log.

(b) The owner(s) and/or operator(s) of each vessel required to obtain a license under Section 7920 of the Fish and Game Code shall post a notice in a prominent place on the vessel giving information to fishermen

on license requirements, bag limits, and other pertinent information. This notice shall be furnished by the department.

(c) Both the vessel owner(s) and/or operator(s) shall be responsible for keeping accurate records and insuring the vessel is in compliance with subsections (a) and (b) above.

(d) All fishing activity records are confidential pursuant to Fish and Game Code Sections 7923 and 8022 and Government Code Sections 6276 and 6276.10.

(e) Boat Limits: When two or more persons licensed or otherwise authorized to sport fish in ocean waters off California or in the San Francisco Bay District, as defined in Section 27.00, are angling for finfish in these waters aboard a vessel licensed under Section 7920, fishing by these persons (to include vessel operator(s) and crew members where licensed to sportfish under their own individual limits) may continue until the passenger's boat limits of those finfish are taken and possessed aboard the vessel as authorized under this section.

(1) For purposes of this section, the vessel operator(s) and crew members are not passengers and may not take fish towards obtaining boat limits for passengers except for casting, setting trolling gear, gaffing or netting fish, but may take fish during a fishing trip for their personal use only. Vessel operator(s) and crew members may assist passengers in other activities including, but not limited to, obtaining bait, chumming, baiting and untangling hooks and lines, identifying, dispatching, filleting, counting, bagging and otherwise handling fish taken by passengers. Upon completion of a fishing trip, the vessel operator(s) and crew members may only possess fish that are part of the own personal bag limit not to exceed authorized sportfishing daily bag and possession limits.

(2) Fish taken by operator(s) and crew members for personal use pursuant to (e)(1) above must be separated from fish taken under a boat limit and labeled in a manner that they can be identified as an individual operator's or crew members fish. Operator(s) and crew members are also prohibited from giving all or part of their individual limit to any passenger during or after a trip.

(3) The authorization for boat limits aboard a vessel does not apply to fishing trips originating in California where fish are taken in other jurisdictions.

(4) A boat limit for a species or species group is equal to the number of passengers aboard the vessel that are licensed or otherwise authorized to sport fish in ocean waters off California or in the San Francisco Bay District multiplied by the individual daily bag limit authorized for a species or species group. For purposes of this section, the number of passengers shall not include the vessel operator(s) and crew members. It is unlawful to exceed the boat limit at any time.

(5) Prior to the departure on a fishing trip of a vessel that is operating under authority of a license issued pursuant to Fish and Game Code Section 7920, the number of fishers, to include passengers, guests, operators and crew who will be fishing, shall be recorded under "number of fishers" on the logbook for that trip. In addition, the number of vessel operator(s) and crew members who will fish for that trip shall be recorded in the space to the right of the operator's signature on the logbook.

(6) Upon completion of a sport fishing trip aboard a vessel reporting under this section, each licensed or otherwise authorized angler may not possess more than the daily bag and possession limits. For the purposes of this section, a fishing trip is completed at the time a person disembarks from the vessel and individual possession limits apply.

(7) Species for which no daily bag limit exists are not included in the boat limit.

(f) Where boat limits are provided for in this section, the vessel operator(s) and crew members may be cited for violations occurring aboard the vessel, including but not limited to violations of the following:

(A) Overlimits

(B) Possession of prohibited species

(C) Minimum size limits

(D) Fish taken out of season or in closed areas

(g) Boat limits are not authorized for sturgeon fishing and shall not apply to the take, possession or retention of sturgeon.

NOTE: Authority cited: Sections 7071, 7923 and 8587.1, Fish and Game Code. Reference: Sections 7923 and 8587.1, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former Section 225.7 to Section 195 filed 12–8–89; operative 1–1–90 (Register 89, No. 50).
2. Amendment of section heading, new subsection (e) and amendment of NOTE filed 3–5–2001; operative 3–5–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 10).
3. Repealer of subsection (e) filed 9–12–2002 as an emergency; operative 9–12–2002 (Register 2002, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–10–2003 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to 9–12–2002 emergency amendment by operation of Government Code section 11346.1(f) (Register 2003, No. 9).
5. Repealer of subsection (e) filed 2–27–2003; operative 2–27–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 9).
6. Amendment of section heading and section filed 2–24–2004; operative 3–1–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 9).
7. Change without regulatory effect amending subsection (e)(5) filed 12–7–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 50).
8. New subsection (g) filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
9. Amendment of subsections (a)(1), (e), (e)(4) and (e)(6)–(7) filed 10–16–2007; operative 11–15–2007 (Register 2007, No. 42).

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Chapter 7. Capture, Transportation, Possession, and Sale of Freshwater Fish for Bait for Profit

§ 200. Application Procedure for Live Freshwater Bait Fish License.

Application for live freshwater bait fish license shall be made on the departmental form and submitted with the statutory fee to one of the department's regional offices (Redding, Rancho Cordova, Yountville, Fresno and Long Beach).

NOTE: Authority cited: Sections 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 8460–8463, 8490 and 8491, Fish and Game Code.

HISTORY

1. New Sections 200 through 200.17 filed 5–6–58; designated effective 1–2–59 (Register 58, No. 8). (For history of former Section 200, see Register 58, No. 8.)
2. Renumbering of Chapter 5 to Chapter 7 filed 1–16–74; designated effective 3–1–74 (Register 74, No. 3).
3. Amendment of Chapter title filed 12–31–80; effective thirtieth day thereafter (Register 81, No. 1).
4. Editorial correction (Register 81, No. 4).
5. Repealer of Chapter 7 (Sections 200–200.30, not consecutive) and new Chapter 7 (Sections 200–200.31, not consecutive) filed 11–5–81; effective thirtieth day thereafter (Register 81, No. 45). For prior history, see Registers 78, No. 24; 75, No. 27; 75, No. 23; 69, No. 51; 69, No. 8; 68, No. 48; 65, No. 11; 63, No. 2; 60, No. 9; 59, No. 18; 59, No. 5; and 58, No. 15.

§ 200.10. Sale and Transfer of Live Freshwater Bait Fish License.

Live freshwater bait fish licenses shall not be resold or transferred.

NOTE: Authority cited: Sections 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 8460–8463, 8490 and 8491, Fish and Game Code.

HISTORY

1. Editorial correction of printing error in first paragraph (Register 91, No. 31).

§ 200.11. Requirements for Obtaining Live Freshwater Bait Fish License.

A live freshwater bait fish license shall not be issued unless the application contains a statement signed by the applicant stating that he has read, understands, and agrees to be bound by these regulations and by all the terms of the license.

NOTE: Authority cited: Sections 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 8460–8463, 8490 and 8491, Fish and Game Code.

§ 200.12. Live Freshwater Bait Fish License for Retail Live Bait Outlets.

A live freshwater bait fish license is required for each live bait outlet and the specific location must be shown on the license. Such license is required in order to possess or sell live freshwater fin fish, live waterdogs (as defined in subsection 200.31(c)) and live freshwater crayfish for use as bait in inland waters.

NOTE: Authority cited: Sections 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 8460–8463, 8490 and 8491, Fish and Game Code.

HISTORY

1. Amendment filed 1–20–87; effective upon filing pursuant to Fish and Game Code section 215 (Register 87, No. 4).
2. Amendment filed 4–23–92; operative 5–25–92 (Register 92, No. 20).

§ 200.13. Species Which Live Freshwater Bait Fish Licensees May Possess or Sell.

Except as provided below, a live freshwater bait fish licensee may possess or sell live only those legally acquired bait species approved for use by sport fishermen in the sport fishing district or portions of sport fishing district in which the licensee is located (see sections 4.10 through 4.30). Licensees located in districts adjacent to ocean waters and within five miles of ocean waters may possess and sell live bait species which may be used in ocean districts.

Bait fish licensees located within a one–mile wide land zone around Lake Tahoe may possess and sell only those species of fin fish which sport fishermen may take directly from Lake Tahoe and use for bait in Lake Tahoe. Such fish shall not be transported from this Lake Tahoe zone.

NOTE: Authority cited: Sections 8437, 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 8460–8463, 8490 and 8491, Fish and Game Code.

HISTORY

1. Amendment of first paragraph filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).

§ 200.14. Importation of Freshwater Bait Fish into the Colorado River District.

NOTE: Authority cited: Sections 2120, 2122, 8460, 8462 and 8491, Fish and Game Code. Reference: Sections 2000–2002, 2013, 2120–2122, 2271, 2301, 2302, 6300, 6301, 6303, 6306, 6401, 8437, 8460–8463, 8490 and 8491, Fish and Game Code.

HISTORY

1. Repealer filed 7–25–88; operative 7–25–88 (Register 88,No. 32).

§ 200.29. Sources of Live Freshwater Bait Fish for Commercial Purposes.

(a) Sources of live fin fish for bait are limited to the following:

(1) Fish reared by a registered aquaculturist.

(2) The following species taken under the authority of a commercial fishing license:

(A) Longjaw mudsucker (*Gillichthys mirabilis*)

(B) Staghorn sculpin (*Leptocottus armatus*)

(C) Yellowfin gobies

(3) Bait fish licensees located within a one–mile wide landzone around Lake Tahoe may take from Lake Tahoe only those species of fin fish which sport fishermen may take directly from Lake Tahoe and use for bait in Lake Tahoe.

(b) Freshwater clams and freshwater crayfish for live bait purposes may be taken only under the authority of a live freshwater bait fish license. Crayfish taken for live bait purposes shall be taken pursuant to Section 116, Title 14, CAC.

(c) Sources of live waterdogs for bait are limited to the following:

(1) Waterdogs reared by registered aquaculturists.

(2) Waterdogs imported from any other state.

(3) Waterdogs may not be taken from the wild for commercial or bait purposes in California except with written authorization from the Department.

NOTE: Authority cited: Sections 2120, 2122, 8437, 8460, 8462, 8491 and 15005–15006, Fish and Game Code. Reference: Sections 2000–2002, 2013, 2120–2122, 2270–2272, 6300, 6301, 6303, 6306, 6401, 8437, 8460–8463, 8490, 8491, 15005, 15006 and 15101, Fish and Game Code.

HISTORY

1. Editorial correction of subsection (a)(2) filed 2–11–83 (Register 83, No. 7).
2. Amendment of subsection (a)(1) filed 4–1–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 14).
3. New subsection (c) filed 1–20–87; effective upon filing pursuant to Fish and Game Code Section 215 (Register 87, No.4).
4. Amendment of subsection (a)(2)(C) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).

§ 200.31. Species Prohibited for the Purpose of Commercial Bait Sales.

The following species are prohibited for the purpose of commercial bait sales:

(a) Yellowfin gobies, except that yellowfin gobies may be sold as bait only in those areas within the Valley District described in Section 4.20(a)(4)(A), (B) and (C) of these regulations.

(b) Tilapia, except that tilapia may be sold as bait only in that area of the Colorado River District bounded by Highway 111 on the north and east and Highway 86 on the west and south.

(c) Salamanders, except for waterdogs (exotic subspecies of the tiger salamander, *Ambystoma tigrinum* ssp.). No waterdogs 3 inches or less in length may be sold as bait.

NOTE: Authority cited: Sections 8437, 8460 and 8462, Fish and Game Code. Reference: Sections 8437, 8460–8463 and 8490, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 11–1–82 as an emergency; effective upon filing (Register 82, No. 45). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–1–83.
2. Certificate of Compliance including editorial correction of NOTE filed 2–14–83 (Register 83, No. 7).

3. New subsection (b) filed 2–19–85; effective thirtieth day thereafter (Register 85, No. 8).
4. New subsection (c) filed 1–20–87; effective upon filing pursuant to Fish and Game Code section 215 (Register 87, No. 4).
5. Amendment of subsection (c) filed 4–23–92; operative 5–25–92 (Register 92, No. 20).
6. Amendment of subsection (a) filed 12–22–98; operative 12–22–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 52).

Chapter 8. Miscellaneous

§ 225. Use of Explosives in State Waters.

Explosives may not be used in the waters of this state inhabited by fish except under a permit issued by the department pursuant to the provisions of this section. The permit fee shall be $100.

(a) Requests for permits to use explosives in state waters shall be made to the department. Requests for renewal, supplemental action, or amendments shall be made to the department.

(b) Permits shall be issued in such a manner as will result in a minimum destruction to marine life and fisheries.

(c) No explosives shall be used for seismic exploration except the following:

(1) Deflagrating explosives, such as black powder, or any other "low" explosive which in the opinion of the department is equivalent to it. For exploding black powder, no more than one (1) electric blasting cap and one (1) length of detonating fuse not to exceed six (6) feet in length or of greater strength than fifty (50) grains of explosive per foot, shall be used for each container. Means for exploding deflagrating explosives other than black powder are subject to approval of the department. The amount of deflagrating explosives to be used at each shot point shall not exceed ninety (90) pounds.

(2) Detonating explosives, such as nitro–carbo–nitrate, or any other "high" explosive which in the opinion of the department is equivalent to it. For exploding detonating explosives of the nitro–carbo–nitrate type, no more than one (1) electric blasting cap and one (1) commercial booster shall be used for each container. Means for exploding detonating explosives other than nitro–carbo–nitrate are subject to approval of the department. The amount of detonating explosives to be used at each shot point in waters of less than two hundred (200) feet in depth shall not exceed five (5) pounds. The amount of detonating explosives to be used at each shot point in waters of greater depth than two hundred (200) feet shall not exceed twenty (20) pounds.

No unjetted explosive charges shall be detonated within one–half (1/2) mile of any breakwater, jetty, pier, or anchored fishing boat or barge. No explosive charges shall be detonated in a kelp bed as designated by the department observer or within three hundred (300) feet of the fringe thereof, or within one–half (1/2) mile of the mouth of any stream when the department observer finds that a concentration of fish may be endangered.

(d) An employee of the Department of Fish and Game shall accompany the boat or crew which is conducting the seismic exploratory work. This observer shall have the authority to stop operations in any given area if, in his opinion, undue damage to marine life occurs, or to stop temporarily or slow up operations until the observer can clearly determine the amount of animals killed. Operations also may be temporarily suspended when in opinion of observer, after consultation with party chief, it is determined that weather conditions make further operations unsafe for personnel and equipment or when equipment breakdowns result in unsatisfactory observations of marine life.

A boat and crew, satisfactory to the department, shall be provided for the observer at all times and during operations shall not be used for any other purpose. One of the crew members must be competent in the operation of the communication and fish–detecting devices described below. Radio–telephone communications between the observer boat and the operating boat shall be maintained at all times when explosives are being detonated. A recording depth–indicator and a modern–type of sonar or fish–detecting device satisfactory to the department shall be provided for the observer boat. The observer boat shall carry, and the crew shall help operate such gear and equipment for determining damage to marine life as the observer shall furnish, and permittee shall meet any expense of gear rental or operation that may be incurred. The observer boat and all equipment, including communication and fish–detecting devices, must be kept in good working condition at all times.

(e) The applicant of a permit for seismic exploration shall defray the cost of such observer's services and all administrative and incidental costs by payment to the Department of Fish and Game, Sacramento, California, for the benefit of the Fish and Game Preservation Fund the minimum deposit of seven hundred fifty dollars ($750) per survey crew for each month for which a permit is requested, said month commencing the date on which said permit becomes effective, whether operations are commenced on that date or not. A similar minimum deposit of seven hundred fifty dollars ($750) per month shall be made fifteen (15) days prior to the addition of every crew not specified in original application for permit.

This sum shall be paid as follows:

(1) The minimum payment due prior to issuance or a renewal of a permit shall be seven hundred fifty dollars ($750) for each month or fraction of a month covered by the permit, and shall accompany the application.

(2) Expenses as they accrue to the department shall be charged against this minimum deposit.

(3) At the expiration of the permit, the cancellation of operations, or the denial of the application, any sum remaining over and above those expenses incurred by the department shall be refunded within thirty (30) days.

(4) Any expenses incurred by the department in connection with the permit over and above the minimum deposits shall be due and payable upon billing by the department.

(5) Any temporary cessation of seismic operations of thirty (30) days or less shall be considered as an expense to the department in the amount of the observer's monthly salary and associated administrative costs.

(f) Before beginning any day's seismic exploration operations, permission to detonate must be obtained from the observer and such permission must also be obtained during the day if the observer has temporarily stopped work due to excessive damage to marine life.

(g) All fish of edible size which may be killed during seismic exploration operations shall be picked up by the operating crew, and arrangements made by the permittee for their disposal subject to approval of the department. If sold any money received from such sale shall be paid into the Fish and Game Preservation Fund. When in the judgment of the observer an excessive amount of fish has been killed and washed onto any shore in such quantities as to endanger public health or create a nuisance, the permittee shall immediately gather up and dispose of such fish in a manner satisfactory to the observer.

(h) Anyone applying for or holding a permit for seismic exploration shall notify the Sacramento Headquarters Office of the Department of Fish and Game, or the office designated in the permit, in writing not less than fifteen (15) days before beginning operations or before adding a survey crew, and not less than five (5) days before transferring a crew between permits held by the same permittee. Notification of intention to terminate operations or to suspend operations more than thirty (30) days shall also be given in writing not less than fifteen (15) days in advance of such termination. Copies of all notices and reports shall be sent to the Sacramento Headquarters Office. At least twenty–four (24) hours before commencing operations within three (3) miles of shore, or in any new area whose boundaries shall be defined in the permit, where he has not operated during the preceding one (1) month, the permittee shall discuss the forthcoming operations with the department at Sacramento Headquarters or other office as designated in the permit.

(i) On the fifteenth and last days of each month of seismic operation, the permittee shall submit a report of dates, location, and number of detonations made in the preceding period. A report shall be submitted for each permit for each half–month period whether operations were actually conducted or not. The report shall include the species and weight of edible

fish disposed of, as provided in paragraph (g), and the name of the recipient. Reports shall be submitted in duplicate in the manner provided for above in (h).

(j) All permits for seismic exploration shall be issued for a period of not to exceed six (6) months, but may be renewed from time to time thereafter, for such periods not to exceed six (6) months at a time, as the department may approve. Separate permits are required for: (1) the ocean waters; (2) each inland water operation regardless of location.

(k) Every permittee shall post a copy of said permit for seismic exploration in a conspicuous place aboard the main survey vessel where it can be inspected by the observer and survey crew at any time.

(*l*) No permit granted pursuant to these regulations for seismic exploration shall be valid or exercised unless at the same time the permittee has a permit in full force and effect issued by the State Lands Commission of California and authorizing such seismic operations.

(m) Any permit issued pursuant to these regulations for seismic exploration may be canceled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

(n) A permit to use explosives in state waters inhabited by fish for other than seismic exploration shall be issued under the following conditions to ensure that the state's aquatic resources are protected (the granting or denial of a permit may be appealed pursuant to section 5500 of the Fish and Game Code):

(1) The permittee shall abide by all terms and conditions as set forth in the permit.

(2) The department may require that a department observer be present during the use of explosives in state waters. The permittee shall, at the department's request, reimburse the department for expenses incurred for an observer including, but not limited to, time, mileage and other expenses, at a rate to be determined by the department. Reimbursement to be paid into the Fish and Game Preservation Fund.

(3) The permittee may be required to provide a boat, operator and fish detecting instruments.

(4) An observer may, when there is a threat to the resource, cancel or delay the use of explosives in state waters.

NOTE: Authority and reference cited: Section 5500, Fish and Game Code.

HISTORY

1. Renumbered from former section 751 (Register 59, No. 9). For history of former section, see Register 57, No. 9.
2. Amendment filed 2–2–61; effective thirtieth day thereafter (Register 61, No. 3).
3. Amendment filed 1–26–62; effective thirtieth day thereafter (Register 62, No. 2).
4. Amendment filed 7–5–62; effective thirtieth day thereafter (Register 62, No. 13).
5. Renumbering of chapter 6 to chapter 8 filed 1–16–74; designated effective 3–1–74 (Register 74, No. 3).
6. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
7. Amendment filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).
8. Amendment filed 11–13–86; effective thirtieth day thereafter (Register 86, No. 46).
9. Amendment of undesignated introductory paragraph filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 225.1. Use of Explosives for Blasting or Special Purposes.

Under the authority of this section, any person may use explosives in the waters of this State for any lawful and valid purpose, other than the taking of animal life, whenever the amount of the charge is not more than one blasting cap or its equivalent. Also exempted are such explosives designated by the State Fire Marshal as agricultural and wildlife fireworks, according to Part 2, Div. 11, Section 12508 of the Health and Safety Code.

Anchors propelled into the ocean floor by explosives charges are emergency devices and do not require a permit.

NOTE: Authority cited: Section 5500, Fish and Game Code. Reference: Section 5500, Fish and Game Code; and Section 12508, Health and Safety Code.

HISTORY

1. New section filed 1–30–63; effective thirtieth day thereafter (Register 63, No. 2).
2. Editorial Correction (Register 81, No. 38).
3. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
4. Amendment filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).

§ 225.5. Streams, Artificial Barriers.

Pursuant to the provisions of Section 5948 of the Fish and Game Code, the following shall constitute a log jam or debris accumulation or other artificial barrier preventing the passage of fish up and down stream or which is deleterious to fish:

(a) Any log jam or debris accumulation which has no well–defined channel through which all fish may pass upstream or downstream at any time without delay;

(b) Any log jam or debris accumulation in any stream which reduces the dissolved oxygen content below five parts of oxygen to one million parts of water, or causes any other condition toxic to fish or aquatic life.

NOTE: Authority and reference cited: Section 5948, Fish and Game Code.

HISTORY

1. New Section 755 filed 12–23–54; effective thirtieth day thereafter (Register 54, No. 27).
2. Renumbered from former Section 755 (Register 59, No. 9).
3. Amendment filed 4–21–60; effective thirtieth day thereafter (Register 60, No. 9).
4. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).

§ 225.7. Report of Fish Taken, to Be Made by Owner of Barge or Vessel for Hire.

NOTE: Authority and reference cited: Sections 7122 and 7923, Fish and Game Code.

HISTORY

1. Originally published 3–31–45 as Section 750 (Title 14).
2. Renumbered from former Section 750 (Register 59, No. 9). For history of former section, see Register 54, No. 13.
3. Amendment filed 4–21–60; effective thirtieth day thereafter (Register 60, No. 9).
4. Amendment filed 10–11–60; effective thirtieth day thereafter (Register 60, No. 12).
5. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
6. Renumbering and amendment of former Section 225.7 to Section 195 filed 12–8–89; operative 1–1–90 (Register 89, No. 50).

§ 225.8. Report of Marlin Taken by Sport Fishermen.

NOTE: Authority and reference cited: Section 7122, Fish and Game Code.

HISTORY

1. New section filed 3–25–81; effective thirtieth day thereafter (Register 81, No. 13).
2. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
3. Repealer filed 1–20–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 4).

§ 226. Issuance of Permits for Importing Live Aquatic Plants or Animals to Persons Other Than Registered Aquaculturists.

NOTE: Authority cited: Sections 1050, 2271, 6300–6303, 6306 and 6400, Fish and Game Code. Reference: Sections 1050, 2118, 2150, 2270, 2272, 6300–6303, 6306, 6400, 15600 and 15601, Fish and Game Code; Lacey Act of 1900 (18 U.S.C. 42, 43 and 44); Black Bass Act (16 U.S.C. 851–856); Endangered Species Act of 1973 (16 U.S.C. 1531–1543); and Convention on International Trade in Endangered Species of Wild Fauna and Flora, 1983.

HISTORY

1. New section filed 4–11–85; effective thirtieth day thereafter (Register 85, No. 15). For history of former section, see Register 83, No. 1).
2. Amendment filed 7–25–88; operative 7–25–88 (Register 88, No. 32).
3. Repealer filed 7–24–91; operative 8–23–91 (Register 92, No. 8).

§ 226.5. Issuance of Permits to Destroy Harmful Species of Fish in Private Waters for Management Purposes.

Pursuant to the provisions of section 5501 of the Fish and Game Code, free permits for depredation purposes to take any species of fish which, in the opinion of the Department of Fish and Game, is harmful to other species of fish may be issued by the department on the following terms:

(a) Subject to paragraph (g) of this section, such fish may be destroyed by means of chemicals, seining or draining.

(b) Application shall be made to the Regional Manager of the Department of Fish and Game for the region in which the water is located. An application form will be supplied to each applicant upon request.

(c) All waters to be treated, seined or drained shall be entirely within the exterior boundaries of the land owned or leased by the applicant or applicants.

(d) Permits shall not be granted for streams or rivers.

(e) No permit may be granted if, in the judgment of the Department of Fish and Game, it contains publicly owned fish of desirable species which should be protected.

(f) Permittees shall notify the Regional Office of the Department of Fish and Game 10 days in advance of operations so that arrangements may be made for observation by the department if that is deemed desirable.

(g) No water may be chemically treated if, in the judgment of the Department of Fish and Game, the chemical could escape to other waters and endanger publicly owned fish.

(h) The Department of Fish and Game may specify the nature and amount of chemical to be used and its mode of application.

(i) Fish recovered under authority of this permit may not be sold (see section 226.7).

(j) The permittee agrees to hold the State of California, its agents, servants and employees free and harmless from all claims for damages resulting from the permittee's negligence or willful failure to follow the department's written recommendations prescribed for the chemical treatment of any water.

(k) Permits may be revoked for a violation of the terms thereof or for a conviction of any violation of any provision of the Fish and Game Code or commission regulations pertaining to activities covered by the permit. In order to protect fishery resources, permits may be revoked or amended without notice. Said revocations or amendments are subject to review by the commission.

(*l*) Permits shall only be issued upon the condition contained in the application and signed by the applicant that he has read, understands and agrees to be bound by all the terms of the permit and these regulations.

NOTE: Authority cited: Sections 2120, 5510 and 8437, Fish and Game Code. Reference: Sections 2120, 5501, 5510 and 8437, Fish and Game Code.

HISTORY

1. New section 757 filed 11–1–55; effective thirtieth day thereafter (Register 55, No. 16).
2. Renumbered from former section 757 (Register 59, No. 9).
3. Amendment filed 4–21–60; effective thirtieth day thereafter (Register 60, No. 9).
4. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
5. Amendment of subsections (j) and (k) filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).
6. Amendment of undesignated introductory paragraph filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 226.7. Issuance of Permits and Conditions for Taking Inland or Freshwater Fishes.

Pursuant to the provisions of section 8437 of the Fish and Game Code, inland or freshwater fishes listed in this section may not be taken for commercial purposes except in accordance with the following regulations:

(a) This section does not apply to the taking of live freshwater fish for bait purposes (see sections 8460–8463 of the Fish and Game Code and sections 200–200.31 of title 14).

(b) Licenses and permits required.

(1) Fishes listed in this section may not be taken for commercial purposes except under a revocable, nontransferable permit issued by the department. Applications for the permit shall be made to the regional manager for the region in which the fish are to be taken. An application form will be supplied to each applicant upon request.

(2) Persons taking fishes listed in this section for commercial purposes shall also comply with requirements of the Fish and Game Code relating to commercial fishing licenses, commercial fishing vessel registration, and other applicable commercial laws.

(3) Every person who takes for commercial purposes, assists in taking, possesses or transports the fishes listed in this section while on any boat or vessel, or who uses or operates or assists in using or operating any boat, trap, or other appliance to take fish, must have a valid permit issued to him and must be in possession of said permit while engaged in any such activities.

(c) Permits shall be issued for not longer than one year. Permits may be revoked for a violation of the terms thereof or for a conviction of any violation of any provision of the Fish and Game Code or commission regulations pertaining to activities covered by the permit. In order to protect fishery resources, permits may be revoked or amended without notice. Said revocations or amendments are subject to review by the commission.

(d) The department may withhold a permit for one year following a conviction of a violation of any provision of the Fish and Game Code, or commission regulations relating to activities covered by the permit.

(e) Permits shall only be issued after the application has been signed by the applicant indicating that he has read, understands and agrees to the terms of the permit and these regulations. See subsection 699(b) of these regulations for the fee for this permit.

(f) Only the following fishes are authorized to be taken: Freshwater mollusks, threadfin shad (*Dorosoma petenense*) and fishes belonging to the lamprey family (*Petromyzontidae*), smelt family (*Osmeridae*), sucker family (*Catostomidae*), carp or minnow family (*Cyprinidae*) except grass carp (*Ctenopharyngodon idella*), killifish family (*Cyprinodontidae*), livebearer family (*Poeciliidae*), silverside family (*Atherinidae*), cichlid family (*Cichlidae*), gray mullet family (*Mugilidae*), sculpin family (*Cottidae*), stickleback family (*Gasterosteidae*), and goby family (*Gobiidae*). Any grass carp inadvertently taken must be immediately returned unharmed to the water.

(g) All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

(h) All fish authorized to be taken by the permit must be captured only in those waters and only with those types of gear specified in the permit.

(i) Areas and periods of fishing and the amount taken may be restricted by the department as necessary to protect authorized fishes or other fishes or to reduce interference with angling.

(j) Permittee shall comply with all requirements of the department with respect to construction and deployment of fishing gear.

(k) The permittee shall provide the department with a schedule of fishing operations as required by the department.

(*l*) The department may require that an employee of the department be present to inspect fishing operations. All costs of such inspection shall be borne by the permittee.

(m) The department may require that the permittee submit reports at the end of each month showing the total number and/or weight of each species taken from each water specified in the permit, the number and/or approximate total weight of each species returned to the water, and such other data as the department may request.

NOTE: Authority cited: Sections 2120, 5510, 8437, 8462 and 8475, Fish and Game Code. Reference: Sections 2120, 5501, 5510, 8437, 8462 and 8475, Fish and Game Code.

HISTORY

1. Amendment filed 4–11–78; effective thirtieth day thereafter (Register 78, No. 15). For prior history, see Register 71, No. 15.
2. Repealer and new section filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
3. Amendment of subsection (f) filed 10–14–88; operative 11–13–88 (Register 88, No. 45).
4. Amendment of subsection (e) and nonsubstantive amendment of NOTE filed 4–18–91; operative 5–18–91 Register 91, No. 21).

5. Amendment of subsection (f) and NOTE filed 5–5–97; operative 6–4–97 (Register 97, No. 19).

§ 227. Sale of Live Aquaculture Products by Aquarium or Pet Stores.

(a) No live aquaculture products shall be maintained or sold by aquarium or pet stores except the following:

(1) Tropical species of ornamental marine or freshwater plants and animals not utilized for human consumption or bait purposes;

(2) Goldfish;

(3) Koi;

(4) Albino channel catfish;

(5) White sturgeon not to exceed 8 inches in total length;

(6) Giant freshwater prawn *(Macrobrachium rosenbergi);*

(7) Brine shrimp;

(8) Worms of the family *Tubificidae;*

(9) Crustaceans of the order Amphipoda that are native to California waters;

(10) Mosquitofish, *Gambusia affinis,* except that mosquitofish may not be sold by aquarium or pet stores in Inyo, Mono, San Bernardino, Riverside and Imperial counties.

(11) Abalone.

(b) White sturgeon and abalone shall be sold only under an Aquarium Dealer's Permit issued by the department to the owner of the aquarium or pet store. Applications shall be made on a department form available upon request from the Department of Fish and Game, Wildlife Protection Division, 1416 Ninth Street, Sacramento, California 95814. The permit shall be issued free of charge on a calendar year basis, or part thereof. See subsection 699(b) of these regulations for the fee for this permit. Aquarium dealer permittees shall maintain a log of all sales and shipments of live sturgeon and abalone, the name of the individual, company or organization taking possession of the product, the date of sale and the number of sturgeon or abalone sold. The log shall be shown upon request by an authorized department official.

(c) All abalone sold under an aquarium dealer's permit shall be marked as provided by section 238(e)(1)(B) of this title.

(d) Under no condition shall any live aquaculture product sold at an aquarium or pet store be planted in any waters of the state.

NOTE: Authority cited: Sections 1050, 15005, 15200 and 15202, Fish and Game Code. Reference: Sections 1050 and 8371, Fish and Game Code.

HISTORY

1. New section filed 4–1–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 14).
2. Amendment of subsection (a) filed 7–13–84; effective thirtieth day thereafter (Register 84, No. 28).
3. Amendment filed 7–8–85; effective thirtieth day thereafter (Register 85, No. 28).
4. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
5. Editorial correction of printing error in subsection (b) (Register 91, No. 31).

§ 228. Suction Dredging.

For purposes of these regulations, suction dredging (also called vacuum dredging) is defined as the use of a suction system to remove and return material at the bottom of a stream, river, or lake for the extraction of minerals. Suction dredges may only be used pursuant to the following provisions:

(a) Permit requirement. Every person who operates the intake nozzle of any suction dredge shall have a suction dredge permit in his/her immediate possession. Suction dredge permits shall be valid from the first of the year for one calendar year or if issued after the first of the year, for the remainder of that year. The department will charge a fee for each suction dredge permit pursuant to Section 5653(c), Fish and Game Code. Permits may be obtained at any Regional office or at the License and Revenue Branch office.

Any person with a qualifying disability under the Americans With Disabilities Act, who presents a Disabled Person DMV registration or other State, or Federal approved documentation of disability, and who requires assistance in operating a suction dredge may also apply for an assistant suction dredge permit. Any assistant suction dredge permit issued by the department to such disabled person shall be in the disabled applicant's name and shall be issued at no charge. The disabled permittee must be present at the dredge site while the assistant is operating the suction dredge. The assistant shall have the assistant suction dredge permit in his/her immediate possession while assisting the disabled permittee in suction dredging activities. Any assistant may be prosecuted for a violation of the laws or regulations pertaining to suction dredging. The disabled permittee may be prosecuted for a violation of the laws or regulations pertaining to suction dredging committed by his/her assistant.

(b) Special Suction Dredge Permits.

(1) Submission of Written Plan. Any person may apply for a special suction dredge permit to operate a suction dredge with a nozzle larger than prescribed in subsections 228(e)(1), 228.5(c) or 228.5(d) by submitting a written plan detailing the proposed operation. If the department determines that no deleterious effect to fish may occur, the special permit shall be issued with conditions prescribed by the department to protect fish resources. A special permit will be issued or denied within 30 days upon receipt of a complete written plan detailing the proposed operation unless the time is intended by mutual agreement. If the special permit is denied, the justification for denial will be provided.

(2) Appeal of Denial. The denial of a special suction dredge permit may be appealed in writing to the director or his/her designee (hereinafter referred to as director). If the director determines that no deleterious impacts to fish may occur, the director shall authorize the issuance of the permit. The director shall respond to an appeal within 45 days from receipt of notice of request to appeal.

(c) Permit Revocation or Suspension. Any suction dredge permit, assistant suction dredge permit, or special suction dredge permit may be revoked or suspended by the regional manager or his/her designee (hereinafter referred to as regional manager) for any violation of the laws or regulations pertaining to suction dredging. The regional manager may, in his/her discretion, revoke or suspend the permit or permit renewal or permanently revoke the renewal of a permit based on past citations or convictions of such laws or regulations. A regional manager's decision to revoke or suspend a permit or permit renewal may be appealed to the director. Any revocation or suspension of a permit or permit renewal shall be in accordance with the following provisions:

(1) Hearing When Permittee Convicted of Violation. In the case where the permittee has already been convicted of a violation of Section 5653 or 5653.3 of the Fish and Game Code or any regulation pertaining thereto permitted by said code, the regional manager shall schedule a hearing to consider the revocation or suspension of his/her permit or permit renewal:

(A) Notification. The regional manager shall notify the permittee, by certified letter, of the intent to consider the revocation or suspension of his/her permit or permit renewal at the hearing. The certified letter shall include the following information:

1. Name of permittee and last known address.
2. Date, time and place of scheduled hearing,
3. Reason for impending action, including a statement as to date and fact of conviction(s).
4. A copy of Section 228, Title 14, California Code of Regulations.
5. A statement that the permittee has the right to appear and to be represented by legal counsel.

(B) Recording. The proceedings of the hearing shall be recorded by an electronic tape recording system.

(C) Reading of Documents. At the hearing, the regional manager shall read the conviction documents. The department shall provide the regional manager with the background information regarding the violation(s) and conviction(s) and shall submit into the record a copy of the document(s) which include(s) the facts of the conviction(s) of a violation of the regulation(s) or statute.

(D) Statement by Permittee. The permittee shall make his/her statement regarding the violation(s) and conviction(s), and may argue that ex-

tenuating circumstances were such as to not warrant the loss of his/her permit or permit renewal.

(E) Questioning. The permittee or the department personnel may be questioned by the regional manager.

(F) Findings. At the conclusion of the hearing, the regional manager shall make a decision which contains findings or reasons for the proposed action.

(G) Notification by Certified Mail. After the hearing, the regional manager shall provide the permittee, by certified mail, a copy of the final decision.

(H) Appeal. The permittee may request an appeal in writing to the director within 30 days of the date of receipt of the regional manager's decision. The director shall respond to an appeal in writing within 45 days from receipt of notice of request to appeal.

(I) Judicial Review. The permittee may request judicial review by filing a petition for writ of mandate in accordance with provisions of the Code of Civil Procedure within 30 days from the date of the decision. The record of the proceedings shall be prepared by the department and delivered to the petitioner within 30 days after receipt of petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

(2) Hearing When Permittee Cited but Not Convicted. In the case where the permittee has not been convicted of a violation of Section 5653 of the Fish and Game Code or any regulation pertaining to suction dredging permitted by said code, but has been cited by the department, the regional manager shall schedule a hearing to consider the revocation or suspension of his/her permit or permit renewal:

(A) Notification. The regional manager shall notify the permittee, by certified letter, of the regional manager's intent to consider the revocation or suspension of his/her permit or permit renewal at the hearing. The certified letter shall include the following information:

1. Name of permittee and last known address.

2. Date, time and place of scheduled hearing.

3. Reason for impending regional manager's action, including a concise statement of the acts or nonactions of the permittee which constitutes a violation of Section 5653 or 5653.3, of the Fish and Game Code or regulations made pursuant thereto.

4. A copy of Section 228, Title 14, California Code of Regulations.

5. A statement that the permittee has the right to appear and to be represented by legal counsel.

(B) Recording. The proceedings of the hearing shall be recorded by an electronic type recording system.

(C) Presentation of Evidence. The permittee and the department have the right to present evidence at the scheduled hearing as follows:

1. Oral evidence shall be taken on oath or affirmation.

2. Each party may call and examine witnesses, cross-examine opposing witnesses on any relevant matter, may rebut evidence against him/her, and may orally argue the matter.

3. The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons would rely in the conduct of serious affairs.

4. The permittee or the department may be questioned by the regional manager.

(D) Findings. At the conclusion of the hearing, the regional manager shall make a decision based on the evidence presented at the hearing and shall issue written findings containing reasons for the decision and the evidence relied upon.

(E) Notification by Certified Mail. After the hearing the regional manager shall provide the permittee, by certified mail, a copy of the final decision.

(F) Appeal. The permittee may request an appeal in writing to the director within 30 days of the date of receipt of the regional manager's decision. The director shall respond to an appeal in writing within 45 days from receipt of notice of request to appeal.

(G) Judicial Review. The permittee may request judicial review by filing a petition of writ of mandate in accordance with provisions of the Code of Civil Procedure within 30 days from the date of the director's decision. The record of the administrative proceedings shall be prepared by the department and delivered to the petitioner within 30 days after receipt of petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

(d) Special Approval for Use of Suction Dredges in Lakes and Reservoirs. No suction dredging is permitted in any lake or reservoir without written approval from the lake operating agency, the Regional Water Quality Control Board and an on-site inspection and approval by the Department.

(e) Equipment Requirements.

(1) Nozzle Restriction. No suction dredge having an intake nozzle with an inside diameter larger than six inches may be used unless:

(A) Otherwise provided under special regulations of Section 228.5, Title 14, California Code of Regulations, or

(B) A constricting ring with an inside diameter not larger than six inches has been attached to the intake nozzle. This constricting ring must be of solid, one-piece construction with no openings other than the intake and openings not greater than one inch between the constricting ring and nozzle. It must be welded or otherwise permanently attached over the end of the intake nozzle. No quick-release devices are permitted.

(2) Hose Restriction. The inside diameter of the intake hose may not be more than four inches larger than the permitted intake nozzle size.

(f) Restrictions on Methods of Operation.

(1) Winching is permitted under the following provisions:

(A) Boulders and other material may only be moved within the existing water line. No boulders or other material shall be moved outside the water line.

(B) Winching of any material embedded on banks of streams or rivers is prohibited.

(C) Winching of any material into a location which deflects water into the bank is prohibited.

(D) No power-winch activated shovels, buckets or rakes may be used to excavate materials in the stream course. Nets and other devices may be used to collect cobbles and boulders by hand for removal from dredge holes providing the materials are not removed from within the water line.

(E) No woody streamside vegetation shall be removed or damaged. Trees may be used as winch and pulley anchor points provided that precautions are taken to ensure that trunk surfaces are protected from cutting or abrasions.

(2) No person may suction dredge into the bank of any stream, lake or river.

(3) No person shall remove or damage woody riparian vegetation during suction dredge operations.

(4) No person shall move any anchored, exposed woody debris such as root wads, stumps or logs.

(5) No person shall divert a stream or river into the bank.

(6) No person shall dam or otherwise obstruct a stream, river or lake in such a manner that fish passage is impeded.

(7) No person shall import any earthen material into a stream, river or lake.

Operating outside these Restrictions On Methods Of Operation may require compliance with Fish and Game Code sections 1600 – 1607, which govern lake and streambed alterations.

(g) Compliance with Other Laws. Nothing in any permit issued pursuant to these regulations authorizes the permittee to trespass on any land or property, or relieves the permittee of the responsibility of complying with applicable federal, State, or local laws or ordinances.

(h) Emergency Closure. The Department may initiate emergency regulatory action pursuant to Government Code Section 11346.1 to close any water to suction dredging.

NOTE: Authority cited: Sections 5653 and 5653.9, Fish and Game Code. Reference: Sections 5653 – 5653.9, Fish and Game Code.

HISTORY

1. New section filed 5–27–94; operative 5–27–94 (Register 94, No. 21). For prior history, see Register 81, No. 41.
2. Amendment of subsection (b)(1), new subsections (b)(2)–(3) and subsection renumbering filed 4–26–2001 as an emergency; operative 4–26–2001 (Register 2003, No. 9). A Certificate of Compliance must be transmitted to OAL by 8–24–2001 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction adding HISTORY 2 (Register 2003, No. 9).
4. Reinstatement of section as it existed prior to 4–26–2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2003, No. 9).
5. Change without regulatory effect amending subsection (b)(1) filed 4–7–2008 pursuant to section 100, title 1, California Code of Regulations (Register 2008, No. 15).

§ 228.5. Suction Dredge Use Classifications and Special Regulations.

(a) Suction Dredge Use Classifications. For purposes of these regulations, the following classes of suction dredge use restrictions apply in California's lakes, reservoirs, streams and rivers as specified:

(1) Class A:	No dredging permitted at anytime.
(2) Class B:	Open to dredging from July 1 through August 31.
(3) Class C:	Open to dredging from the fourth Saturday in May through October 15.
(4) Class D:	Open to dredging from July 1 through September 15.
(5) Class E:	Open to dredging from July 1 through September 30.
(6) Class F:	Open to dredging from December 1 through June 30.
(7) Class G:	Open to dredging from the fourth Saturday in May through September 30.
(8) Class H:	Open to dredging throughout the year.

(b) Special Closures by County. Except as specified in subsections (c) and (d) below, the suction dredge class restrictions for each county are as follows:

(1) Alameda	Class H.
(2) Alpine	Class C.
(3) Amador	East of Highway 49 is Class C, the remainder is Class H.
(4) Butte	Class C.
(5) Calaveras	East of Highway 49 is Class C, the remainder is Class H.
(6) Colusa	Class H.
(7) Contra Costa	Class H.
(8) Del Norte	Class E.
(9) El Dorado	East of Highway 49 is Class C, the remainder is Class H.
(10) Fresno	Within the external boundaries of the National Forests is Class C, the remainder is Class H. (Kings River Special Management Area has been closed to suction dredging by the U.S. Forest Service. Contact Sequoia National Forest for details.)
(11) Glenn	Class H.
(12) Humboldt	Class E.
(13) Imperial	Class H.
(14) Inyo	Class A.
(15) Kern	Class H.
(16) Kings	Class H.
(17) Lake	Class H.
(18) Lassen	Class C.
(19) Los Angeles	Class H. (Portions of the San Gabriel Mountains may be closed to suction dredging by the U.S. Forest Service. Contact the Angeles National Forest for details.)
(20) Madera	Within the external boundaries of the National Forests is Class C, the remainder is Class H.
(21) Marin	Class A.
(22) Mariposa	Within the external boundaries of the National Forests is Class C, the remainder is Class H.
(23) Mendocino	Class A.
(24) Merced	Class H.
(25) Modoc	Class C.
(26) Mono	Class A.
(27) Monterey	Class A.
(28) Napa	Class A.
(29) Nevada	East of Highway 49 is Class C, the remainder is Class H.
(30) Orange	Class H.
(31) Placer	East of Highway 49 is Class C, the remainder is Class H.
(32) Plumas	Class C.
(33) Riverside	Class H.
(34) Sacramento	Class H.
(35) San Benito	Class A.
(36) San Bernardino	Class H. (Portions of the San Gabriel Mountains may be closed to suction dredging by the U.S. Forest Service. Contact the Angeles National Forest for details.)
(37) San Diego	Class H.
(38) San Francisco	Class H.
(39) San Joaquin	Class H.
(40) San Luis Obispo	Class A.
(41) San Mateo	Class A.
(42) Santa Barbara	Class H.
(43) Santa Clara	Class H.
(44) Santa Cruz	Class A.
(45) Shasta	Class C.
(46) Sierra	Class C.
(47) Siskiyou	Class E.
(48) Solano	Class H.
(49) Sonoma	Class A.
(50) Stanislaus	Class H.
(51) Sutter	Class H.
(52) Tehama	Class D.
(53) Trinity	Class E.
(54) Tulare	Within the external boundaries of the National Forests is Class C, the remainder is Class H.
(55) Tuolumne	East of Highway 49 is Class C, the remainder is Class H.
(56) Ventura	Class H.
(57) Yolo	Class H.
(58) Yuba	Class H.

(c) Eight–Inch Nozzle Size. An eight–inch diameter intake nozzle size is permitted on the following rivers unless otherwise specified in Section 228.5(d):

(1) American (Placer, Nevada, and El Dorado counties)
(2) Cosumnes (Sacramento, Amador and El Dorado counties)
(3) Feather (Butte, Plumas, and Yuba counties)
(4) Klamath (Del Norte, Humboldt and Siskiyou counties)
(5) Merced (Mariposa and Merced counties
(6) Mokelumne (Amador, Calaveras and San Joaquin counties)
(7) New (Trinity County)
(8) Scott (Siskiyou County)
(9) Trinity (Trinity and Humboldt counties)
(10) Yuba (Sierra and Yuba counties)

(d) Special Regulations by Water. In addition to the classifications listed in Section 228.5(b) and (c), the special regulations below apply to the following waters:

(1) American River (Sacramento County). The main stem American River from the Sacramento River upstream to Nimbus Dam is Class A.

(2) American River, Middle Fork (El Dorado and Placer counties). The main stem American River Middle Fork from its junction with the North Fork of the American River upstream to the confluence with the Rubicon River is Class C. (Note: Recreational dredging is allowed in the Auburn State Recreation Area on an interim management basis. Contact the Auburn State Recreation Area for instructions.)

(3) American River, North Fork (Placer County). The main stem North Fork American River from Folsom Reservoir to the Colfax–Iowa Hill Road Bridge is Class C. From the Colfax–Iowa Hill Road Bridge upstream to Heath Springs (T16N R14E S26) is Class A. (Note: Recreational dredging is allowed in the Auburn State Recreation Area on an interim management basis. Contact the Auburn State Recreation Area for instructions.)

(4) American River, South Fork (El Dorado County). The main stem South Fork American River from Folsom Reservoir upstream to the Highway 49 bridge at Coloma is Class C.

(5) American River, South Fork Tributaries (El Dorado County). All tributaries to the South Fork American River from Folsom Reservoir upstream are Class C.

(6) Antelope Creek and Tributaries (Placer County). Antelope Creek and its tributaries are Class B.

(7) Auburn Ravine and Tributaries (Placer County). Auburn Ravine and its tributaries are Class B.

(8) Bear River (Placer County). The main stem Bear River from Forty Mile Road to the South Sutter Irrigation District's diversion dam is Class D.

(9) Big Chico Creek (Butte County). The main stem Big Chico Creek from Manzanita Avenue in Chico to the head of Higgins Hole (T24N R3E S31) is Class A.

(10) Big Creek and Tributaries (Fresno County). Big Creek, tributary to the Kings River, and its tributaries are Class A.

(11) Big Creek (Trinity County). The main stem Big Creek is Class A.

(12) Blue Creek and Tributaries (Del Norte and Humboldt counties). Blue Creek and its tributaries are Class A.

(13) Butte Creek (Butte County). The main stem Butte Creek from the Sutter County line upstream to the Durham–Oroville Highway Bridge is Class H, and from the Durham–Oroville Highway Bridge upstream to the intake of Centerville Ditch (T23N R3E S10) is Class A.

(14) Calaveras River and Tributaries (Calaveras and San Joaquin counties). The Calaveras River and its tributaries below New Hogan Reservoir are Class B.

(15) Canyon Creek (Yuba County). The main stem Canyon Creek from its mouth upstream to the Sierra–Yuba County line (T20N R8E S25) is Class C.

(16) Cherry Creek (Tuolumne County). The main stem of Cherry Creek is Class B.

(17) Chowchilla River (Madera and Mariposa counties). The main stem Chowchilla River from Eastman Lake upstream to the West and East forks of the Chowchilla River is Class A.

(18) Chowchilla River West Fork (Madera and Mariposa counties). The main stem West Fork Chowchilla River from its mouth upstream to the Highway 49 bridge is Class A.

(19) Clavey River (Tuolumne County). The main stem Clavey River is Class A.

(20) Clear Creek and Tributaries (Siskiyou County). Clear Creek and its tributaries are Class A.

(21) Colorado River and Tributaries (Imperial, Riverside and San Bernardino counties). The main channel and all side sloughs and tributaries of the Colorado River are Class A.

(22) Cosumnes River (Sacramento, Amador and El Dorado counties). The main stem Cosumnes River from the Western Pacific Railroad Bridge about 1/4 mile above the mouth upstream to the Latrobe Highway Bridge is Class D, and from the Latrobe Highway Bridge upstream to the confluence with the North and Middle forks of the Cosumnes River is Class H.

(23) Cosumnes River, North Fork (El Dorado County). The main stem North Fork Cosumnes River from the Middle Fork of the Cosumnes River upstream to the Somerset–Pleasant Valley Road Bridge is Class H.

(24) Cosumnes River, Middle Fork (El Dorado County). The main stem Middle Fork Cosumnes River from the North Fork Cosumnes River upstream to Bakers Ford on the Aukum–Somerset Road is Class H.

(25) Cosumnes River, South Fork (Amador and El Dorado counties). The main stem South Fork Cosumnes from Middle Fork Cosumnes River upstream to the County Road Bridge at River Pines is Class H.

(26) Cow Creek and Tributaries (Fresno County). Cow Creek and its tributaries are Class A.

(27) Curtis Creek (Tuolumne County). The main stem Curtis Creek is Class C.

(28) Deep Creek (San Bernardino County). The main stem Deep Creek is Class A.

(29) Deer Creek (Nevada County). The main stem Deer Creek from Ponderosa Way below Rough and Ready Falls (T16N R7E S13) upstream to Highway 49 is Class C.

(30) Dillon Creek and Tributaries (Siskiyou County). Dillon Creek and its tributaries are Class A.

(31) Dinkey Creek and Tributaries (Fresno County). Dinkey Creek and its tributaries are Class A.

(32) Eagle Creek (Tuolumne County). The main stem Eagle Creek is Class C.

(33) Eastman Lake (Madera and Mariposa counties). Eastman Lake is Class A.

(34) Eel River, All Forks and Tributaries (Mendocino County). The Eel River, all forks and its tributaries upstream of the Humboldt/Mendocino and Trinity/Mendocino County lines are Class A.

(35) Eel River, Middle Fork and Tributaries (Mendocino and Trinity counties). The Middle Fork Eel River and its tributaries are Class A.

(36) Feather River (Butte County). The main stem Feather River from Honcut Creek (T17N R3E S27) upstream to the Highway 70 Bridge is Class B, and from the Highway 70 Bridge upstream to Oroville Dam is Class A.

(37) Feather River, South Fork (Butte and Plumas counties). The main stem South Fork Feather River from Oroville Reservoir upstream to Little Grass Valley Dam (T22N R9E S31) is Class C.

(38) Flat Creek and Tributaries (Shasta County). Flat Creek and its tributaries are Class H.

(39) French Creek (Trinity County). The main stem French Creek is Class A.

(40) Grapevine Creek (Tuolumne County). The main stem Grapevine Creek is Class B.

(41) Horton Creek (Tuolumne County). The main stem Horton Creek is Class A.

(42) Hunter Creek (Tuolumne County). The main stem Hunter Creek is Class B.

(43) Independence Creek and Tributaries (Nevada and Sierra counties). Independence Creek and its tributaries from Independence Lake upstream are Class A.

(44) Jawbone Creek (Tuolumne County). The main stem Jawbone Creek is Class B.

(45) Kaweah River (Tulare County). The main stem Kaweah River upstream of Kaweah Reservoir is Class A.

(46) Kern River and Tributaries (Kern and Tulare counties). The Kern River and its tributaries from Isabella Dam upstream are Class A.

(47) Kern River, South Fork and Tributaries (Kern and Tulare counties). The South Fork Kern River and its tributaries are Class A.

(48) Kings River and Tributaries (Fresno and Kings counties). The Kings River and its tributaries from Tulare Lake upstream to Pine Flat Dam are Class A.

(49) Klamath River, Main Stem (Del Norte, Humboldt and Siskiyou counties). The main stem Klamath River from the mouth upstream to the Salmon River is Class G, from the Salmon River upstream to 500 feet downstream of the Scott River is Class H, from 500 feet downstream of the Scott River upstream to Iron Gate Dam is Class G, and from Iron Gate Dam to the Oregon border is Class A.

(50) Knights Creek (Tuolumne County). The main stem Knights Creek is Class C.

(51) Lavezzola Creek (Sierra County). The main stem Lavezzola Creek is Class C.

(52) Little Rock Creek and Tributaries (Los Angeles County). The main stem Little Rock Creek and its tributaries from the Sycamore Campground in the Angeles National Forest upstream are Class A.

(53) Little Swede Creek (Trinity County). The main stem Little Swede Creek is Class A.

(54) Macklin Creek (Nevada County). The main stem Macklin Creek from its confluence with the Middle Fork Yuba River (T19N R12E S16) upstream is Class A.

(55) Malibu Creek and Tributaries (Los Angeles County). Malibu Creek and its tributaries are Class A.

(56) McCloud River (Shasta County). The main stem McCloud River from the southern boundary of Section 16, T38N, R3W, upstream to Lake McCloud Dam is Class A.

(57) Merced River (Merced County). The main stem Merced River from the San Joaquin River upstream to the Crocker–Huffman Dam (upstream from Snelling) is Class A.

(58) Merced River (Mariposa County). The main stem Merced River is Class C.

(59) Merced River, North Fork (Mariposa County). The main stem North Fork Merced River is Class C.

(60) Miner's Ravine and Tributaries (Placer County). Miner's Ravine and its tributaries are Class B.

(61) Minnow Creek (Tuolumne County). The main stem Minnow Creek is Class A.

(62) Mokelumne River (Amador, Calaveras and San Joaquin counties). The main stem Mokelumne River from Burella Road upstream to Camanche Dam is Class A, from Camanche Dam upstream to Pardee Dam is Class H, and from Pardee Dam upstream is Class C.

(63) Mud Creek (Butte County). The main stem Mud Creek from Big Chico Creek upstream is Class C.

(64) Nelson Creek (Plumas County). The main stem Nelson Creek is Class C.

(65) New River and Tributaries (Trinity County). New River and its tributaries upstream from the East Fork New River, are Class A.

(66) New River East Fork and Tributaries (Trinity County). The East Fork New River and its tributaries from the New River upstream are Class A.

(67) Piru Creek and Tributaries (Ventura and Los Angeles counties). Piru Creek and its tributaries are Class A.

(68) Pit River and Tributaries (Lassen and Modoc counties). The Pit River and its tributaries are Class A.

(69) Poor Man Creek and Tributaries (Tuolumne County). Poor Man Creek and its tributaries are Class A.

(70) Portuguese Creek and Tributaries (Madera County). Portuguese Creek and its tributaries are Class A.

(71) Rock Creek (Butte County). The main stem Rock Creek from Big Chico Creek upstream to the Butte/Tehama County Line is Class C.

(72) Rock Creek and Tributaries (Shasta County). Rock Creek and its tributaries are Class H.

(73) Rose Creek (Tuolumne County). The main stem Rose Creek is Class C.

(74) Rubicon River and Tributaries (El Dorado and Placer counties). The Rubicon River and its tributaries are Class C. No dredge with an intake larger than four inches may be used.

(75) Sacramento River and Tributaries (several counties). The main stem Sacramento River from the San Francisco Bay upstream to Shasta Dam is Class A. The Sacramento River and its tributaries from Shasta Lake upstream to Box Canyon Dam are Class A.

(76) Salmon River (Siskiyou County). The main stem Salmon River is Class D.

(77) Salmon River, North Fork (Siskiyou County). The main stem North Fork Salmon River from the South Fork Salmon River upstream to the Marble Mountain Wilderness boundary is Class D.

(78) Salmon River, South Fork (Siskiyou County). The main stem South Fork Salmon River from the North Fork Salmon River upstream to the Trinity Alps Wilderness boundary is Class D.

(79) Salt Creek and its Tributaries (Riverside County). Salt Creek and its tributaries are Class A.

(80) San Felipe Creek and its Tributaries (Imperial and San Diego Counties), San Felipe Creek and its tributaries are Class A.

(81) San Gabriel, East Fork and Tributaries (Los Angeles County). The East Fork San Gabriel River and its tributaries from Cattle Canyon upstream are Class A.

(82) San Gabriel River, West Fork and Tributaries (Los Angeles County). The West Fork San Gabriel River and its tributaries from the Rincon Guard Station upstream are Class A.

(83) San Joaquin River (several counties). San Joaquin River from the Delta upstream to Friant Dam (Millerton Lake) is Class A.

(84) San Juan Creek and Tributaries (Orange and Riverside counties). San Juan Creek and its tributaries from its mouth upstream are Class A.

(85) San Mateo Creek and Tributaries (San Diego, Orange and Riverside counties). San Mateo Creek and its tributaries from its mouth upstream are Class A.

(86) Santa Ana River and its Tributaries (San Bernardino County). The Santa Ana River and its tributaries from the mouth of Bear Creek upstream are Class A.

(87) Santa Clara River and Tributaries (Los Angeles and Ventura counties). The Santa Clara River and its tributaries from the Los Angeles/Ventura County line upstream are Class A, except that Texas Canyon Creek is Class H.

(88) Santiago Creek and Tributaries (Orange County). Santiago Creek and its tributaries within the Cleveland National Forest are Class A.

(89) Saxon Creek (Mariposa County). The main stem Saxon Creek is Class A.

(90) Scott River and Tributaries (Siskiyou County). The Scott River and its tributaries are Class G.

(91) Secret Ravine and Tributaries (Placer County). Secret Ravine and its tributaries are Class B.

(92) Sespe Creek (Ventura County). The main stem Sespe Creek from the Los Padres National Forest boundary upstream to its confluence with Tule Creek is Class A.

(93) Shay Creek and Tributaries (San Bernardino County). Shay Creek and its tributaries are Class A.

(94) Shasta River and Tributaries (Siskiyou County). The Shasta River and its tributaries are Class A.

(95) Sherlock Creek (Mariposa County) The main stem Sherlock Creek is Class A.

(96) Silver King Creek and Tributaries (Alpine County). Silver King Creek and its tributaries are Class A.

(97) Six–Bit Creek and Tributaries (Tuolumne County). Six–Bit Creek and its tributaries are Class A.

(98) Smith River Middle Fork (Del Norte County). The main stem Middle Fork Smith River is Class D.

(99) Stanislaus River (Calaveras, San Joaquin, Stanislaus and Tuolumne counties). The main stem Stanilaus River from the San Joaquin River upstream to Goodwin Dam is Class A, and from New Melones Dam upstream, excluding New Melones Reservoir, is Class C.

(100) Sullivan Creek (Tuolumne County). The main stem Sullivan Creek is Class C.

(101) Sutter Creek (Amador County). The main stem Sutter Creek from Highway 49 upstream to Pine Gulch Road is Class H.

(102) Sycamore Creek and Tributaries (Fresno County). Sycamore Creek, tributary to the Kings River, and its tributaries are Class A.

(103) Texas Canyon Creek (Los Angeles County). The main stem Texas Canyon Creek is Class H.

(104) Trinity River, Main Stem below Lewiston Dam (Humboldt and Trinity counties). The main stem Trinity River from the Klamath River upstream to the South Fork Trinity River is Class A, from the South Fork Trinity River upstream to the North Fork Trinity River is Class H, from the North Fork Trinity River upstream to Grass Valley Creek is Class D, and from Grass Valley Creek upstream to Lewiston Dam is Class A.

(105) Trinity River, Main Stem and Tributaries above Lewiston Dam (Trinity County). The Trinity River and its tributaries above Lewiston Dam are open to dredging from July 1 through October 15.

(106) Trinity River, North Fork and Tributaries (Trinity County) The North Fork Trinity River and its tributaries upstream from Hobo Gulch Campground are Class A.

(107) Tuolumne River (Stanislaus County). The main stem Tuolumne River from the Waterford Bridge upstream to La Grange Dam is Class A.

(108) Tuolumne River, North Fork, and Tributaries (Tuolumne County). The North Fork Tuolumne River and its tributaries are Class B.

(109) Turnback Creek and Tributaries (Tuolumne County). Turnback Creek and its tributaries are Class A.

(110) Wolf Creek (Nevada County). The main stem Wolf Creek from the Tarr Ditch Diversion (T15N R8E S10) upstream is Class C.

(111) Woods Creek and Tributaries (Tuolumne County). Woods Creek and its tributaries from Harvard Mine Road (Jamestown) downstream are Class C, from Harvard Mine Road upstream are Class A.

(112) Wooley Creek and Tributaries (Siskiyou County). Wooley Creek and its tributaries are Class A.

(113) Yuba River (Yuba County). The main stem Yuba River from its mouth at Marysville upstream to Highway 20 is Class B, and from Highway 20 upstream to Englebright Dam is Class A.

(114) Yuba River, North Fork (Sierra and Yuba counties). The main stem North Fork Yuba River from the Middle Fork of the Yuba River upstream to Fiddle Creek is Class H.

NOTE: Authority cited: Sections 5653 and 5653.9, Fish and Game Code. Reference: Sections 5653 – 5653.9, Fish and Game Code.

HISTORY

1. New section filed 5–27–94; operative 5–27–94 (Register 94, No. 21).

§ 230. Issuance of Permits for Contests Offering Prizes for the Taking of Game Fish.

(a) Definition of Contests.

(1) Type A Contest. Type A contests are those events offering prizes totaling more than $1,000 in value or with more than 50 participants. Type A contests may not exceed three days in duration and no more than one Type A event may be held at any water on the same day for the same game fish category listed in subsection 230(b)(1). If two or more applicants have requested a permit for the same date for a water, the application received first shall be given priority except for black bass contests, see subsection (b)(1)(A) through (D), below.

(See subsection 230(e) re: additional restrictions for black bass events.)

(2) Type B Contest. Type B contests are those events offering prizes of $1,000 or less and with 50 or fewer participants.

(b) Issuance of Permits.

(1) Revocable permits to conduct fishing contests (including tournaments, derbies or tagged fish contests) may be issued by the department to any person (as defined by section 67, Fish and Game Code) authorizing the permittee to offer prizes or other inducements for the taking of game fish. The department shall issue such permits if it determines the proposed contest(s) would not be detrimental to the resource. For the purposes of this section, game fish are defined as the following: white sturgeon and green sturgeon; American shad; salmon and trout—all species; goldfish; common carp; hardhead; Sacramento squawfish; western sucker; catfish and bullheads—all species; striped bass; white bass; black bass and sunfish—all species; tilapia—all species; sargo; bairdiella; and orangemouth corvina. Procedures for issuing event permits for black bass fishing contests are specified in subsections (A) through (D), below:

(A) A random drawing will be conducted by department personnel to issue Type A permits for black bass fishing contests during July of the year preceding the contest date. Drawings will be conducted the second Friday of July for bodies of water north of the Tehachapi Mountains and the third Friday of July for waters south of the Tehachapi Mountains. Applications will not be accepted prior to July 1 of the year preceding the calendar year in which a contest is proposed.

(B) Applicants may submit a completed application(s) (including appropriate fees) to the appropriate department office (see Section 230(b)(2)) or attend the random drawings in person. Applications received prior to the random drawings must be prioritized by the applicant and if not, will be drawn in chronological order based on the contest date. Prior to the drawing, a random number will be assigned to each applicant in attendance and to each group of applications submitted by an individual not in attendance. A series of random drawings of the assigned numbers will be conducted by department personnel and one application accepted for each number drawn. Only one application shall be accepted from each applicant during each consecutive round of the drawing process. Rounds of drawings will be conducted until all applications have been accepted, or there are no more available dates for a given body of water, whichever occurs first.

(C) Immediately following the drawing(s), the fees for all successful applications not already submitted must be paid to the department.

(D) Permits for applications received after the drawings will be issued in chronological order of receipt, subject to availability.

(2) Application shall be made on a standard form provided by the department (APPLICATION FOR PERMIT TO OFFER PRIZES FOR TAKING GAME FISH, FG 775 (Rev. 11/98)), which is incorporated by reference herein), and shall include the name of the sponsor, if any, and the name and address of the applicant, the telephone number where the applicant can be reached, and for each contest: the location and date of the event, total value of the prizes, and expected number of participants. The application must be signed by the applicant. Applications for Type B contests should be submitted to the regional office (see map and addresses of Regional offices attached to application form FG 775 (Rev. 11/98)) nearest to the applicant. Applications for Type A permits must be submitted to the department regional office for the region where the contest(s) is proposed.

(3) The application shall be submitted to the department at least 30 days prior to the proposed contest(s).

(4) Applications will not be accepted prior to July 1 of the year preceding the calendar year in which any contest is proposed.

(5) The department will consider requests for adjustments to approved Type A contest dates, if such requests are received by the issuing regional office not later than 30 days prior to the contest date to be changed.

(6) Permits are not transferable.

(7) Event and Annual Permits.

(A) An Event Permit will be issued for each Type A contest (see subsection 230(a)(1)).

(B) An Annual Permit will be issued on a calendar year basis to cover all Type B Contests (see subsection 230(a)(2)) proposed for that year.

(8) Cost of permit: See subsection 699(b) of these regulations for the fee for this permit.

(c) Observer Requirement. An employee of the department may be assigned as an observer and be present at any contest. The applicant shall reimburse the department $100 per day for the cost of the observer's services and all associated administrative and incidental costs.

(d) Compliance with Sport Fishing Regulations.

(1) No provisions of these regulations exempt any participant in a contest from the sport fishing regulations, except that the department may, for permitted contests, authorize an exemption to:

(A) Regulations which impose an increased minimum size limit larger than 12 inches, a slot size limit, or a reduced bag limit less than five fish for Type A contests, and;

(B) Daily bag and possession limits for all permitted black bass contests, insofar that once the daily bag and possession limit has been reached by an individual angler, that same angler may continue to fish under the condition that each additional fish caught must immediately be returned to the water alive and in good condition, or be used to replace a fish being maintained alive and in good condition from the participant's livewell or other suitable holding facility.

(2) To prevent the movement of live fish from one body of water to another, the department also may establish permit conditions governing the movement of live fish associated with tournament activities.

(e) Additional Restrictions for Black Bass Contests.

(1) Insofar as possible, all fish shall be returned to the water alive and in good condition, except the department may for scientific or management purposes, take possession of any fish caught during the contest and provide for retention of unusually large fish by participants. The department shall notify the permittee or his designated representative of such exceptions prior to the start of the contest.

(2) All contestants shall have facilities for keeping bass alive and in good condition. The contest or department officials shall have the authority to disqualify any individual from competing if suitable facilities are not available.

(3) Only artificial lures may be used.

(f) Special Conditions. To provide for the welfare of fish populations or individual fish, the department may impose special conditions not specifically covered herein for any contest. The Department shall provide such conditions in writing to the applicant when issuing the permit. The applicant shall provide copies or otherwise inform every participant of the special conditions. It is unlawful for any person participating in a contest permitted under the authority of this Section to violate any condition of the permit.

(g) Submission of Reports. Permittees shall complete and return a report on a standard form (attached to application form FG 775(6/90)) provided by the department, or an equivalent form, within 30 days after the completion of each contest. The permittee shall answer all the questions thereon relating to the contest, so that department personnel may monitor the impact of such events on fisheries resources.

(h) Revocation or Denial of Permits. Failure of a permittee to comply with the provisions of this section, and any special conditions applied under this section, can result in the revocation of current permits or denial of applications for future permits, as determined by the department.

NOTE: Authority: Sections 1050 and 2003, Fish and Game Code. Reference: Sections 711, 713, 1050 and 2003, Fish and Game Code.

HISTORY

1. New section filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
2. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
3. Amendment of subsection (f)(5) filed 9–15–83; effective thirtieth day thereafter (Register 83, No. 38).
4. Amendment filed 4–11–85; effective thirtieth day thereafter (Register 85, No. 15).
5. Amendment filed 5–19–86; effective thirtieth day thereafter (Register 86, No. 21).
6. Amendment filed 6–15–88; operative 7–15–88; (Register 88, No. 27).
7. Change without regulatory effect filed 7–28–88; operative 8–27–88 (Register 88, No. 33).
8. Amendment filed 9–19–90; operative 9–19–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 44).
9. Amendment of subsection (b) and nonsubstantive amendment of NOTE filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
10. Amendment of subsection (d) filed 2–9–96; operative 2–9–96 pursuant to Fish and Game Code sections 202 and 205 (Register 96, No. 6).
11. Amendment of subsections (a)(1), (b)6)(B) and (d), including new subsection designators (d)(1)–(3), filed 1–16–97; operative 1–16–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 3).
12. Repealer of subsection (d)(2), subsection renumbering, and amendment of newly designated subsection (d)(2) filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
13. Amendment of subsections (b)(2), (b)(4), (e) and (f) filed 1–19–99; operative 2–18–99 (Register 99, No. 4).
14. Amendment of subsections (a)(1) and (b)(1), new subsections (b)(1)(A)–(D) and amendment of subsection (b)(4) filed 6–30–2003; operative 6–30–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 27).
15. Amendment of subsection (d)(1), including redesignation of portion of former subsection (d)(1) to subsection (d)(1)(A) and new subsection (d)(1)(B) filed 8–23–2005; operative 9–22–2005 (Register 2005, No. 34).

§ 231. Exchanging of Sport–Caught Fish.

(a) A sport–caught fish exchange permit is required of any person or persons who exchange fresh fish taken under the authority of a sport fishing license for filleted, smoked or canned fish as provided in this section. Upon application and payment of $53.25, the department shall issue such permits.

(1) Where Issued. Permits shall be issued at department offices in San Diego, Long Beach, Monterey, Menlo Park, Eureka, Redding, Yountville and the License and Revenue Branch in Sacramento.

(2) Limitations of Permit. Permits are nontransferable.

(3) Duration of Permit. Permits shall be valid from January 1 to December 31, inclusive or if issued after the beginning of that term, for the remainder thereof.

(b) Authorized Species. Any legally taken species of sport–caught fish may be possessed for filleting, smoking or canning if the same fish is returned to the angler or if the fish is exchanged pound for pound, adjusted for loss during processing, or exchanged according to (c) below for various tunas. A reasonable fee to cover processing costs may be charged. The following species may be possessed for canning only, as authorized in subsection (c) below: albacore, bluefin tuna, yellowfin tuna, bigeye tuna, skipjack, and yellowtail. For the purpose of this section, skipjack and yellowtail are included as tuna along with bigeye, bluefin and yellowfin.

(c) Exchange Process.

(1) Permittees may accept tuna for canning and provide in exchange one (1) six ounce can of albacore (white meat) tuna at no cost as follows:

(A) For each pound of tuna received, if the sale price of tuna to the permittee is greater than $4,470.00 per ton.

(B) For each two (2) pounds of tuna received, if the sale price of tuna to the permittee is less than $4,470.00, but greater than $2,240.00 per ton.

(C) For each three (3) pounds of tuna received, if the sale price of tuna to the permittee is less than $2,240.00, but greater than $1,490.00 per ton.

(D) For each four (4) pounds of tuna received, if the sale price of tuna to the permittee is less than $1,490.00, but greater than $1,120.00 per ton.

(E) For each five (5) pounds of tuna received, if the sale price of tuna to the permittee is less than $1,120.00, but greater than $900.00 per ton.

(F) For each six (6) pounds of tuna received, if the sale price of tuna to the permittee is less than $900.00, but greater than $750.00 per ton.

(G) For each seven (7) pounds of tuna received, if the sale price of tuna to the permittee is less than $750.00, but greater than $640.00 per ton.

(H) For each eight (8) pounds of tuna received, if the sale price of tuna to the permittee is less than $640.00, but greater than $560.00 per ton.

(I) For each nine (9) pounds of tuna received, if the sale price of tuna to the permittee is less than $560.00, but greater than $500.00 per ton.

(J) For each ten (10) pounds of tuna received, if the sale price of tuna to the permittee is less than $500.00, but greater than $450.00 per ton.

(K) For each eleven (11) pounds of tuna received, if the sale price of tuna to the permittee is less than $450.00, but greater than $410.00 per ton.

(L) For each twelve (12) pounds of tuna received, if the sale price of tuna to the permittee is less than $410.00, but greater than $370.00 per ton.

(2) Permittees may accept tuna for canning and provide in exchange one (1) six ounce can of yellowfin (light meat) tuna at no cost as follows:

(A) For each one (1) pound of tuna received, if the sale price of tuna to the permittee is greater than $2,280.00 per ton.

(B) For each two (2) pounds of tuna received, if the sale price of tuna to the permittee is less than $2,280.00, but greater than $1,140.00 per ton.

(C) For each three (3) pounds of tuna received, if the sale price of tuna to the permittee is less than $1,140.00, but greater than $760.00 per ton.

(D) For each four (4) pounds of tuna received, if the sale price of tuna to the permittee is less than $760.00, but greater than $570.00 per ton.

(E) For each five (5) pounds of tuna received, if the sale price of tuna to the permittee is less than $570.00, but greater than $460.00 per ton.

(F) For each six (6) pounds of tuna received, if the sale price of tuna to the permittee is less than $460.00, but greater than $380.00 per ton.

(G) For each seven (7) pounds of tuna received, if the sale price of tuna to the permittee is less than $380.00, but greater than $330.00 per ton.

(H) For each eight (8) pounds of tuna received, if the sale price of tuna to the permittee is less than $330.00, but greater than $290.00 per ton.

(I) For each nine (9) pounds of tuna received, if the sale price of tuna to the permittee is less than $290.00, but greater than $260.00 per ton.

(J) For each ten (10) pounds of tuna received, if the sale price of tuna to the permittee is less than $260.00, but greater than $230.00 per ton.

(K) For each eleven (11) pounds of tuna received, if the sale price of tuna to the permittee is less than $230.00, but greater than $210.00 per ton.

(L) For each twelve (12) pounds of tuna received, if the sale price of tuna to the permittee is less than $210.00, but greater than $190.00 per ton.

(3) Cans of fish exchanged shall be indelibly marked or embossed with "Not for Sale" or "Illegal to Sell".

(4) Fish received for processing under this subsection may only be used for canning. Tuna, except yellowtail, not returned to the angler may be canned and sold or sold to a cannery for the purpose of canning. Tuna

not acceptable for canning may be sold for reduction purposes. Yellowtail must be donated to a non-profit charitable institution for food purposes only and may be fresh or processed.

(d) Species Limitation. Salmon may only be exchanged for salmon. Striped bass may only be exchanged for striped bass. Tuna may only be exchanged for tuna.

(e) Records. Immediately upon receiving fish, a permittee shall record the name, address and fishing license number of the angler, the date the fish were received and the number and weight of all fish by species received from that angler. At the time the fish are returned to the angler or otherwise disposed of, the permittee shall record the species and weight of the fish returned or if not returned to the angler, the disposition of the fish, and the date of return or disposition. Permittees shall keep and maintain all records required by these regulations at their place of business for three years and shall make them available to authorized department personnel upon demand.

(f) Transportation. Permittees may transport or provide for the transportation of tuna to canneries or processing facilities outside of California. Fish being transported shall be accompanied by a bill of lading, waybill, invoice or similar accountable document showing the name and address of the consignor, the name and address of the consignee and a listing of all fish by species and the number or weight of each species.

(g) Marking. All fish shall be marked by the permittee by removing the entire upper lobe of the tail. This marking shall be done in the presence of the person delivering such fish. Fish so marked shall be kept separate from commercially taken fish until transported to a cannery or processing facility.

(h) Waste. It shall be unlawful for any person to allow the deterioration or waste of any sport-caught fish.

(i) Revocation of Permits. Any permit may be revoked or suspended by the commission upon a violation by the permittee or the permittee's agent, servant, employee or person acting under the permittee's direction or control of any provision of these regulations or of the provisions of the Fish and Game Code relating to the receiving, processing or sale of fish taken under authority of a sport fishing license.

NOTE: Authority cited: Sections 200, 202, 205, 713, 5510, 7121, 7701 and 7708, Fish and Game Code. Reference: Sections 200–202, 1050, 5510, 7121, 7701 and 7708, Fish and Game Code.

HISTORY

1. New section filed 3–28–86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 13).
2. Amendment of subsections (a)–(c) and repealer of subsection (f) filed 2–25–88; operative 3–26–88 (Register 88, No. 10).
3. Amendment of subsections (b) and (c) filed 11–21–89 as an emergency; operative 11–21–89 (Register 89, No. 47). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–21–90.
4. Reinstatement of subsections (b) and (c) as they existed prior to emergency amendment filed 11–21–89 by operation of Government Code section 11346.1(f) (Register 90, No. 31).
5. Amendment of subsections (b), (c) and (e) filed 6–8–90; operative 6–8–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 31).
6. Amendment of subsection (e) filed 6–27–91; operative 7–29–91 (Register 91, No. 40).
7. Amendment of subsection (a)(3) filed 9–9–92; operative 10–9–92 (Register 92, No. 37).
8. Editorial correction of printing error in subsections (c)(4) and (d) filed 7–19–93; operative 8–18–93 (Register 93, No. 30).
9. Amendment of subsections (c)(1)(A)–(c)(3)(D) and new subsection (c)(2)(F) filed 7–19–93; operative 8–18–93 (Register 93, No. 30).
10. Amendment of section heading, subsections (a) and (c)(5) and NOTE filed 10–16–95 as an emergency; operative 10–16–95 (Register 95, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–13–96 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 10–16–95 order including amendment of subsections (a), (b), (c)(1)(C), (c)(5) and (e), repealer of subsection (f) and subsection relettering, and amendment of newly designated subsections (f) and (g) transmitted to OAL 2–9–96 and filed 3–13–96 (Register 96, No. 11).
12. Amendment of subsections (a)(1), (b) and (c)(1), repealer of subsections (c)(1)(A)–(c)(3)(D) and new subsections (c)(1)(A)–(c)(2)(L) filed 8–16–2000; operative 9–15–2000 (Register 2000, No. 33).
13. Change without regulatory effect renumbering former subsections (c)(4) and (c)(5) to subsections (c)(3) and (c)(4) filed 10–31–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).
14. Change without regulatory effect amending subsection (a) and amending NOTE filed 5–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
15. Change without regulatory effect amending subsection (a) filed 12–19–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 51).

Chapter 9. Aquaculture

§ 235. Aquaculture Registration.

(a) Registration Required. Pursuant to the provisions of Section 15101 of the Fish and Game Code, all aquaculture facilities must be registered with the department each year. For purposes of Chapter 9, Subdivision 1, Division 1, Title 14, California Code of Regulations, an aquaculture facility is one that is devoted to the propagation, cultivation, maintenance and harvesting of aquatic plants and animals in marine, brackish or fresh water. This registration is not required for: the maintenance of koi and goldfish in closed systems for personal, pet or hobby purposes; the harvest and sale of brine shrimp; and the sale or cultivation of tropical species of ornamental marine or fresh water plants or animals, not utilized for human consumption or bait purposes, but maintained in closed systems for personal, pet industry or hobby purposes.

(1) Who Shall Register. The owner of each aquaculture facility shall register each year on forms provided by the department. Individual forms must be completed for each aquaculture facility location. Application forms and a list of laws and regulations governing aquaculture are available from the department's Aquaculture Development Section, 1416 Ninth Street, Sacramento 95814, and from the department's regional offices in Redding, Yountville, Rancho Cordova, Fresno, Long Beach and Menlo Park, on request.

(2) Cost of Registration. The registration fee for each new registered owner or operator shall be the fee specified in Section 15101(b) of the Fish and Game Code.

(3) Where to Submit Applications. Application forms together with the registration fee shall be submitted to one of the department's regional offices listed in subsection (1) above. Applications will be processed within five working days after approval. Applications shall be made on a form (Application for Aquaculture Registration, FG 750 (2/91), which is incorporated by reference herein) supplied by the department.

(b) Registration Limitation. The applicant must certify that he/she has read, understands and agrees to be bound by the regulations of the commission and the Fish and Game Code sections governing aquaculture and its products.

(c) Duration of Registration. The annual term of registration shall be January 1 to December 31, or if issued after the beginning of such term, for the remainder of that calendar year. Aquaculturists must reregister their facilities by March 1 of each year. Reregistration (renewal) fees shall be the amount specified in Section 15101(b) of the Fish and Game Code. An additional surcharge, specified in Section 15103 of the Fish and Game Code, shall be paid at the time of renewal if the proceeds from sale of aquaculture products of the facility in the preceding year exceed $25,000. Penalties for late renewal will be assessed in accordance with Section 15104 of the Fish and Game Code. Anyone failing to register under this section shall be operating unlawfully.

(d) All permits specified in this chapter, in addition to the aquaculture registration issued pursuant to Section 15101 of the Fish and Game Code, shall be issued under the following conditions:

(1) Where Issued. Requests for permits required in Chapter 9, unless specifically directed otherwise, shall be submitted to the Department of Fish and Game Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814.

(2) Cost of Permit. Except as otherwise provided, see Section 15101 of the Fish and Game Code.

(3) Duration of Permits. Except as otherwise provided, permits will be issued on a calendar year basis, or if issued after January 1, for the remainder thereof.

[The next page is 91.]

NOTE: Authority cited: Sections 1050, 15005, 15101, 15102, 15103, 15104 and 15200, Fish and Game Code. Reference: Sections 15000–15005 and 15100–15102, Fish and Game Code.

HISTORY

1. New chapter 9 (sections 235–240, not consecutive) filed 4–1–83; effective upon filing pursuant to Government Code section 11346.2(d) (Register 83, No. 14).
2. Amendment of subsection (a) filed 7–8–87; operative 8–7–87 (Register 87, No. 29).
3. Amendment filed 7–25–88; operative 7–25–88 (Register 88, No. 32).
4. Amendment of subsection (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
5. Amendment of subsections (a), (c), (d) and NOTE filed 7–24–91; operative 8–23–91 (Register 92, No. 8).
6. Change without regulatory effect amending subsection (d)(2) filed 11–20–91 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 15).
7. Amendment of subsection (a) filed 9–7–2000; operative 10–7–2000 (Register 2000, No. 36).

§ 235.1. Screening Requirements for Aquaculture Facilities.

All bodies of water or private hatcheries registered for aquaculture purposes shall be entirely within the exterior boundaries of the land owned or leased by the owner of the facility. No aquaculture facility shall be built or operated on a natural water course or lake without the prior written approval of the department. Prior written approval is not required for aquaculture facilities constructed below a spring rising on private property.

For purposes of this section, waters existing seasonally or intermittently and not serving as a passageway or nursery area for anadromous fish are not required to be screened.

Except for those facilities using marine water, all artificial inlets and outlets of such bodies of water or private hatcheries used for aquaculture purposes shall be screened to prevent the ingress or egress of aquatic plants or animals.

NOTE: Authority cited: Sections 15200 and 15400, Fish and Game Code. Reference: Sections 17, 15102, 15202 and 15400, Fish and Game Code.

HISTORY

1. Amendment filed 12–2–85; effective thirtieth day thereafter (Register 85, No. 49).

§ 235.2. Permit to Operate an Aquaculture Facility for Anadromous Fish on Davenport Landing Creek (Santa Cruz County).

Permits may be issued to operate a registered aquaculture facility for anadromous fish under the following general terms and conditions:

(a) Any permit issued shall be on an experimental basis until its impact on the fishery resource can be ascertained. These regulations shall be applicable only to the waters of Davenport Landing Creek, contained within Santa Cruz County, until January 1, 1996, after which date these regulations and permit shall have no force or effect.

(b) Persons desiring a permit to operate an anadromous fish aquaculture facility on Davenport Landing Creek shall file a request with the commission. Commission approval must be obtained following a public hearing as required by section 15901 of the Fish and Game Code. If a permit is authorized by the commission, upon payment of $100.00 a permit will be issued to the permittee by the Wildlife Protection Division following notification by the commission.

(c) All fish released into the wild under authority of any permit during the time they are in the wild will become the property of the state and may be taken under the authority of a sport or commercial fishing license.

(d) Prior to release into state waters, fish may be examined by the department to determine that they are not diseased or infected with any disease which, in the opinion of the department, may be detrimental to the state fishery resources. If such fish are found to be diseased or infected, they shall not be released into state waters and shall be disposed of in accordance with department instructions. Cost of such inspection shall be paid by the permittee.

(e) Importation of eggs or fish into the state by permittee shall be in accordance with section 15600 of the Fish and Game Code and section 236(c) of these regulations.

(f) Any liberation of fish by permittee into state waters shall be approved in advance by the department.

(g) The department may require the permittee to mark specific numbers of fish prior to their release into state waters. Any marks used by permittee to identify fish released into state waters shall be approved in advance by the department.

(h) The permittee shall have the right to trap and retain all fish returning to the stream; the department shall be allowed to examine all fish trapped.

(i) All live fish being transported by the permittee shall be in accordance with the provisions of sections 2270–2273, 15005 and 15600 of the Fish and Game Code.

(j) All dead fish being transported from facilities operated pursuant to this permit shall be tagged or packaged in accordance with the provisions of section 238 of this title and with section 15005, Fish and Game Code.

(k) Permittee shall maintain accurate records on forms provided by the department. Copies of these records will be forwarded to the department monthly, annually, and at times determined by the department.

(*l*) If, after a hearing, the commission finds that the operation described in the permit and conducted pursuant to this section is not in the best public interest, the commission may alter the conditions of the permit to mitigate such adverse effects, including but not limited to the immediate suspension of operation under the permit.

(m) The permittee shall reimburse the department for all actual costs incurred by the department in inspecting and monitoring the permittee's operations.

(n) The permittee shall provide all necessary security measures to protect fish at the rearing, release and trapping facilities.

(o) Upon termination of the permit, the permittee shall remove all structures and facilities placed in the stream bed by the permittee and shall return the watercourse to its original condition. In the event the permittee fails to do so, the state may restore the site at the permittee's sole cost. The permittee shall post a performance bond, signed by both the permittee and a corporate surety company, in the amount of $15,000, to assure restoration of the premises to their original condition and to assure compliance with all other provisions of this permit.

NOTE: Authority cited: Sections 1050, 15004, 15005, 15101, and 15200, Fish and Game Code. Reference: Sections 1050, 2270–2273, 15005, 15200, 15202, 15900, 15901, 15903, 15905, 15906, and 15907, Fish and Game Code.

HISTORY

1. Amendment filed 12–2–85; effective thirtieth day thereafter (Register 85, No. 49).
2. Amendment of subsection (a) changing applicable date of section from January 1, 1991, to January 1, 1996, filed 4–18–91; effective 5–18–91 (Register 91, No. 19). Section is inapplicable between January 1, 1991 and 5–18–91 by its own terms.
3. Changes without regulatory effect amending subsections (b), (i), (*l*), and reference citation filed 4–18–91 pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 19).
4. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 236. Importation of Live Aquatic Plants and Animals.

The provisions of this section shall apply to the importation of all live aquatic plants and animals.

(a) No person shall import into this state any prohibited species of live aquatic plant or animal listed pursuant to Section 2118 of the Fish and Game Code or Section 671 of these regulations unless specifically authorized by the commission.

(b) Unless specifically prohibited by these regulations, plants and animals within the following groups may be imported without an importation permit from the department:

(1) Mollusks and crustaceans intended to go directly into the seafood market and which will not be placed into the waters of the state nor placed in waters which are discharged to waters of the state.

(2) Live ornamental tropical marine or freshwater plants or animals that are not utilized for human consumption or bait purposes, are maintained in closed systems for personal, pet industry or hobby purposes, and which will not be placed in waters of the state.

(3) Brine shrimp.

(c) With the exception of those importations described in Section 236(a) and (b), live aquatic plants and animals may be imported into this state only in accordance with the following terms and conditions:

(1) A standard importation permit signed by the director or his agent is required, and no shipment into the state may be made prior to the issuance of the permit authorizing the shipment or shipments. The department shall charge a fee of $25.00 for issuing each permit. Fees charged for inspections shall be independent of the fees charged for issuing permits.

(2) With the exceptions of the live aquatic animals listed in subsection 236(c)(6), a permit is required for each lot or load, and each shipment must be accompanied by the original copy of the importation permit. Unless otherwise authorized, the person who is to receive any shipments of aquatic plants and animals shall apply to the department for this importation permit.

(3) Application for a standard importation permit shall be made on a form (Application for Standard Importation Permit, FG 789 (2/91), which is incorporated by reference herein) supplied by the department, as directed in Section 235(d) and shall reach the department's headquarters office at least 10 working days in advance of the probable arrival date of the shipment. A copy of the permit authorized by the director or his agent must accompany each load. If a change in date of shipment becomes necessary after a permit has been issued, the permittee shall notify the Aquaculture Development Section at least 5 days before the new date of shipment. Under special circumstances, the department may waive this 5–day notice requirement.

(4) All live aquatic plants and animals imported into California may be inspected by the department, either at the place of entry into the state or at other locations suitable to the department. The person importing the aquatic plants or animals may be required to provide facilities for inspecting and sorting them, and may be required to pay inspection costs, including salary and travel expenses of the inspector.

(5) Any lot or load of aquatic plants and animals found by the inspector to be diseased, parasitized or to contain species not authorized by the importation permit must be immediately destroyed or transported out of California within a period of time specified by the department. In such cases, the importation permit is automatically revoked.

(6) In lieu of the permits specified in subsection 236(c)(1), long–term permits for the following aquatic animals may be issued by the department for periods of up to one year. Application shall be made on a form (Application for Long–term Permit to Import Animals into California, FG 786 (2/91), which is incorporated by reference herein) supplied by the department. The department shall charge a fee for issuing each permit. See subsection 699(b) of these regulations for the fee for this permit.

(A) Oyster, oyster larvae and oyster seed.

(B) Ghost shrimps (*Callianassa spp*).

(C) Mud shrimps (*Upogebia spp*).

(D) Longjaw mudsuckers (Gillichthys mirabilis).

(E) Red swamp crayfish (*Procambarus clarkii*).

(F) Orconectes virilis.

(G) Marine Annelid worms (*Phylum Annelida*).

(H) Sacramento blackfish (*Orthodon microlepidotus*).

(I) Other species under conditions which the department determines represent no significant risk to the fish and wildlife resources of the state.

(7) Importation of Salmonid Eggs. Applications to import eggs of fishes of the family salmonidae (trout, salmon and char) shall be accompanied by a health certificate signed by a person competent in the diagnosis of fish diseases stating that the hatchery or other sources of the eggs to be imported and the eggs themselves are free of the following diseases: infectious pancreatic necrosis (IPN); bacterial kidney disease (BKD); infectious hematopoietic necrosis (IHN); and viral hemorrhagic septicemia (Egtved).

In questionable cases, the director of the department shall determine whether or not the person making the certification is technically qualified to do so.

(8) Only those aquatic plants and animals lawfully obtained in another state or country may be imported.

NOTE: Authority cited: Sections 1050, 2118, 6401, 15004, 15600 and 15601, Fish and Game Code. Reference: Sections 2116–2191, 2270–2272 and 3201–3204, Fish and Game Code.

HISTORY

1. Amendment filed 7–25–88; operative 7–25–88 (Register 88, No. 32).
2. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
3. Amendment filed 7–24–91; operative 8–23–91 (Register 92, No. 8).
4. Amendment of subsection (c)(6) filed 6–9–95; operative 7–10–95 (Register 95, No. 23).

§ 236.1. Importation and Planting of Live Bivalve Mollusks.

NOTE: Authority cited: Sections 1050, 15004, 15005, 15200–15202, 15400 and 15600, Fish and Game Code. Reference: Sections 15004, 15200–15202 and 15600, Fish and Game Code.

HISTORY

1. Repealer filed 7–25–88; operative 7–25–88 (Register 88, No. 32).

§ 237. Leasing of State Water Bottoms for Aquaculture.

(a) Definitions. The following definitions are established for terms used in this section:

(1) "Aquaculture Area" means any public waters or private waters contiguous to public waters set aside for the purpose of cultivating, harvesting or relaying of any aquatic plant or animal life.

(2) "Aquaculture Agreement" means an agreement for the establishment of an aquaculture area on private water bottoms contiguous to state water bottoms which may include a permit for relaying or depuration of shell fish under authority of Fish and Game Code Division 12. Permits may include use of state or private lands for aquaculture purposes.

(3) "Aquaculture Lease" means a lease of state water bottoms for the cultivation of aquatic plants and animals.

(4) "Depuration" means the process by which shellfish cleanse themselves of contaminants in a controlled process water environment.

(5) "Depuration Facility" means the physical structure, enclosure or device in which depuration is accomplished, including all appurtenances.

(6) "Growing Area" means any offshore ocean, coastal estuarine or freshwater area suitable for natural shellfish growth or artificial shellfish propagation and shall include open seawater systems.

(7) "Relaying" means the moving of shellfish from one water to another.

(8) "Shellfish" in this section means native or nonnative bivalve mollusks.

(9) "Classified Areas" include those waters that may be classified by the State Department of Health according to the following:

(A) "Approved Area": a shellfish–growing area not adversely affected by sewage or other wastes.

(B) "Conditionally Approved Area": a shellfish–growing area that may be occasionally affected by sewage or other toxic substances.

(C) "Prohibited Area": a shellfish–growing area not certified because of its proximity to a known waste discharge or because the area is influenced by other detrimental environmental factors.

(D) "Restricted Area": a shellfish–growing area subjected to a limited degree of pollution which makes it unsafe to harvest shellfish for direct marketing but where harvesting for relaying or depuration may be permitted.

(10) "Lot" is a designated quantity of shellfish that is identifiable and may consist of one or more batches.

(11) "Batch" is a measurable, identifiable unit such as bushel, and one or more batches will comprise a lot.

(12) "Tidal Area" means the intertidal area between the high tide mark and 1,000 feet offshore. Commercial harvesting of native invertebrates in this area is subject to special permit requirements under Section 8500 of the Fish and Game Code.

(b) Applications.

(1) Applications for a lease of state water bottoms for aquaculture or for an aquaculture agreement or for a permit to relay or depurate shellfish shall be made to the commission.

(2) Applications shall be accompanied by proof of ownership of, or a valid lease on the lands on which the operations are to occur, or description of the state lands which the applicant has leased or intends to lease and on which the operations are to occur.

(3) Applications also shall be accompanied by a description of the area involved and a reference map clearly showing the exterior boundaries of the area. The description must be tied to monuments of record and maps must be in a form acceptable for recording in the county(ies) in which the aquaculture area is located. A copy of all maps shall be submitted by the commission to the State Lands Commission. No aquaculture agreement will be valid until the State Lands Commission has certified to the department that the area applied for is unencumbered or the private ownership is properly described, so as not to preclude its use for the proposed culture.

(4) No aquaculture lease for state water bottoms will be approved until the commission has held a public hearing at least 90 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture lease or aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such lease or agreement in the appropriate county(ies) within 30 days of approval by the commission.

(5) No aquaculture agreement for private water bottoms will be approved until the commission has held a public hearing at least 30 days after notice thereof has been published in a newspaper of general circulation within the county involved. An aquaculture agreement is subject to repeal if a map of the area is not filed by the holder of such aquaculture agreement in the appropriate county(ies) within 30 days of approval by the commission.

(6) An explanation of the type of operation including the aquaculture practices, relay or depuration activities to be employed, shall be included in all applications for aquaculture leases or agreements.

(7) The change of any authorized cultural practices as specified in the aquaculture lease or agreement must have approval of the commission before the change is put into effect.

(8) The application shall include information as to whether each of the areas involved in the aquaculture relay or depuration operation has been classified by the Department of Health Services as approved, conditionally approved, prohibited, restricted or unclassified.

(c) Aquaculture Leases and Agreements.

(1) Aquaculture leases or agreements shall not be modified, amended, transferred, assigned or hypothecated without the approval of the commission.

(2) The holder of the aquaculture lease or agreement shall comply with the provisions of the Fish and Game Code and the rules and regulations of the commission and any special provisions set forth in the lease or agreement by the commission.

(3) Before an aquaculture lease or agreement is issued by the department, the applicant must present evidence that the applied for aquaculture area has been registered in compliance with Fish and Game Code Section 15101.

(4) The department may inspect the depuration facilities, culture or relay areas of a holder of an aquaculture lease or agreement at any time.

(5) Vessels used by holders of an aquaculture lease or agreement may be required to maintain clearly visible identifying numbers.

(6) The holder of an aquaculture lease or agreement shall record the size, numbers or pounds of shellfish or other marine life planted, relayed or taken in or from waters of the state on forms as designated by the department.

(7) Marking of leases. All aquaculture leases shall be clearly marked. Minimum marking requirements shall include:

(A) One buoy anchored on each of the four corners and one buoy, possessing radar–reflecting capabilities, anchored in the center of each aquaculture lease. All buoys used to define the boundaries of an aquaculture lease shall be marked in conformance with the International Association of Lighthouse Authorities Maritime Buoyage system regulations (33 CFR Section 62.33 and 66.01–10).

(B) All buoys shall bear the Aquaculture Lease No. M– (followed by the appropriate number).

(C) Buoys marking the boundaries of an aquaculture lease shall be maintained at all times. If buoys are lost, displaced or are otherwise removed from an aquaculture lease, they must be replaced within a two–week period, weather conditions permitting, or the lease may be subject to termination.

(D) If aquaculture leases are located in areas too shallow to effectively maintain buoys, the four corners (boundaries) of a lease may be defined by stakes extending no less than three feet above the surface of the water at mean higher high water supporting the markings prescribed in subsection (A). Stakes used to define the limits of an aquaculture lease shall be marked and maintained in the same manner as buoys in the preceding subsections.

(E) Each aquaculture lessee shall make application to the U.S. Coast Guard, Aids to Navigation Branch, 400 Ocean Gate, Long Beach, CA 90822, for approval of the buoys and markings to be established on aquaculture leases.

(d) In addition to other requirements, a permit to relay or depurate shellfish shall contain the following conditions:

(1) An operation conducted under an aquaculture agreement or a relay or depuration permit that receives shellfish from the licensee's or permittee's own lands or lands leased by it, is not required to be licensed as a wholesale fish dealer and preserver, but shall maintain such records as are required by the department to monitor such operations, including but not limited to: data with respect to each batch of shellfish depurated or relayed that will show: its origin and quantity; date or reception by the depuration facility or relay bed and the length of time held in the facility or bed; and their final disposition. All depurated or relayed shellfish shall be identified by a tag or label securely fastened to the shipping container and bearing the certificate number of the shipper, his name and address, the name and address of the consignee, and the kind and quantity of shellfish in the container and the batch or lot number.

(2) The operator of a depurating facility receiving shellfish from other than the operator's owned or leased areas shall obtain a wholesale fish dealer's and preserver's license prior to the department's issuance of a permit and the permittee will maintain such records as required by the department.

(3) A relay or depuration permittee, moving shellfish for the purpose of cleansing, shall satisfactorily identify each lot of shellfish harvested and maintain its identity separate from other shellfish throughout its relaying or depuration process until certification by the Department of Health Services that edible shellfish standards have been met.

(4) Persons holding an aquaculture lease or agreement who relay shellfish from one area of the state to another, whether from private or public water bottoms, shall give the department notice two working days prior to the relay. Such notification shall be given to the department's office specified in the agreement.

(5) No shellfish shall be relayed without obtaining written permission from the department.

(6) Shellfish harvested from a conditionally approved or restricted area for relaying or depuration, shall be identified by a lot number. Shellfish so identified must be kept separate throughout the relaying or depuration process.

(7) Oysters, clams and mussels harvested for human consumption from the waters of Districts 12 and 13 by commercial fishermen, shall be taken only for the purposes of relaying or depuration.

(8) Shellfish produced by a registered aquaculture facility within the state may be relayed at any time. Such shellfish shall be free of disease and parasites so as to pose no threat to the environment. Hatcheries producing shellfish to be planted in state waters shall be inspected by the department for the presence of disease organisms at least once a year and, following such inspection, a permit authorizing planting of specified species for the ensuing year may be issued.

In lieu of the hatchery inspection, at the option of the registrant, inspection of each lot from the hatchery that is to be planted in state waters shall be requested. Request for inspecting each lot shall be made by the registrant at least two working days prior to the transfer. A written permit authorizing the planting shall be obtained before planting the shellfish.

(9) Subsection (d)(8) does not preclude inspections under Section 1006 of the Fish and Game Code.

(e) Shellfish relayed from Districts 12 and 13.

(1) Native shellfish taken from Districts 12 and 13 under an aquaculture lease or agreement for purposes of purification, whether from public or private lands, are subject to a royalty of 0.0125H per pound after taking the shellfish from the relaying or depurating sit. For the purpose of computing the royalty, the charge shall be based on the weight (including shell) of the shellfish after completion of the cleansing process. The royalty is payable within 30 days after close of the calendar month in which it became due. If not paid within 60 days after the close of the month for which it became due, a penalty equal to 10% of the royalty shall be added to it.

(2) Nonnative shellfish relayed from Districts 12 and 13 and relayed for the purposes of purification, are subject to a 0.02H per pound fee after taking them from the relaying or depuration site. The fee is charged to cover administrative costs and is subject to adjustment and penalty as described in subsection (e)(1).

(f) Persons holding an aquaculture lease or agreement and using state water bottoms shall, in addition to the acreage rental fee for use of state water bottoms, be assessed a fee on all shellfish harvested not to exceed the privilege tag as provided in Fish and Game Code Section 15003. The fees shall be subject to the penalty and adjustment as described in subsection (e)(1). These fees shall not apply to the harvesting of shellfish from state or private water bottoms in Districts 12 and 13 for the purposes of cleansing. When water quality in Districts 12 and 13 permits direct use of the shellfish from state water bottoms or native shellfish from private water bottoms, the fee established by Fish and Game Code Section 15003 shall apply.

(g) Agar–bearing plants taken from state waters are subject to the fees of Section 165(a)(2)(E) of this title.

(h) Oysters, clams and mussels harvested from Districts 12 and 13 for commercial purposes must be taken by licensed commercial fishermen. In addition to a commercial fishing license, every fisherman when harvesting shellfish, must have in his possession a current permit issued pursuant to Section 123 of this title. Only those species listed on the permit for harvest from Districts 12 and 13 may be taken.

(i) Improvements of aquaculture leases.

(1) Oyster Cultivation.

(A) Bottom culture: leases must be improved at an average rate of at least two cases of seed–bearing shell (160 pounds of seed–bearing shell) or 30 bushels of shellfish one or more years of age per acre over the allotted acreage per year. Improvements by unattached, single seed (less than one year old) shall consist of planting an average rate of 10,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed–bearing shell and three years for oysters one or more years of age.

(B) Off–bottom culture: leases must be improved at an average rate of at least one case of seed–bearing shell (80 pounds of seed–bearing shell), or 15 bushels of oysters one or more years of age per acre over the allotted acreage per year. Improvement by unattached single seed (less than one year old) shall consist of planting an average rate of 5,000 single seed per acre per year over the allotted acreage. Term of improvement shall be four years for seed–bearing shell and three years for oysters one or more years of age.

(C) Production requirements: the annual harvest rate shall be an average of 2,000 oysters per acre (over one year of age) over the allotted acreage effective three years after the effective date of the lease. Harvest reports shall be recorded in the form of a receipt in quadruplicate fur-

nished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(2) Miscellaneous Aquatic Species.

(A) A lease of state water bottoms for the cultivation of species other than oysters will include minimum planting and harvesting requirements for the species to be cultivated to insure that water bottoms so encumbered will be used for the purpose intended.

(B) Harvest amounts shall be recorded in the form of a receipt in quadruplicate furnished by the department. The triplicate copy shall be delivered to the department on or before the first and sixteenth day of each month.

(j) As proof of use, holders of aquaculture leases shall submit to the department office designated in the lease agreement, a written declaration under penalty of perjury showing the date, quantity of species and acreage in each planting, also including a map showing acres, amounts and dates planted.

NOTE: Authority cited: Sections 1050, 8500, 15003, 15101, 15200, 15400 and 15408, Fish and Game Code. Reference: Sections 1050, 8500, 15003, 15101 and 15400, Fish and Game Code.

HISTORY

1. New subsection (c)(7) filed 7–14–86; effective thirtieth day thereafter (Register 86, No. 29).
2. Amendment of subsection (d) filed 7–25–88; operative 7–25–88 (Register 88, No. 32).
3. Amendment of subsection (c)(7) filed 4–14–89; operative 5–14–89 (Register 89, No. 16).

§ 238. Sale and Transportation of Aquatic Plants and Animals.

Importation of live aquatic plants and animals is governed by Section 236 of these regulations. Except as provided for by Section 236, aquaculture products may be sold or transported in this state only in accordance with the following general terms and conditions:

(a) All aquaculture products sold or transported under the provisions of this section must have been legally reared or imported by an aquaculturist registered in this state.

(b) The following provisions apply to transactions of aquaculturists involving aquaculture products:

(1) A registered aquaculturist may sell and transport live aquaculture products authorized by that registration to any other aquaculturist authorized to possess the same species.

(2) All shipments of authorized aquaculture products shall be accompanied by a duplicate of a sales invoice or waybill showing the name of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume or count of each species in the shipment, and the name and address of the consignee.

(3) Duplicates of the required sale or shipping documents shall be retained by the producer, and by the shipper, if different from the producer, for a period of one year from the date of sale. The records shall be shown upon written demand by the director of the department. The information contained in these documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(c) A registered aquaculturist may sell and transport live those aquaculture products authorized by that registration to any of the following whose licenses or permits authorize the possession of the same live plants and animals for commercial purposes. Documents as described in Section 238(b)(2) shall accompany each shipment. Aquaculture products may not be stocked in any water of the state, except as provided for in Section 238.5 of these regulations.

(1) Scientific or educational establishments;

(2) Aquarium Dealer Permittees (See Section 227 of these regulations);

(3) Live Freshwater Bait Fish Licensees (See Sections 200 through 200.31 of these regulations);

(4) To any other legal purchaser or possessor for whom possession is legal.

(d) The following provisions apply to the operator of any commercial establishment where aquaculture products are maintained alive for human consumption:

(1) Under no condition shall these aquaculture products be stocked in any waters of this state.

(2) The operator may transport live aquaculture products between aquaculture facilities, retail sales stores, and/or wholesale distribution points. Documents as described in Section 238(b)(2) shall accompany each shipment.

(3) The operator shall retain copies of all sales invoices or waybills received with the products. Such invoices or waybills shall be retained by the operator for a period of at least one year following receipt of the aquaculture products listed thereon, and such invoices or waybills shall be produced upon request of an official of the department.

(4) All aquaculture products, except live shellfish, sold and leaving the premises of the operator shall be killed and accompanied by a sales receipt showing the date of purchase and name of business where purchased or be packaged in accordance with Section 240 of these regulations.

(e) Marking and Tagging Requirements.

(1) Abalone.

(A) All abalone produced by an aquaculturist registered pursuant to Section 15101 of the Fish and Game Code may be possessed, harvested, sold and transported, provided the abalone are identifiable as being cultivated or are packaged in sealed containers as provided for in Section 240 of these regulations.

Such abalone are exempt from the size limits established by Section 8304 of the Fish and Game Code.

(B) Abalone which spend part of their life in marine waters of the state, other than while in an aquaculture facility, must have an identifying mark or tag approved by the Department, or be otherwise identified as a product of aquaculture by a method approved by the Commission. Such identifying mark or method must be approved, or a tag attached, prior to the abalone being placed in waters outside the aquaculture facility. For purposes of this section, the term "aquaculture facility" includes a hatchery, rearing facility, pen, cage or any similar structure or device.

(C) Any person other than a registered aquaculturist processing cultured abalone at the wholesale level must possess a revocable processing permit for cultured abalone, as issued by the department.

(f) Retail Sales of Aquaculture Products at an Aquaculture Facility. All aquaculture products sold at an aquaculture facility shall be dead at the time of sale except for:

(1) Aquaculture products sold under the provisions of Sections 238(c), 238(d)(2), or 238.5 of these regulations. Aquaculture products sold under provisions of Section 238.5 of these regulations may be transported live and stocked as provided for by Section 238.5 of these regulations by retail customers. Documents as described in Section 238(b)(2) shall accompany each shipment, and records as described in Section 238(b)(3) shall be maintained by the aquaculturist and the retail customer.

(2) Striped bass, hybrid striped bass, abalone, steelhead trout and sturgeon sold pursuant to the provisions of Section 240 of these regulations.

(3) Aquaculture produced shellfish purchased at retail and taken from the aquaculture facility by the purchaser need only be accompanied by a sales receipt showing the name and aquaculture registration number of the producer, the item(s) and quantity purchased and the date of purchase. All other shipments of aquaculture products shall be accompanied by a sales invoice or waybill as provided in Section 238(b)(2) of these regulations.

(4) Those freshwater bait fishes that would be legal for sale as live bait by a licensed Live Freshwater Bait Fish Dealer in the same sport fishing district or portion of sport fishing district in which the aquaculture facility is located (see Sections 4.10 through 4.30 and Sections 200.13 through 200.31 for legal live bait fishes).

NOTE: Authority cited: Sections 1050, 6401, 7701, 8040, 15005, 15200, 15202 and 15400, Fish and Game Code. Reference: Sections 17, 1050, 6400–6401, 7701–7708, 8040, 8304, 8371, 8435, 8436, 15005, 15200, 15202 and 15400–15415, Fish and Game Code.

History
1. New subsection (f)(4) filed 10–18–85; effective thirtieth day thereafter (Register 85, No. 42).
2. Amendment filed 7–25–88; operative 7–25–88 (Register 88, No. 32).
3. Amendment filed 7–24–91; operative 8–23–91 (Register 92, No. 8).
4. Amendment filed 2–8–94; operative 3–10–94 (Register 94, No. 6).
5. Amendment of subsection (e)(1)(B) filed 5–1–98; operative 5–31–98 (Register 98, No. 18).

§ 238.5. Stocking of Aquaculture Products.

Upon stocking, aquaculture products are wild and therefore "fish" as defined by Section 45 of the Fish and Game Code, except when stocked into a registered aquaculture facility. No person shall stock aquaculture products in this state except in accordance with the following general terms and conditions:

(a) All aquaculture products stocked under these provisions must be legally reared or possessed by an aquaculturist registered in this state. No person shall stock aquaculture products which are parasitized, diseased or of an unauthorized species.

(b) Live aquaculture products shipped to Inyo or Mono counties must be certified by the department as disease and parasite–free before being stocked in waters in those counties.

(c) A registered aquaculturist producing or possessing rainbow trout (*Oncorhynchus mykiss*), largemouth bass (*Micropterus salmoides*), bluegill (*Lepomis macrochirus*), redear sunfish (*Lepomis microlophus*), Sacramento perch (*Archoplites interruptus*), channel catfish (*Ictalurus punctatus*), blue catfish (*Ictalurus furcatus*) and white catfish (*Ictalurus catus*), may stock these species under the following terms and conditions.

Only publicly owned lakes covered by a cooperative agreement between the department and the lake operator and privately owned reservoirs, lakes and ponds in the following counties or portions thereof may be stocked without a stocking permit: Alameda, Butte, Colusa, Contra Costa, Glenn, Imperial, Kern, except in the Kern River drainage above Democrat Dam; Kings, Lake except in the Eel River drainage; Los Angeles, Merced, Napa, Orange, Riverside, Sacramento, San Benito, San Bernardino, San Diego, San Joaquin, Santa Barbara, Solano, Stanislaus, Sutter, Tehama, Ventura, Yolo, Yuba; those portions of Amador, Calaveras, El Dorado, Mariposa, Nevada, Placer and Tuolumne west of Highway 49; Fresno west of the Sierra and Sequoia National Forest boundaries; Madera west of the Sierra National Forest boundary; and Tulare west of the Sequoia National Forest and Sequoia National Park boundaries.

(d) Except for those species listed in Section 238.5(c) when planted into those specific areas and waters covered in Section 238.5(c), no person shall stock aquatic plants and animals except as follows:

(1) Each stocking of fish shall require a separate Private Stocking Permit (FG 749 (Rev. 5/93), which is incorporated by reference herein) issued by the department. A copy of this permit shall accompany all shipments. However, a copy of the same permit (FG 749 (Rev. 5/93)) may be used for additional consignments of the same species when stocked in the same water or waters, until cancelled by the department. See subsection 699(b) of these regulations for the fee for this permit.

(2) Application for the private stocking permit shall be made to the regional manager of the Fish and Game region in which the fish are to be stocked. An application will be supplied to each applicant upon request.

(3) No person shall stock any species of fish in any water in which the stocking of such fish is contrary to the fisheries management programs of the department for that water or drainage, or in any water from which such fish might escape to other waters where such fish are not already present. All applicants will be advised upon request of the said departmental fisheries management programs.

(4) Permittee shall notify the regional office of the department not less than 10 days in advance of stocking in order to make arrangements for inspection. Such inspection may be waived at the discretion of the department. If, upon inspection, diseased or parasitized fish or fish of unauthorized species are found by the department to be present, they shall be disposed of by the permittee as directed by the department. The department may require that the expense of any inspection made necessary by the provisions of these regulations be borne by the permittee.

(5) A stocking permit may be cancelled or suspended by the department upon conviction of a violation of these regulations by a court of competent jurisdiction. Cancellation or suspension may be appealed to the commission.

(6) A stocking permit is valid only when signed by the applicant.

(e) A registered aquaculturist selling and transporting aquatic plants and animals for the purpose of stocking in this state shall retain copies of documents required by Section 15005(b) of the Fish and Game Code for a period of three years following stocking of the fish. The documents shall be shown upon written demand by the director of the department. The information contained in the documents is confidential except that such information may be disclosed in accordance with a proper judicial order in cases or actions instituted for enforcement of this section or for prosecution of violations of this section.

(f) Except for Inyo, Mono, San Bernardino, Riverside and Imperial counties, mosquitofish (*Gambusia affinis*) may be planted for purposes of mosquito control without obtaining a permit otherwise required by these regulations. In Inyo and Mono counties and in public waters of San Bernardino, Riverside and Imperial counties, mosquitofish may not be planted without the written concurrence of the department.

NOTE: Authority cited: Sections 1050, 2363, 6401, 7701, 7708, 15005, 15200, 15202, 15501 and 15504, Fish and Game Code. Reference: Sections 17, 45, 1050, 6400–6401, 7701–7708, 8371, 8435, 8436, 15005, 15200, 15202 and 15504, Fish and Game Code.

History
1. Amendment of subsection (d) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
2. Amendment of subsections (c) and (d) filed 7–24–91; operative 8–23–91 (Register 92, No. 8).
3. Amendment of subsection (d)(1) filed 10–7–96; operative 11–6–96 (Register 96, No. 41).
4. Amendment of first paragraph and NOTE filed 1–20–99; operative 2–19–99 (Register 99, No. 4).

§ 238.6. Triploid Grass Carp Stocking.

Pursuant to Section 6450 of the Fish and Game Code, the department may issue permits to stock triploid grass carp.

(a) Purpose for Stocking. This section provides for the introduction of triploid grass carp, solely for the purpose of managing and controlling nuisance submerged aquatic plants. Triploid grass carp may only be stocked in waters approved by the department.

(b) To Whom Issued. Triploid grass carp stocking permits may be issued to a person, organization, or agency, to control or eradicate nuisance submerged aquatic plants, only within those waters under their control.

(1) Triploid grass carp stocking permits are not transferrable to persons, organizations, or agencies other than the permittee, except in the event that ownership of, or legal control over a water body named in the permit is transferred from the permittee to another person, organization, or agency. In this event, the permittee shall notify the department in writing within 10 (ten) days of the transaction. In addition, the permittee shall be responsible for informing the new owner of, or party assuming legal control over that water body, that triploid grass carp have been stocked therein. For the remaining term of the existing permit, said permit shall be transferred to the new owner of, or party assuming legal control over said water body, provided that said party agrees in writing to comply with the terms and conditions specified in this section. After expiration of the existing permit, the party assuming permittee status shall be required to renew the grass carp permit pursuant to subsection 238.6(e)(3)(B).

(2) Grass carp programs approved by the department on or before June 1, 1995 shall be exempt from the provisions of this section. Such programs shall be allowed to continue operations under a Private Stocking Permit (Form FG 749–(revised 5/93)), provided that the permittee: furnishes proof that the site had prior approval under a program approved by the department on or before June 1, 1995.

(c) Limitations.

(1) No permits shall be issued to stock grass carp in any major drainage or water having an open freshwater connection to other waters of the state (e.g., streams, rivers, lakes, or reservoirs).

(2) No permit shall be issued for grass carp introductions within the 100–year flood plain, as defined by the Federal Emergency Management

Agency (FEMA), or local agency responsible for flood control, with the following exceptions:

(A) Grass carp introductions may be permitted within closed basins, including that of the Salton Sea, subject to the conditions stated in subsections (c)(3) and (4), below.

(B) Along the Colorado River and in basins where the 100–year flood plain zones have not been defined, permit approval shall be based upon department evaluations.

(3) For water bodies open to public angling, or those located within residential–area golf courses, triploid grass carp introductions shall be limited to those waters which have been determined by the department to be secure from removal or escape of grass carp.

(4) No permit shall be issued for grass carp introductions into waters inhabited by plants or animals designated as threatened, endangered, or species of special concern.

(5) Only those grass carp which have been reared, held and transported in aquaculture facilities and equipment, inspected and certified by the department as being free of diseases and parasites may be stocked under the provisions of this section. In addition, the department shall:

(A) restrict grass carp introductions to those grass carp that have been rendered sterile immediately after the eggs have been fertilized,

(B) require individual fish to be checked to ensure that a third, triploid, set of chromosomes has been retained, preventing further reproduction by the individual fish,

(C) limit aquatic plant pest control programs using grass carp to the use of sterile triploid grass carp with documented certification of triploidy to ensure sterility, and

(D) inspect prospective grass carp aquaculture rearing facilities, holding facilities and transporters, to certify that they are free of diseases and parasites, and that they are secure from the escape of grass carp.

(6) Each triploid grass carp shall be implanted with serially–numbered tags provided or approved by the department.

(7) The department may limit the number and minimum size of triploid grass carp to be stocked in any proposed water. The number of triploid grass carp stocked may not exceed that specified on the permit, unless the permittee has obtained a department approved amendment to said permit.

(8) Security measures acceptable to the department shall be in place before triploid grass carp may be introduced into permitted waters. Such devices may include, but are not limited to, the following: fenced enclosures, locked gates, controlled access, and bird netting.

(9) Wherever barriers or screens are required to contain triploid grass carp within a proposed stocking site, the design for such structures must be approved by the department, and said structures shall be installed by the applicant prior to issuance of the Triploid Grass Carp Stocking Permit.

(10) Prior to stocking, permittee shall post prominent notices at each stocking site declaring the penalties for unauthorized removal of triploid grass carp.

(11) The permittee shall not place triploid grass carp in waters other than those specified in the permit.

(d) Permits.

(1) The term of the permit shall be one calendar year or remaining portion of the year.

(2) An amendment to change permit conditions may be issued by the department at any time during the term of the permit upon written request by the permittee, provided that such changes are consistent with the provisions of this section.

(3) The permittee shall retain a copy of the triploid grass carp stocking permit while grass carp are present in the permitted water. Said permit shall be available for presentation on request of any department employee.

(4) The department shall deny an application to stock triploid grass carp in any water body, if such proposed stocking is inconsistent with the provisions of this section.

(e) Application procedure. Applications shall be submitted on a form (Application for Triploid Grass Carp Stocking Permit for Aquatic Plant Management, FG 749–TGC (12/96), which is incorporated by reference herein) supplied by the department and may be filed with the department at any time. All applications shall be sent to the address indicated on the form and shall be submitted with appropriate application and inspection fees (see subsection (b)(3) below).

(1) Application Requirements. The applicant shall provide the following information, when requesting said permit, as well as when renewing an existing permit:

(A) Name, address, and affiliation of applicant.

(B) Location of the proposed stocking site.

(C) Number and type of water bodies to be stocked, and their sizes, in acres, or in square feet for waters less than one acre.

(D) Source of water supply and locations of water outlets, if applicable.

(E) A description of aquatic plant management problems, including but not limited to:

1. Type(s) of aquatic vegetation present, relative abundance of each, expressed as percentage of surface coverage, at the peak of the growing season.

2. Desired vegetation quantity or coverage.

(F) Number of triploid grass carp requested.

(G) Existing water quality data for the proposed water, if any.

(2) Inspection.

(A) Initial Inspection of Proposed Waters. All waters proposed for triploid grass carp stocking shall be subject to inspection by the department, to verify stocking is consistent with the provisions and limitations of this section, and to determine the number of triploid grass carp to stock.

(B) Periodic Follow–Up Inspections. All waters stocked with triploid grass carp shall be subject to inspection by department employees.

(3) Fees. The application and inspection fees shall be paid to the department at the time the Triploid Grass Carp Stocking Permit application is filed.

(A) Pursuant to Section 6454 of the Fish and Game Code, the department shall charge the following fees to defray costs incurred in the initiation and implementation of the Triploid Grass Carp Program:

1. Stocking fee: $15.00/fish, and

2. Annual renewal fee: $7.50/fish

NOTE: The stocking fee will be assessed upon initial stocking and at any subsequent time that additional fish are added. Renewal fees are based on the number of fish remaining in the pond. The renewal fee is based on the presumption that no fish have been removed from the pond unless the permittee can provide proof acceptable to the department that fish have died or have been removed from the pond.

(B) All permits expire on December 31. Permits must be renewed by March 1 of the following year. If permit renewal fees are not received by the department on or before March 1, the department may eradicate all grass carp present in ponds for which permits have lapsed.

(f) Annual Reports.

(1) On or before March 1 of each year following the first year after triploid grass carp have been stocked, all permittees shall submit to the department a report documenting the progress of the aquatic vegetation control program in the permitted water. This report shall be submitted on a form furnished by the department (Triploid Grass Carp Stocking Permit Annual Report Form (FG 749–Rep (12/96)), which is incorporated by reference herein.

(2) Pursuant to Fish and Game Code subsection 6453(b), the permittee shall continue to submit annual reports until five years after the use of grass carp to control aquatic plant pests is terminated, unless acceptable evidence is provided to the department that all grass carp have been removed from the water.

(3) Permit amendments to stock triploid grass carp in excess of the number specified in the original permit shall be denied if the permittee fails to submit such reports.

(g) No live triploid grass carp shall leave the permittee's waters without advance approval in writing from the department.

(h) Permit Revocation.

(1) The department may revoke a Triploid Grass Carp Stocking Permit at any time upon its determination that the permittee has not complied with the terms and conditions of the permit, or if grass carp are used in any manner that is inconsistent with the provisions of this section.

(2) Upon revocation of the permit, all grass carp possessed under the privileges of the permit may be seized by the department for disposition deemed appropriate by the department.

NOTE: Authority cited: Sections 6450, 6454 and 6459, Fish and Game Code. Reference: Sections 6450–6460, Fish and Game Code.

HISTORY

1. New section filed 5–5–97; operative 6–4–97 (Register 97, No. 19).
2. Amendment of section and NOTE filed 4–24–2001; operative 5–24–2001 (Register 2001, No. 17).

§ 240. Transportation, Possession and Sale of Sturgeon, Striped Bass, Hybrid Striped Bass (Striped Bass Crossed with White Bass), Abalone and Steelhead Trout Produced or Imported by Registered Aquaculturists for Aquaculture Purposes.

All sturgeon, striped bass, hybrid striped bass, abalone and steelhead trout produced or imported by registered aquaculturists for aquaculture purposes shall be transported, possessed and sold as provided in this section. For purposes of these regulations, aquaculture products are products of aquaculture as defined by Section 17 of the Fish and Game Code.

(a) Such aquaculture products must be accompanied by a duplicate of a sales invoice or waybill, showing the name and address of the producer, the producer's aquaculture registration number, date of shipment, the species being transported, the weight, volume, or count of each species in the shipment, the name and address of the intended receiver and tag number if subject tag is required.

(b) The consignee shall retain a copy of the bill of lading or similar accountable document for one year and make it available to the department upon request.

(c) Live aquaculture products are not subject to the provisions of subsections (c), (d) and (e). All dead aquaculture products or parts thereof, except hybrid striped bass sold whole or in the round with the head attached, transported or sold within the state pursuant to this section shall be either:

(1) Packaged in sealed containers or boxes. Each container or box shall be clearly labeled showing a description of the contents and an identification of the shipper; or

(2) Tagged with consecutively numbered cinch–up vinyl plastic spaghetti tags with a legend showing the name of the shipper along with the city and state of origin. The tag sequence shall be present on all invoices and waybills. Reusable tags may not be possessed in the State of California. When tags are removed from the aquaculture products they must be destroyed by cutting through that portion of the tag which contains the name of the shipper and the tag number; or

(3) Clearly marked, using liquid nitrogen and a metal band, with an "A," 1/2–inch square, posterior to the head, anterior to the dorsal fin and above the lateral line. All aquaculture products shall be marked when alive but may be killed prior to transport or sale.

(d) No such dead aquaculture products may be possessed at a place where aquaculture products are sold unless packaged, marked or tagged in the manner described in subsection (c) except that operators or employees of retail stores, restaurants or other eating establishments may remove portions from packaged, marked or tagged aquaculture products when such portions are being displayed or prepared for actual sale to a consumer or for actual consumption on the premises.

(e) Aquaculture products tagged, marked and/or packaged under subsection (c) above may be processed and repackaged or retagged by dealers possessing a revocable processing permit issued by the Wildlife Protection Division of the department specifically for striped bass, hybrid striped bass, sturgeon, abalone and steelhead trout. The permit shall be issued free of charge on a calendar year basis, or part thereof. When transported for sale such aquaculture products or portions of aquaculture products shall meet the transportation requirements of subsections (a) and (b).

(f) Live aquaculture products may not be imported except in accordance with Section 236, Title 14, California Administrative Code.

(g) Live hybrid striped bass may not be imported or possessed by registered aquaculturists except under the terms of a permit issued by the department, specifying conditions under which these aquaculture products may be reared and transported. Requests for permits shall be submitted to the Department of Fish and Game Aquaculture Development Section, 1416 Ninth Street, Sacramento, California 95814.

(h) Live hybrid striped bass shall only be possessed or sold in Imperial, Los Angeles, Orange, Riverside, San Bernardino, San Diego, San Luis Obispo, Santa Barbara, Ventura, Lassen and Modoc counties.

(i) All aquaculture products held live for retail sale shall be killed at the time of sale and be dead before leaving the retailer's premises, and under no condition may these aquaculture products be stocked in any lake, pond or stream.

NOTE: Authority cited: Sections 1050, 7701, 7708, 15005, 15102, 15200, 15202 and 15600, Fish and Game Code. Reference: Sections 1050, 2348, 7700–7703, 8371, 8431 and 15505, Fish and Game Code.

HISTORY

1. Amendment filed 3–25–87; effective thirtieth day thereafter (Register 87, No. 13).
2. Amendment of section heading, first paragraph, and subsection (e) filed 7–24–91; operative 8–23–91 (Register 92, No. 8).

§ 241. Importation of Salmonid Produced in Idaho.

No live wild or cultured fish of the family *Salmonidae* (trout, salmon and chars) produced in the State of Idaho, nor their live eggs, nor live fish hatched from their eggs may be imported into California.

NOTE: Authority cited: Section 15510, Fish and Game Code. Reference: Sections 15500 and 15510, Fish and Game Code.

HISTORY

1. New section filed 11–8–83 as an emergency; effective upon filing (Register 83, No. 47). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 3–8–84.
2. Certificate of Compliance transmitted to OAL 2–7–84 and filed 3–8–84 (Register 84, No. 10).

§ 243. Take of Aquatic Plants, Invertebrates, Fishes and Bullfrogs from the Wild for Use as Broodstock for Aquaculture Purposes.

Pursuant to the provisions of sections 5503 and 15300 of the Fish and Game Code, aquatic plants, invertebrates, fishes and bullfrogs (Rana catesbeiana) may be taken from the wild for aquaculture purposes only in accordance with the following regulations:

(a) This section does not apply to the following:

(1) The take of live freshwater fish for sale as bait (see sections 8460–8463 of the Fish and Game Code and sections 200–200.31 of title 14, CAC).

(2) The take of aquatic animals by commercial fishermen (see section 226.7, title 14, CAC).

(3) The take of anadromous fish under restrictions applied to ocean ranching (see sections 15900–15908 of the Fish and Game Code and section 235.2, title 14, CAC).

(b) The department may issue a revocable, nontransferable permit to collect aquatic plants, invertebrates, fishes and bullfrogs from the wild for use in developing a domesticated broodstock for aquaculture purposes. Permits shall not be issued for striped bass or white sturgeon except by specific commission authorization. No permits shall be issued for golden trout, steelhead trout, chinook salmon or coho salmon, or for those animals listed by the state or federal government as endangered, threatened or fully protected. Permits shall state the name of permittee, permittee's aquaculture registration number, name of the collector(s) if different from permittee, species to be collected, number or total weight to be collected, collection locations and methods, period for which the permit is valid and any special collection requirements.

(1) Who May Obtain Permits. Permits shall be issued only to the owner or operator of an aquaculture facility currently registered according to section 15101 of the Fish and Game Code and section 235 of title 14, CAC. The aquaculturist must be authorized by said registration to pos-

sess the species to be taken. The aquaculturist may designate, on the permit application, a person to collect for him.

(2) Cost of the Permit. An administrative fee of $50 shall be charged for processing the permit. The department shall assess an additional fee, equal to the actual costs to the department in salaries, travel expenses and equipment use, if any department personnel are required to assist in the collection or inspection of the wild broodstock.

The department may waive any portion of the fees, except the $50 administrative fee, if the permittee agrees to restock into the wild a portion of the cultured progeny of wild broodstock. Fees waived may not be in excess of the current wholesale market value of the progeny stocked. The number of progeny and place to be stocked may be negotiated by the department and the permittee.

(3) How to Apply for the Permit. Application for the permit shall be made on forms provided by the department. Application forms are available on request from the Aquaculture Development Section, Department of Fish and Game, 1416 Ninth Street, Sacramento, CA 95814.

Completed and signed application forms and the $25 administrative fee shall be submitted to the Department of Fish and Game, Aquaculture Development Section, 1416 Ninth Street, Sacramento, CA 95814.

(c) Who May Collect Wild Broodstock. Wild broodstock shall be collected only by those persons listed on the permit. At least one of the persons designated by the permit shall be present when animals are collected. Collectors shall have the collection permit in their possession while engaged in collection activities and while transporting species collected to the permittee's registered facility. Persons assisting the collector, and under their direct supervision, need not have a broodstock collection permit.

The department may require that an employee of the department be present to monitor collection operations, or that the broodstock be collected by department personnel. All costs to the department for monitoring or collecting shall be borne by the permittee. Any special conditions applied to the collection of wild broodstock shall be stated on the permit.

(d) Collection Methods and Gear. All aquatic plants and animals authorized to be taken by the permit shall be captured only in those waters and only with those types of gear specified in the permit. All species other than those specified in the permit shall be returned immediately in good condition to the water of origin.

The permittee shall comply with department requirements concerning construction and deployment of collection gear. Locations and times of collecting and the amount taken may be restricted by the department to protect the wild populations of authorized species or other species found in the collecting area, or to reduce interference with angling.

(e) Notification of Department. Before making any collection, the permittee shall notify the department's regional office having responsibility for the area where the permittee wishes to collect. Such notification shall reach the regional office by letter, telephone or personal contact at least 48 hours in advance of the collection date(s) and shall include the locality, dates and time(s) during which collecting is to be done.

(f) Written Reports. Permittee shall submit a written report within six months of the permit's expiration date or prior to application for any additional broodstock collection permits, whichever is earlier. The report shall state the number of plants or animals collected, the location and condition of the wild broodstock and the number or amount of progeny cultured.

(g) Disposition of Wild Broodstock and Their Cultured Progeny. Wild plants and animals taken under the authority of this permit remain the property of the state and shall not be sold, bartered or traded without written permission of the department. Wild broodstock shall be held only at an aquaculture facility registered by the permittee. The department may require that animals obtained under this permit be returned alive and in good condition to the water where taken or donated to a charitable organization approved by the department.

The cultured progeny of plants and animals lawfully obtained under the authority of a broodstock collection permit are the exclusive property of that person who cultured them, or that person's successor in interest.

(h) Permittees shall allow authorized department employees to inspect any and all wild broodstock authorized by this permit and their holding facilities. Inspections may be made during normal working hours or with prior notification, if some other time is agreeable to both parties.

(i) Permit Denial or Revocation. The department may deny or revoke a permit to take wild plants and animals for use in developing a domesticated broodstock for the following reasons:

(1) To protect an aquatic resource.

(2) To protect public safety.

(3) A commercial source is available.

(4) The applicant does not have facilities or experience necessary to develop a domesticated broodstock from wild plants or animals.

(5) The applicant or permittee has demonstrated repeated failure to develop a domesticated broodstock from wild plants or animals.

(6) The applicant or permittee, his designated collector or an employee or assistant has violated the terms of a permit issued for the collection of wild broodstock, or has been convicted by a court of competent jurisdiction of any violation of the Fish and Game Code or commission regulations pertaining to activities covered by this permit.

Denial or revocation may be appealed to the commission.

NOTE: Authority cited: Sections 1050, 1907, 5503, 15001 and 15300, Fish and Game Code. Reference: Sections 2000, 2052, 2273, 5503, 8430, 8433, 8435, 8436, 8460 and 15004, Fish and Game Code.

HISTORY

1. New section filed 7–8–85; effective thirtieth day thereafter (Register 85, No. 30).
2. Amendment of subsection (b) filed 4–18–91; operative 5–18–9–1 (Register 91, No. 21).

§ 245. Aquaculture Disease Control Regulations.

(a) General Conditions.

(1) All fish inspections and disease examinations shall be conducted in accordance with the 1979 edition of "Procedures for Detection and Identification of Certain Fish Pathogens" published by the Fish Health Section of the American Fisheries Society (FHS Blue Book). All such inspections and examinations shall be conducted by a fish pathologist.

(2) When a listed disease is identified by a fish pathologist in aquatic plants or animals in an aquaculture facility or in transit to or from such a facility which requires restrictive action by the department, the owner or consignee involved shall be notified by the department immediately. The owner or consignee may accept the original identification or may request that the department seek confirmation of the identification by another fish pathologist.

(3) Upon confirmation, if requested, or acceptance of the identification of any listed disease which requires restrictive action by the department as set forth in subsection (c), a compliance agreement describing the action to be taken may be drawn up between the owner and the director. The department shall commence negotiation of the terms of the compliance agreement within 48 hours after acceptance or confirmation as defined in subsection (b). The agreement must be signed by the owner and the director within 30 days of acceptance or confirmation. If the compliance agreement is not signed within 30 days, a quarantine as specified in Fish and Game Code Section 15505 may be imposed while the owner appeals to the commission. The agreement shall be designed in consultation with the Aquaculture Disease Committee to bring the least amount of economic hardship possible to the affected party while affording maximum protection to other growers and the fishery resources of the State.

(4) If at any time a fish pathologist identifies one or more pathogens listed in this section anywhere within the State of California, he must immediately report the identification to the director of the department.

(5) Methods for disposal of aquatic plants and animals and for disinfection of aquaculture equipment and facilities shall be specified in the compliance agreement in accordance with the disease category and the threat to other aquatic plant or animal life or aquaculture facilities.

(6) Any live aquatic plants, animals or eggs originating outside the United States shall be certified by a fish pathologist as disease– and parasite–free before a permit for importation is issued.

(7) Anyone interested in conducting research on those diseases designated as catastrophic must submit a written research proposal to the director of the department and obtain written approval from the director before the causative agent is brought to their facility. Anyone denied

approval pursuant to this subsection may appeal such denial to the commission.

(8) Upon identification of a disease which presents a threat to the aquaculture industry or aquatic animal or plant life, but which is not listed in this section, the director of the department shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee, impose an immediate holding action and develop a plan of action.

(b) Definitions.

(1) Compliance Agreement. A written agreement between the director of the department and the owner or consignee of the diseased or parasitized aquaculture product which outlines the steps for disposal of the diseased or parasitized aquatic plants or animals and the procedures, both chemical and mechanical, for clean up of the facility.

(2) Confirmation. The second identification of a disease agent from the original sample or source by another fish pathologist.

(3) Disposal. The destruction or marketing of animals by methods prescribed in a compliance agreement.

(4) Eradication. The elimination of disease-causing agents.

(5) Fish Pathologist. A department virologist or fish pathologist, or a fish pathologist certified by the Board of Certification of the Fish Health Section of the American Fisheries Society pursuant to their guidelines adopted effective January 1, 1982.

(6) Immediate Holding Action. A prohibition of moving any plant or animal from an aquaculture facility for up to 30 days.

(7) Other Holding Action. Restrictions outlined in the compliance agreement on plant or animal movement to specific markets, watersheds or geographic areas deemed necessary by the department to protect other aquaculture facilities and the aquatic plants and animals of the State.

(8) Q Diseases. Diseases for which there is so little information they cannot be given a permanent classification.

(c) Disease Categories. The diseases of concern are grouped in four categories as to their seriousness and the specific action to be taken when diagnosed.

(1) Significant Diseases. On identification by a fish pathologist and confirmation, if requested, of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action, other holding action or no restrictions as the director in consultation with the Aquaculture Disease Committee may deem necessary.

(A) Furunculosis (*Aeromonas salmonicida*).

(B) Enteric Redmouth (ERM) (*Yersinia ruckeri*).

(C) Vibriosis (*Vibrio sp.*).

(D) Copepod (*Genera Lernaea, Salmincola*, and *Ergasilus*).

(E) Golden Shiner Virus.

(F) Oyster Fungus Disease (*Labyrinthomyxa marina*).

(G) MSX Oyster Disease (*Minchinia nelsoni*).

(H) Ichthyophonus (*Ichthyophonus hoferi*).

(I) South African sabellid polychaete worm (unnamed parasitic species).

(2) Serious Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then the action will be disposal or other holding action the director in consultation with the Aquaculture Disease Committee may deem necessary, as specified in the compliance agreement.

(A) Infectious Hematopoietic Necrosis (IHN).

(B) Ceratomyxosis (*Ceratomyxa shasta*).

(C) Bacterial Kidney Disease (*Renibacterium salmoninarum*).

(D) *Pleistophora ovariae.*

(E) Proliferative Kidney Disease (PKD).

(F) SSO (*Minchinia costalis*).

(G) Microcell disease of oysters.

(H) Whirling Disease (*Myxosoma cerebralis*).

(3) Catastrophic Diseases. On identification by a fish pathologist of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action until confirmation, if requested, is obtained; then other holding action, disposal and eradication shall be required, as specified in the compliance agreement.

(A) Viral Hemorrhagic Septicemia (VHS), Egtved Virus.

(B) Infectious Pancreatic Necrosis (IPN).

(C) Channel Catfish Virus Disease (CCVD).

(4) Q Diseases. On identification by a fish pathologist and confirmation, if requested, of any of these diseases, the director shall immediately consult, by phone if necessary, with the Aquaculture Disease Committee and shall impose an immediate holding action pending determination of a course of action for diseases in this classification.

(A) Viral Erythrocytic Necrosis (VEN).

(B) *Herpesvirus salmonis* (HPV).

(C) Spring Viremia of Carp (*Rhabdovirus carpio*).

(D) *Edwardsiella ictaluri.*

(E) Denman Island Disease of Oysters.

(d) Aquatic Diseases and Host Organisms. Pursuant to Section 15500 of the Fish and Game Code, the commission has compiled a list of diseases and parasites and the aquatic plants and animals they are known to infect or parasitize. Infected plants or animals are considered detrimental to the aquaculture industry and to wild stocks of aquatic plants and animals.

Disease	*Host*
1. Viral Hemorrhagic Septicemia (VHS)	Rainbow trout
2. Infectious Pancreatic Necrosis (IPN)	Salmonids
3. Channel Catfish Virus (CCVD)	Channel catfish
4. Whirling Disease—*Myxosoma cerebralis*	Salmonids, tubifex
5. Infectious Hematopoietic Necrosis (IHN)	Salmonids
6. Ceratomyxosis—*Ceratomyxa shasta*	Salmonids
7. Bacterial Kidney Disease—*Renibacterium salmoninarum*	Salmonids
8. *Pleistophora ovariae*	Golden shiner, fathead minnow
9. Proliferative Kidney Disease (PKD)	Salmonids
10. SSO—*Minchinia costalis*	Oyster
11. Microcell Disease of Oysters	Oyster
12. Furunculosis—*Aeromonas salmonicida*	All fin fish
13. Enteric Redmouth (ERM)—*Yersinia ruckeri*	Salmonids
14. Vibriosis—*Vibrio* sp.	All fin fish
15. Copepod (Genera: *Lernaea, Salmincola,* and *Ergasilus*)	Freshwater fin fish
16. Golden Shiner Virus	Golden Shiner
17. Oyster Fungus Disease—*Labyrinthomyxa marina*	Oysters
18. MSX Oyster Disease—*Minchinia nelsoni*	Oysters
19. Ichthyophonus—*Ichthyophonus hoferi*	All fin fish
20. Viral Erythrocytic Necrosis (VEN)	Marine and anadromous fin fish
21. *Herpesvirus salmonis* (HPV)	Rainbow trout
22. Spring Viremia of Carp—*Rhabdovirus carpio*	Carp
23. *Edwardsiella ictaluri*	Channel catfish
24. Denman Island Disease of Oysters	Pacific oyster
25. South African sabellid polychaete worm (unnamed parasitic species)	Marine Gastropods

NOTE: Authority cited: Sections 200, 15500 and 15504, Fish and Game Code. Reference: Sections 15500, 15504, 15505, 15506, 15508 and 15509, Fish and Game Code. (Section filed 6-27-85, operative 7-27-85; Register 85, No. 26).

HISTORY

1. Amendment of subsection (d)(7); deletion of subsection (c)(3)(D); and addition of subsection (c)(2)(H) filed 9-29-86, operative 10-29-86 making the following changes:
Subsection (c)(3)(D): Deleted "Whirling Disease (*Myxosoma cerebralis*).";
Subsection (c)(2)(H): Added "Whirling Disease (*Myxosoma cerebralis*).";
Subsection (d)(7): Substituted "B" for "P" in "Bacterial" after "7."; (Register 86, No. 43).
2. New subsection (c)(1)(I) and amendment of subsection (d) adding item 25 filed 7-28-99; operative 8-27-99 (Register 99, No. 31).
3. Editorial correction moving HISTORIES related to Appendix A to follow Appendix A and renumbering HISTORIES (Register 2006, No. 20).

[The next page is 93.]

Appendix A Fishing Activity Records

SWORDFISH HARPOON LOG **No.D 58552**

Name of Skipper _____ SW Permit _____

Name of Boat _____ Boat F&G No. _____

84 89826

DATE Month/Day	BLOCK No.	Aircraft Used Yes or No	CHECK ONE			FISH Harpooned	FISH Landed	Estimated Dressed Weight
			FISH Underwater	FISH Finning	FISH Jumping			

Remarks _____

DFG 107 (10/90)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
KELP HARVESTER'S MONTHLY REPORT

This report is made in accordance with provisions establish in Chapter 6, Articles 1-3, Sections 6650-6711, Fish and Game Code, and CA Code of Regulations, Title 14, Sections 165-165.5. The purpose of which is to report the number of tons of wet aquatic plants harvested during the month.

HARVESTERS LICENSE NUMBER: _____
NAME: _____
ADDRESS: _____

REPORT PERIOD _____ _____
Month Year

Kelp Bed #	Total Tons harvested	Rate Per Ton (1) (2)	Total Amt. Due	Balance of Advanced Deposit (3)	Net Amt. Due
		TOTALS			

INSTRUCTIONS READ CAREFULLY

A.) Prepare a detail sheet (as attached) for each vessel or harvest operation. Show totals of detail sheet in second column of this report.

B.) A report must be filed each month. If no plants were harvested, please indicate and return report.

C.) Make checks payable to Dept. of Fish and Game.

D.) Prepare this report in triplicate. Forward the original and one copy plus payment to: CA Dept. of Fish and Game, 1416 Ninth Street, Sacramento, CA 95814.

E.) Retain one copy for your files

(1) $1.71 per wet ton, open beds.
(2) Leased Beds enter contract rate per ton.
(3) Enter the amount to be deducted from the advance deposit on each leased bed. Leave this col. blank for open. If balance of advance deposit is less than "amount due" show the difference in "Net Amount Due" column.

Certificate: I hereby certify that I have examined this report and the above statements are made in good faith and the figures shown herein are to the best of my knowledge and belief a true and correct record of kelp harvested during the month for which this report is rendered.

SIGNED: _____ TITLE _____ DATE _____

FG 113 (January 1, 1997)

STATE OF CALIFORNIA
DEPARTMENT OF FISH AND GAME
GIANT /BULL KELP HARVESTER'S MONTHLY REPORT- DETAIL SHEET

Name of Kelp Harvester _____ **Month** _____ **Year**_____
Harvest License Number_____

Tons (short tons- 2000 lbs/ton) Of Kelp Harvested By Bed Number (§165.5, T14, CCR). Please designate leased beds by prefixing bed number with letter (for example, "L23" or "L-32") and portions of beds within marine protected areas with the name of the marine protected area (§632, T14, CCR) (for example "Edward F. Ricketts SMCA - 220").

DAY	BED #	BED #	BED #	BED #	BED #	BED #	BED #
1							
2							
3							
4							
5							
6							
7							
8							
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28							
29							
30							
31							

FG 114 (Rev. 1/07)

SHRIMP/PRAWN TRAWL LOG 08950

CALIFORNIA
DEPARTMENT OF FISH AND GAME

VESSEL NAME _____ DEPARTURE DATE _____ (M D Y) NET TYPE: Single/Double (CIRCLE ONE)

FISH AND GAME NUMBER _____ LANDING DATE _____ (M D Y) Headrope Length _____

FISHERMAN I.D. NUMBER _____ PORT OF LANDING _____ Port Code _____

DATE Mo/Day	DRAG No.		TIME 24 hr Clock	LORAN Ch.	LORAN Microsec.	LORAN Ch.	LORAN Microsec.	DEPTH fms / Bottom	F&G BLOCK No.	ESTIMATED POUNDS CAUGHT PINK SHRIMP 812	RIDGE BACK 814	SPOT PRAWNS 815	FISHING NOTES/EST. LB. OTHER FISH
		Set											
		Up											
		Set											
		Up											
		Set											
		Up											
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		Set											
		Up											

POUNDS OF WHOLE SHRIMP SOLD _____

POUNDS OF TAILS-ONLY SOLD _____

POUNDS OF FIN FISH SOLD _____

BUYER _____

SIGNED _____

TO BE COMPLETED BY AGENCY

Fish Receiving Ticket No.

87 82058

DFG 120 (10/89)

CALIFORNIA DEPARTMENT OF FISH AND GAME
SEA URCHIN FISHING LOG

28976

Vessel Name_____ F&G Boat Number_____

Date mm/dd/yy	Block Num.	Landmark	Depth Range	Depth Ave.	Divers Num.	Divers Hrs.*	Lbs. Harvested	Sold To	Remarks

Signed:_____
Vessel Operator

*Diver hours = sum of each diver's total.

DFG - 120.7 (10/87)

88 84252

STATE OF CALIFORNIA
THE RESOURCES AGENCY

MARKET SQUID VESSEL LOGBOOK

NOTICE TO INDIVIDUALS

(A) This information is being requested by:

THE STATE OF CALIFORNIA,
Department of Fish and Game, Marine Region

(B) The official responsible for maintaining this information is:

Regional Manager, Marine Region
4665 Lampson Avenue, Suite C, Los Alamitos, CA 90720

(C) Any person who owns and/or operates any vessel used to take squid shall complete and submit an accurate record of his/her squid fishing activities on forms provided by the Department. The authority to collect this information is granted pursuant to Fish and Game Code Sections 7923 and 8026, and California Code of Regulations, Title 14, Sections 149 and 190.

(D) It is mandatory to furnish all the information requested by the Department.

(E) The law authorizes penalties and permit/license suspension or revocation for failing to provide this information as stated in Fish and Game Code Sections 8026 and 12002.

(F) Fisheries research and management are the principal purposes for which this information is to be used.

(G) Information from this form may be given to a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties, and the use is compatible with a purpose for which the information was collected..., and to a government entity when required by state or federal law (Civil Code Section 1798.24, subdivisions e and f). Currently a Memorandum of Understanding exists with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southwest Region.

(H) An individual has a right of access to records containing their personal information maintained by the Department. Records may be accessed by contacting the official listed in Section (B).

IMPORTANT INSTRUCTIONS

General

1. A special paper has been used in this logbook which provides a duplicate without the use of carbon paper. The folded flap must be inserted between sets of pages to prevent writing from duplicating on other pages. **DO NOT** allow the book to get wet.
2. Return completed copies to the Department on or before the 10th of the following month (1933 Cliff Drive, Suite 9, Santa Barbara, CA 93109). Voided logs must also be submitted. Notification is not needed for months not fished.
3. Additional logbooks and envelopes may be obtained through the Santa Barbara field office.
4. The duplicate copy is the property of the permittee and should remain in the book as a permanent fishing record.

Specific

Summary Page

1. Complete the Market Squid Vessel Summary Page during the first fishing trip of the year.
2. Any changes to information on the summary page need to be made when starting a new logbook. Please indicate if this is the first summary of the year or changes to a previous summary.

Definitions

Attracting light used: Type (i.e., sodium, incandescent), wattage, and number for each type of light.
Vessel characteristics: Boat length and gross tonnage of the vessel. Horsepower of both main and auxiliary engines.
Net Characteristics: Circle the type of net used. Write the net length and depth in fathoms, and the stretched mesh size in inches.
Electronics used: Circle the appropriate response.
Fish hold's water system: Brine = sea water added to hold in addition to what was pumped in with the squid, RSW = refrigerated sea water, Dry = no additional water added, CSW (live) = recirculating sea water, or other, please specify type.

Log

1. One line per set.
2. A single log page can be used for multiple trips. If you run out of lines, simply continue the trip on the next log page.
3. The log should be filled out prior to returning to port. Landing receipt number(s) can be filled out later.
4. Start a new page each month.

Definitions

Date: Date of set.
Set Number: Each set should be numbered consecutively for the trip. Begin with set one on the next trip. Sets where no squid were caught need to be included and noted in the comments section why no squid were caught.
Set Time: Begin - when the net is first deployed. End - when the net is pursed and you begin to bring in the excess net. Use a 24-hour clock. Example: 1:30 AM is 0130, 5:00 PM is 1700
Set Position: The position when you begin to set the net. Use latitude and longitude with decimal minutes to the hundredths place. Example: 34° 05.15' N, 120° 04.85' W.
SST (°F): Sea surface temperature at the beginning of the set.
Bottom depth (in fathoms): Depth at the beginning of the set.
Name of light boat used, if any?: Name of light boat that attracted squid for you.
Did you use your own lights? Y/N: "Yes" if you used your own lights to attract squid and "No" if you did not for the set.
Catch Estimate (Tons): Estimate the catch for each set in tons.
Was your catch limited by a market order?: "Yes" if your catch was limited by a market order and "No" if it was not.
Bycatch: Primary species common name and amount in pounds.
Landing Receipt(s): Landing receipt(s) number for each fishing trip.
Comments: Includes any anecdotal information such as equipment problems, interference from other boats, weather-related problems, squid size and condition, net snagged on bottom, loss of catch or net damage by marine mammals, etc.

Market Squid Vessel Log

LOG # 1808 - 1

Vessel Name: _____ Fisherman's Name: _____

Vessel F&G Number: _____ Fisherman's ID Number: _____

Date	Set Number	Set Time: (24 hr Clock)		Set Position:				SST (°F)	Bottom Depth (fm)	Name of light boat used, if any	Did you use your own lights? Y/N	Catch Estimate (Tons)	Was your catch limited by a market order? Y/N	Bycatch:		Landing Receipt(s)
				Latitude		Longitude								Primary Species	Amount (lbs)	
		Start	End	Deg	Min	Deg	Min									

Comments: May include equipment problems, interference from other boats, weather-related problems, squid size and condition, net snagged on bottom, loss of catch or net damage by marine mammals, etc. Include a date with all comments.

DFG 149a (9/01) Captain's Signature: _____ Date: _____

MARKET SQUID VESSEL SUMMARY PAGE

LOG # 1808 - 00

Vessel Name _____

Vessel F&G Number _____

Fisherman's Name _____

Fisherman's ID Number _____

Attracting Lights Used:

Type: Wattage: Number:

_____

_____

_____

Vessel Characteristics:

Boat Length _____

Hold Capacity _____

Gross Tonnage _____

Purse Seine / Drum Seine / Lampara / Brail Net (circle one)

Net Depth _____

Net Length _____

Mesh Size _____

Electronics Used (check one):

Side-Scan Sonar ☐ Yes ☐ No

Fathometer ☐ Yes ☐ No

Horsepower:

Main Engine _____

Auxiliary Engine _____

Fish Hold's Water System (circle one): ***Brine*** ***RSW*** ***Dry*** ***CSW (live)*** ***Other*** (please specify): _____

Crew Members: (List the Captain first)

NAME	License No.	NAME	License No.

Please mark whether this is:

____ First Summary Sheet

____ Changes to Previous Summary

____ No changes

DFG-149a (9/01)

_____

Captain's Signature Date

STATE OF CALIFORNIA
THE RESOURCES AGENCY

MARKET SQUID LIGHT/BRAIL BOAT LOGBOOK

NOTICE TO INDIVIDUALS

(A) This information is being requested by:
THE STATE OF CALIFORNIA, Department of Fish and Game, Marine Region

(B) The official responsible for maintaining this information is:

Regional Manage, Marine Region
4665 Lampson Avenue, Suite C, Los Alamitos, CA. 90720

(C) Any person who owns and/or operates any vessel that uses lights to attract squid shall complete and submit an accurate record of his/her squid lighting/ fishing activities on forms provided by the Department. The authority to collect this information is granted pursuant to Fish and Game Code Sections 7923 and 8026, and California Code of Regulations, Title 14, Sections 149 and 190.

(D) It is mandatory to furnish all the information requested by the Department.

(E) The law authorizes penalties and permit/license suspension or revocation for failing to provide this information as stated in Fish and Game Code Sections 8026 and 12002.

(F) Fisheries research and management are the principal purposes for which this information is to be used.

(G) Information from this from may be given to a person, or to another agency where the transfer is necessary for the transferee agency to perform its constitutional or statutory duties and the use is compatible with a purpose for which the information was collected..., and to a government entity when required by state or federal law (Civil Code Section 1798.24, subdivisions e and f). Currently a Memorandum of Understanding exists with the National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Southwest Region.

(H) An individual has a right of access to records containing their personal information maintained by the Department. Records may be accessed by containing the official listed in Section (B).

MARKET SQUID LIGHT/BRAIL LOGBOOK
IMPORTANT INSTRUCTIONS

General

1. Insert the folded flap between sets of pages to prevent duplicating on other pages.
2. Please return completed (white) copies to the Department **on or before** the **10th** of the following month (20 Lower Ragsdale Dr. Suite 100, Monterey, CA. 93940).
3. Additional logbooks and envelopes may be obtained through the Department of Fish and Game office in Monterey at the above address.
4. The duplicate copy (yellow) is the property of the permittee and should remain in the logbook as a permanent fishing record.
5. Use a blue or black ballpoint pen. DO NOT use pencil or felt marker.
6. Write legibly.

Specific

PROFILE Page

1. Complete the Market Squid Light/Brail Boat Summary Page after reading the instructions.
2. Please indicate if this is your first summary as captain or if there are changes to a previous summary. Check No changes if information is the same.

Definitions:

- **Attracting lights used**: Type (sodium, incandescent, metal halide), individual bulb wattage, and number of total bulbs for each type.
- **Vessel characteristics**: Boat length, gross tonnage and hold capacity (if applicable) of the vessel. Horsepower of both the main and auxiliary (generator) engines.
- **Electronics used**: Circle appropriate response
- **Net type**: If applicable, circle appropriate response
- **Scoop capacity**: Dimensions of scoop, i.e. circumference and depth of bag
- **Crewmembers**: List names and license numbers

BOAT Log

1. Use only one line per day, unless you provided light for more than two seiners or fished in more than one general location. Several fishing days, but no more than seven, may be recorded per page.
2. Fishing activity must be recorded before fishing activity is complete.

Definitions:

- **Date**: Date of fishing activity
- **General location**: Use a landmark or a common name of your fishing location. Example: Cannery Row, Scorpion Anchorage-Santa Cruz Island, Point Dume, Newport Beach. Unspecific locations such as Monterey Bay, Santa Monica Bay, etc. are not acceptable. If location is unknown, use GPS cooridinates.
- **Hours spent searching**: Hours spent metering for squid. This time also includes time spent holding locations for day sets.
- **Hours spent lighting**: Hours spent attempting to attract squid with light.
- **Name of seiner that set squid**: Provide the name of the seiner that set squid on each line. If you lit for more than two seiners, use the next line.
- **Estimated total tons taken by each seiner**: Enter total tons taken by each seiner. Use one line per seiner.
- **Estimated tonnage, if any, remaining after fishing is completed**: Was there any squid left? Enter amount in tons.
- **Your vessel's catch for live bait**: Enter live bait amount in pounds.
- **For Brail Permittees- amount sold to market**: Record amount sold to market and landing receipt number.
- **Were birds present?** Y/N: Enter appropriate response.
- **Were marine mammals present?** Y/N: Enter appropriate response.
- **Comments**: List by date any anecdotal information such as equipment problems, interference from other boats, weather-related problems, day set activity, etc.

MARKET SQUID LIGHT / BRAIL BOAT PROFILE LOG#

Attracting Lights Used:

Vessel Name:_____ Type: Wattage: Number:

Vessel FG Number:_____ _____

Fisherman's Name:_____ _____

Fisherman L#:_____ _____

_____

Vessel Characteristics:

Boat Length:_____

Gross Tonnage:_____

Hold capacity:_____

Horsepower: Main Engine:_____

Electronics (circle one):

Side-scan Sonar: Yes No

Fathometer: Yes No

Generator:_____

Net Type (If applicable) purse seine / drum seine / lampara / brail or scoop

Scoop Capacity(dimensions):_____

Crew Members: list captain first

Name	License #

Mark whether this is:

___First summary sheet

___Changes to previous summary

___No changes

DFG 149b (10/05)

Captain's Signature:_____
Date

LOG #

MARKET SQUID LIGHT/ BRAIL BOAT LOG

Vessel Name: Captain Name:

Vessel F&G Number: Captain ID Number:

Date	General Location, to nearest geographic landmark. If location unknown use GPS coordinates.	Hours spent:		Name of Seiner that set squid	Total tons of squid caught by seiner	Estimated tonnage remaining after fishing is completed	Your Vessel's estimated catch			Were birds present? Y/N	Were marine mammals present? Y/N
		Searching (includes day sets)	Lighting				Amount for Live Bait (pounds)	Brail Permittees Amount Sold to Market (tons)	Brail Permittees Landing receipt #		

Comments: List by date any anecodotal information such as equipment problems, interference from other boats, weather-related problems, day set activity, etc.

DFG 149b (10/05) Captain's Signature:_____ Date:_____

LIVE BAIT LOG MONTH _____

BOAT _____

F & G No. _____ PORT _____

DAY	NO. HAULS	NO. SCOOPS	SIZE RANGE inches	DEPTH FISHED fathoms	MILES FROM PORT	Estimated scoops: ANCHOVY "pinheads"	SARDINES "firecrackers"	Check if one (1) or more fish "juveniles": BARRACUDA	JACK MACKEREL	BLUE MACKEREL	Remarks
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											
18											
19											
20											
21											
22											
23											
24											
25											
26											
27											
28											
29											
30											
31											

DFG 158 (10/89)

GILL/TRAMMEL NET LOG

BOAT NUMBER _____ SKIPPER'S NAME _____ PERMIT NO. _____

FISH AND GAME RECEIPT NO.'S _____ _____ _____ _____

_____ _____ _____ _____

DATE MO/DAY	SET NO.	F & G BLOCK NO.	DEPTH OF WATER (FMS)	NET LENGTH (FMS)	MESH SIZE	BUOY LINE* DEPTH	HOURS NET SOAKED	DRIFT	SET	NUMBER CAUGHT (OTHER THAN ROCKFISH, KINGFISH, AND PERCH) (WHICH MAY BE REPORTED IN POUNDS OR NUMBERS) SPECIES	NO.	SPECIES	NO.	SPECIES	NO.

* FOR SHARK/SWORDFISH DRIFT GILL NET ONLY

CREW MEMBERS (FOR QUALIFICATION)

NAME _____ FISHING LICENSE NO. _____

_____ _____

_____ _____

NUMBER AND SPECIES OF FISH LOST TO ☐ MARINE MAMMALS ☐ SHARKS ☐ OTHER

DFG 174 (10/89)

86 40078

TRAWL TRIP LOG

Vessel Name _____

State Vessel Reg. No. _____

Crew Size (including Captain) _____

Gallons of Fuel Used _____

Departure: Date _____ (Month / Day / Year) Time _____ (local — 24-hour) Port 1 _____

Return: Date _____ (Month / Day / Year) Time _____ (local — 24-hour) Port 2 _____

№ 160751

Locality Fished _____ Buyer(s) _____

DATE mo/day	DURATION OF TOW hrs	DURATION OF TOW min		TIME local 24-hour clock	AREA LORAN OR LATITUDE Ch	AREA LORAN OR LATITUDE Microseconds	AREA LORAN OR LONGITUDE OR Ch.	AREA LORAN OR LONGITUDE OR Microsecconds	BLOCK NO.	DEPTH fathoms Bottom	DEPTH fathoms Net	NET TYPE	TARGET SPECIES	ESTIMATED POUNDS RETAINED EACH TOW: DOVER SOLE	SABLEFISH (Black Cod)	CHANNEL ROCKFISH	PACIFIC OCEAN PERCH	WIDOW ROCKFISH	OTHER ROCKFISH	LINGCOD	ENGLISH SOLE	PETRALE SOLE	WHITING	
			Set																					
			Up																					
			Set																					
			Up																					
			Set																					
			Up																					
			Set																					
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			Set																					
			Up																					
			Set																					
			Up																					
			Set																					
			Up																					
			Set																					
			Up																					

REMARKS:

TO BE COMPLETED BY AGENCY

VESSEL	FISH RECEIVING TICKET NO

PORT	
1	
2	

DFG 176 (10/89)

No. 45251

DAILY TRAP LOG

YEAR _____

MONTH _____

DAY _____

NAME OF SKIPPER _____ Permit No. _____

Boat Name _____ Boat F & G No. _____

Remarks _____

NO. TRAPS PULLED	TRAP LOCATIONS (NEAREST LANDMARKS)	F & G BLOCK NO.	DEPTH FEET/ FATHOMS	NO. HOURS/DAYS IN WATER	SPECIES	NUMBER POUNDS

Sold To _____ F & G Receipt No. _____

_____ _____

89 86849

DFG 180A (10/89)

No. 23301

DAILY SABLEFISH TRAP LOG

Port _____ (1 2 3) Skipper _____

Boat F&G No. _____ (4 5 6 7 8) Boat Name _____

Year _____ (9 10) Month _____ (11 12) Day _____ (13 14) Permit No. _____

		NO. TRAPS PULLED 15-17	TRAP LOCATIONS LORAN 18-22	F&G BLOCK NO. 23-25	DEPTH FATHOMS 26-29	DAYS FISHED 30-31	BLACKCOD POUNDS 32-36	REMARKS NO. OF TRAPS LOST, OTHER FISH, ETC.
AREAS FISHED (See Instructions)	1							
	2							
	3							
	4							
	5							

Sold to _____ F&G Receipt No. _____

DFG 180B (10/89)

70590-800 6-78 20M DUP ⓘ ◇ OSP

SKIPPER'S LOG BOOK
MARINE SPORTFISHING
SOUTHERN CALIFORNIA

No. 013601

Boat Name

Fish and Game No.

Town of Landing

BAIT	LIVE	DEAD
ANCHOVIES	☐	☐
SQUID	☐	☐

Skipper: Please make a separate log for each trip of the day.

Log must be completed prior to time passengers disembark.

FG 656
DFG 195 (10/89) 85 35594

	KIND OF FISH KEPT		NUMBER	AVERAGE WT.
SURFACE FISH	ALBACORE	005		
	BARRACUDA	130		
	BONITO	003		
	HALFMOON	478		
	KELP BASS (CALICO)	277		
	SAND BASS	278		
	MACKEREL (STRIPED GREENBACK)	051		
	YELLOWTAIL	040		
BOTTOM FISH	CABEZON	261		
	HALIBUT	222		
	OTHER FLATFISH	230		
	LINGCOD	195		
	ROCKFISH (COD)	250		
	SCULPIN	260		
	SHEEPHEAD	145		
	NAMES OF OTHER FISHES		NUMBER	AVERAGE WT.

Month *Day* *Year*

No. of Hours Fished
(Hours Lines in Water)

TOTAL | CUSTOMERS | OTHERS
= +

Number of Anglers

Block Number Where Most Fish Caught

OPERATOR'S INITIALS

California Department of Fish and Game

BAY SHRIMP LOG

Name of Vessel _____ F. & G. Boat No. _____ Fishing Date _____

Locality Fished _____ Port of Landing _____

Miles off what point or shore

Type of Net _____ Buyer _____

Type of net

Drag No.	F. & G. Block No.	Time Net Set	Time Net Lifted	Depth Fathoms	Pounds Caught	Fishing Notes
1						
2						
3						
4						
5						
6						
7						
8						
9						
10						
11						
	Pounds of Shrimp Caught					

[Signed] _____

Captain or Fishing Boss

FG 2025 (new 11/2005)

HISTORY

1. Amendment of Appendix A — "Daily Lobster Log" filed 9–10–96; operative 10–10–96 (Register 96, No. 37).

2. Repealer of form DFG 122 (within Appendix A) and new form DFG 122 (incorporated by reference) filed 7–13–2005; operative 7–13–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 28).

3. Amendment adding form FG 2025 to Appendix A filed 3–22–2006; operative 4–21–2006 (Register 2006, No. 12).
4. Editorial correction moving HISTORIES related to Appendix A from section 245 to following Appendix A and renumbering HISTORIES (Register 2006, No. 20).
5. New forms DFG 149a and DFG 149b filed 2–13–2007; operative 2–13–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 7).
6. Amendment of appendix adding forms FG 113 and FG 114 filed 8–22–2007; operative 9–21–2007 (Register 2007, No. 34).

Subdivision 2. Game and Furbearers

Chapter 1. General Provisions and Definitions

§ 250. General Prohibition Against Taking Resident Game Birds, Game Mammals and Furbearing Mammals.

Except as otherwise provided in this Title 14, and in the Fish and Game Code, resident game birds, game mammals and furbearing mammals may not be taken at any time.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 2000, 2001, 3000, 3500, 3950, and 4000, Fish and Game Code.

HISTORY

1. Sections 250, 251, and 801 repealer filed 6–9–59, effective 7–1–59; new Chapter 1 (Sections 250–258) filed 6–9–59; designated effective 7–1–59 (Register 59, No. 9). For history of former Sections 250, 251, and 801, see Register 58, No. 10.
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 250.5. Shooting Time.

In these orders whenever a specific clock time is mentioned, such time is meant to be legal California time for the date specified: i.e., during the days when California is on Pacific Daylight Saving Time, Pacific Daylight Saving Time is intended; when California is legally on Pacific Standard Time, Pacific Standard Time is intended. When reference is made to sunrise or sunset time, such reference is to the sunrise or sunset time at the location of the hunter.

NOTE: Authority cited: Sections 200, 202, 203, and 3000, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, and 211–222, Fish and Game Code.

HISTORY

1. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 250.6. Definition of Take.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 86 and 2000, Fish and Game Code.

HISTORY

1. New section filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
2. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 251. Prohibition on Pursuing or Shooting Birds and Mammals from Motor–Driven Air or Land Vehicles, Motorboats, Airboats, Sailboats or Snowmobiles.

(a) General Prohibition: No person shall pursue, drive, herd, or take any bird or mammal from any type of motor–driven air or land vehicles, motorboat, airboat, sailboat, or snowmobile. Additionally, no person shall use any motorized, hot–air, or unpowered aircraft or other device capable of flight or any earth orbiting imaging device to locate or assist in locating big game mammals beginning 48 hours before and continuing until 48 hours after any big game hunting season in the same area. No person shall use at any time or place, without Department approval, any computer, telemetry device or other equipment to locate a big game mammal to which a tracking device is attached. For purposes of this subsection "use" includes but is not limited to personal use or intent by another to obtain information from such personal use. Evidence of an act constituting a violation of this section includes but is not limited to flying slowly at low attitudes, hovering, circling or repeatedly flying over any area where big game may be found. Exceptions to this subsection are:

(1) When the motor of such motorboat, airboat, or sailboat has been shut off and/or the sails furled and its progress therefrom has ceased, and it is drifting, beached, moored, resting at anchor, or is being propelled by paddle, oar or pole.

(2) When used by the landowner or tenant of private property to drive or herd game mammals for the purpose of preventing damage to private property.

(3) Pursuant to a license from the department issued under such regulations as the commission may prescribe (see subsection 251(b) below).

(b) Mobility Disabled Persons Motor Vehicle License

(1) Applications: Applications for a Motor Vehicle Hunting License for mobility disabled persons shall be on a form supplied by the Department (Mobility Impaired Disabled Persons Motor Vehicle Hunting License Application, FG1460–10/95). The application shall include the applicant's name, address, physical description, a description of the qualifying disability, and a certified statement from a licensed physician describing the applicant's permanent disability. It shall be unlawful for any person to falsify an application for a Motor Vehicle Hunting License.

(2) Terms of the License: The Motor Vehicle Hunting License shall specify conditions under which said license shall be used and shall include but not be limited to the following provisions:

(A) The licensee shall be accompanied by an able bodied assistant who shall immediately retrieve, and tag if necessary, all game taken. (Possession of the licensee's tag, required in this subsection, shall not be considered an unlawful possession of a tag or license issued to another person).

(B) The assistant shall not possess a firearm, crossbow or archery equipment unless he/she is a licensed hunter and possesses any necessary license or tag for the area being hunted. The assistant shall not discharge a firearm or release a bolt or an arrow from the vehicle. If licensed, the assistant may dispatch wounded game which has moved out of range of the licensee.

(C) The vehicle must be stopped and the engine must be shut off prior to the licensee discharging firearm or releaseing a bolt from a crossbow or an arrow from archery equipment.

(D) The licensee shall notify the Department, at the regional office having responsibility for the area where the licensee intends to hunt, at least 48 hours prior to hunting or contact the department's 24–hour dispatcher at the number indicated on the license. The licensee shall specify the locality, vehicle description, and the approximate time frame during which such hunt shall take place.

(E) The licensee or assistant shall not pursue any animal or drive or herd animals to any other hunters with a motor vehicle.

(F) This license does not grant permission to trespass on private property or permission to use a motor vehicle while in any area where the use of motor vehicles is restricted or prohibited.

(G) This license does not grant permission to discharge a firearm in any place or manner that would otherwise be unlawful, or to possess a loaded firearm in violation of any other city, county or state law.

(H) The licensee shall have the license in possession while hunting from a motor vehicle.

(3) License Fee: A license fee of $25.00, as adjusted annually pursuant to Section 713 of the Fish and Game Code, shall be charged for processing and issuing the Mobility Impaired Disabled Person Motor Vehicle Hunting License. Licenses shall be issued only by the Director or his/her designee. Licenses shall be permanent and have no expiration date.

State of California

The Resources Agency

DEPARTMENT OF FISH AND GAME

1996 MOBILITY IMPAIRED DISABLED PERSONS MOTOR VEHICLE HUNTING LICENSE APPLICATION

License and Revenue Branch
3211 S Street
Sacramento, CA 95816
(916) 227–2225

FEE—$28.50

READ INSTRUCTIONS ON THE REVERSE SIDE BEFORE COMPLETING APPLICATION. TYPE OR PRINT CLEARLY.

SECTION 1. THIS SECTION MUST BE FILLED OUT BY APPLICANT.

NAME_____ DAY TELEPHONE ( )_____
FIRST M.I. LAST

ADDRESS_____ VALID CA HUNTING LICENSE NO._____

CITY/STATE/ZIP_____ DATE OF BIRTH ___/___/___ Ht. _____ Wt._____
MONTH DAY YEAR

Hair_____ Eyes____

DRIVER'S LICENSE OR DMV I.D. NUMBER_____ SEX ☐ M ☐ F

PLEASE INDICATE TYPE OF DISABILITY:

- ☐ FULLY CONFINED TO A WHEELCHAIR
- ☐ SINGLE OR DOUBLE AMPUTEE ABOVE THE KNEE, OR DOUBLE AMPUTEE BELOW THE KNEE
- ☐ MUST DEPEND UPON THE AID OF A WALKER, CRUTCHES, ETC., TO WALK

"No person shall pursue, drive, herd, or take any bird or mammal from any type of motor-driven air or land vehicles, motorboat, airboat, sailboat, or snowmobile, except: (c) Pursuant to a permit from the department issued under such regulations as the commission may prescribe." The Department will consider requests to hunt from a motor vehicle based upon the information on this application form.

The permittee, if approved, will be issued a permit which will specify the conditions under which the permittee will be allowed to hunt from a vehicle. The permittee will be required to adhere to the following minimum requirements: (1) The permittee shall be accompanied by an abulatory assistant who shall immediately retrieve, and tag if necessary, all game taken; (2) The assistant shall not possess a weapon unless he/she is a licensed hunter in possession of the appropriate tags for the game being taken; (3) The vehicle must be stopped and the engine must be shut off prior to discharging the weapon; (4) The permittee shall have the permit in possession while in the field and present it upon request to any peace officer.

In the event a license is granted, I hereby agree to abide by all conditions of said license and all laws and regulations of the Fish and Game Code of California and Title 14, California Code of Regulations. I am eligible for indicated license and I am not under revocation or suspension, nor is there a case pending that would restrict me from obtaining a license. I have not made more than one application for a Motor Vehicle Hunting Permit. My signature below is written consent to use this information for the purpose of verifying disability.

I hereby certify that all information contained on this application and/or submitted, meet the requirements for issuance of subject license is correct and true. I understand that, in the event that this information is found to be incorrect or untrue, the license issued will be considered invalid and must be surrendered where purchased and that I will be subject to criminal prosecution. This license or permit may be suspended or revoked by the Fish and Game Commission if you are convicted of, or plead guilty or nolo contendre to, a Fish and Game violation.

APPLICANT'S SIGNATURE_____ DATE_____

SECTION 2. THIS SECTION MUST BE FILLED OUT BY A LICENSED PHYSICIAN

To qualify for this permit, the applicant must be certified by licensed physician as having a permanent physical disability and is nonambulatory or mobility is substantially impaired. "Nonambulatory" means permanently physically reliant on a wheelchair or similar remedial appliance or device for mobility. "Substantially Impaired Mobility" means virtual inability to move on foot due to permanent physical reliance on crutches, canes, prosthetic appliances or similar remedial appliance or device. The qualifying disability must be clearly explained by the physician.

Qualifying Disability: _____

I hereby certify that the information provided above is true and correct to the best of my ability. I also certify that the above described disability is permanent and fully complies with the above described conditions.

_____ _____
Physician's Signature Physician's License Number

_____
Physician's Name and Address (Please Print)

FOR DEPARTMENT OF FISH AND GAME USE ONLY

Permit No.:_____ Issued By:_____ Date_____

FG 1460(10/95)

NOTE: Authority cited: Sections 200, 202, 203, 355, 3003.5, 3800, and 4150, Fish and Game Code. Reference: Sections 200, 202, 203, 355, 356, 711, 3003.5, 3800, and 4150, Fish and Game Code.

HISTORY

1. Amendment filed 6–15–60; designated effective 7–1–60 (Register 60, No. 14). See history note to Sec. 250.
2. Amendment filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
3. Amendment filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
4. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
5. Amendment of subsection (c) filed 6–22–84 as an emergency; designated effective 7–1–84 (Register 84, No. 28). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–29–84.
6. Certificate of Compliance including amendment of NOTE transmitted to OAL 10–22–84 and filed 11–26–84 (Register 84, No. 48).
7. Amendment of subsection (a) and new subsection (b) filed 1–2–91; operative 2–1–91 (Register 91, No. 6).
8. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
9. Amendment of subsections (b)(1), (b)(2)(A)–(C), (b)(3) and form filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
10. Amendment of subsection (a) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 251.1. Harassment of Animals.

Except as otherwise authorized in these regulations or in the Fish and Game Code, no person shall harass, herd or drive any game or nongame bird or mammal or furbearing mammal. For the purposes of this section, harass is defined as an intentional act which disrupts an animal's normal behavior patterns, which includes, but is not limited to, breeding, feeding or sheltering. This section does not apply to a landowner or tenant who drives or herds birds or mammals for the purpose of preventing damage to private or public property, including aquaculture and agriculture crops.

NOTE: Authority cited: Sections 200, 202, 203, 355, 3800 and 4150, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 215, 220, 2000, 3800 and 4150, Fish and Game Code.

HISTORY

1. New section filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
2. Amendment filed 5–28–71; designated effective 7–1–71 (Register 71, No. 22).
3. Repealer filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
4. New section filed 11–14–90; operative 11–14–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 50).

§ 251.2. Permits to Pursue, Drive, Herd, or Take Birds and Mammals.

Permits to pursue, drive, herd, or take birds and mammals with or from motorized water, land, or air vehicles may be issued by the department under and subject to the following conditions:

(a) To Whom Issued. Permits may be issued to landowners, tenants, or lessees suffering damage, actual or immediately threatened, to land or property by birds or mammals. Permits may not be issued to any person less than 18 years of age. The privilege granted in a permit entitles only the permittee, members of his family, his employees or contractors to pursue, drive, herd, or take birds and mammals in accordance with the provisions of the permit. No permittee shall allow any person under 16 years of age to take, pursue, drive, or herd birds or mammals under a permit. No permit may be transferred to another person.

(b) Exemption from Permit. Federal or state animal control agencies and their employees or contractors, including other public employees supervised by such agencies, engaged in pursuing, driving, herding or taking birds or mammals in the performance of their regular duties are not required to obtain a permit pursuant to this section. This exemption shall not be effective unless the agencies or their employees or contractors are performing their required duties in accordance with applicable Federal regulations. Agencies taking depredating animals on or over private lands shall do so only through a written landowner agreement. Such agreement shall become valid only upon approval of the department. Federal or state animal control agencies engaged in the foregoing activities shall submit a report to the headquarters office of the Department of Fish and Game each calendar quarter showing the number and species of birds or mammals taken or herded; area where the activity occurred, and such other information the department may require.

(c) Application Requirements. An applicant for a permit shall submit a written request to the department showing his name, address, location and size of the land where damage is occurring, and the names of all individuals and/or State or Federal agencies other than the applicant who may be employed or authorized by the applicant to pursue, drive, herd, or take the birds or mammals which are causing damage, actual or immediately threatened, to land or property; a description of the property, including livestock or other domestic animals being damaged; the species of birds or mammals causing damage; the proposed method of pursuing, driving, herding, or taking the offending animals; the period of time a permit is needed to alleviate damage; and such other information the department may require.

(d) Investigation of Damage. Upon receiving a request for a permit, the department shall investigate the applicant's claim of damage and shall be satisfied that damage has occurred or is immediately threatened before issuing a permit. The department may deny a request for a permit, and the applicant may appeal such decision before the commission.

(e) Permit Limitations. A permit issued pursuant to these regulations shall not authorize the permittee to kill any game bird or game mammal. A permit shall be valid on public lands only if the permittee has permission from the agency controlling the lands to exercise the privileges of the permit on such lands, or if the permittee, by obtaining a permit under these regulations, has fulfilled applicable requirements set forth in Federal laws and regulations.

The department may impose any additional limitation or requirement in a permit as needed to prevent unnecessary harm to any species of wildlife or for public safety reasons.

(f) Reports. The permittee shall submit a report within 15 days following expiration of the permit showing the number of birds or mammals taken under the permit, except that any permittee authorized to use any type of aircraft under such permit shall submit a report to the department each calendar quarter showing the number and species of animals taken.

NOTE: Authority cited: Section 3003.5, Fish and Game Code. Reference: Section 3003.5, Fish and Game Code.

HISTORY

1. New section filed 7–6–72; effective thirtieth day thereafter (Register 72, No. 28).
2. Amendment filed 1–16–74; effective thirtieth day thereafter (Register 74, No. 3).
3. Amendment of subsections (a) and (b) filed 12–9–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 50).
4. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 251.3. Prohibition Against Feeding Big Game Mammals.

No person shall knowingly feed big game mammals, as defined in Section 350 of these regulations.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
2. Amendment filed 1–8–2008; operative 2–7–2008 (Register 2008, No. 2).

§ 251.4. Mountain Lion Tagging.

(a) Permits and Tagging Requirements.

Pursuant to Section 4800 of the Fish and Game Code, no person may sell or possess any mountain lion, part or product thereof, unless he/she is in possession of an authorizing permit issued by the department and said mountain lion, part or product thereof, has been tagged by the department. Permits and numbered tags shall be issued from the Wildlife Protection Division, 1416 Ninth Street, Box 944209, Sacramento, Ca 94244–2090 (Telephone No. 916 653–4094) only to persons who can demonstrate that the mountain lion, part or product thereof, was in their possession on or before June 6, 1990.

(b) Prohibition of Removal of Tag.

No person shall remove the tag applied to a lion, part or product thereof, pursuant to this section.

(c) Permit Fee: $5.00.

NOTE: Authority cited: Sections 200 and 3080, Fish and Game Code. Reference: Sections 200 and 4800, Fish and Game Code.

HISTORY

1. New section filed 7–6–72; effective thirtieth day thereafter (Register 72, No. 28).
2. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. New section filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).

§ 251.5. Game Birds, Game Mammals, Furbearers and Nongame Animals, Possession Of.

(a) Migratory game birds may not be held beyond the period provided by the federal regulations and in accordance with the daily bag and possession limits prescribed by these regulations. (See section 500.)

(b) Live mountain lions may be possessed only under terms of a permit issued by the Department pursuant to section 2150 of the Fish and Game Code or if the owner can demonstrate that the mountain lion was in his/her possession on or before June 6, 1990 under a permit issued pursuant to section 3200 of said code.

(c) Every game bird, game mammal, furbearer or nongame animal taken under the authority of a hunting or trapping license and reduced to possession by the hunter or trapper shall be immediately killed and become a part of the daily bag limit.

NOTE: Authority cited: Sections 200, 202, 203, 220, 3005.5, 3800 and 4150, Fish and Game Code. Reference: Sections 200–203.1, 207, 220, 2000, 2001, 3005.5, 3800, 4150 and 4800, Fish and Game Code.

HISTORY

1. Amendment filed 12–11–70; effective thirtieth day thereafter (Register 70, No. 50). For prior history, see Register 70, No. 23.
2. Relettering of subsection (e) to (f) and new subsection (e) filed 6–1–73; designated effective 7–1–73 (Register 73, No. 22).
3. Amendment of subsection (e) filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
4. Amendment of subsection (a) filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
5. Editorial correction of subsection (b) filed 8–26–82 (Register 82, No. 35).
6. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
7. Amendment of subsection (d) filed 7–31–91; operative 8–30–91 (Register 91, No. 48).
8. Amendment of subsection (e) and NOTE filed 1–27–94; operative 1–27–94 pursuant to Fish and Game Code sections 202 and 215 (Register 94, No. 4).
9. Repealer of subsections (f)–(f)(11) filed 8–8–94; operative 9–7–94 (Register 94, No. 32).
10. Repealer of subsections (a) and (b), subsection relettering and amendment of NOTE filed 9–1–2000; operative 9–1–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 35).

§ 251.6. Tagging of Live Domesticated Big Game Mammals.

(a) Domesticated game breeders or other persons holding domesticated big game mammals including nonnative hoofed big game mammals in captivity shall within 30 days after such mammals are acquired, or born, mark each animal with a seal, ear tag or other marking device supplied by the Department of Fish and Game. Alternate methods of marking big game mammals may be used upon approval by the department.

(b) The requirements of this section shall not apply to public zoological gardens, game breeders holding animals on any island in the Santa Barbara Channel area, and to those animals presently in captivity in such cases where the department determines that the capturing and marking or tagging would create a substantial risk to human safety or to the health and safety of the animals.

(c) The seals shall be numerically identified and issued at a cost of 25 cents (25¢) per seal. The seals shall be issued only from the Sacramento office of the Department of Fish and Game.

NOTE: Authority cited: Sections 1002, 3080, 3081, 3214, and 3217, Fish and Game Code. Reference: Sections 1002, 3080, 3081, 3200–3219, and 3950, Fish and Game Code.

HISTORY

1. New section filed 3–17–71; effective thirtieth day thereafter (Register 71, No. 12).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 251.7. Possession, Transportation and Importation of Game Birds.

(a) No person may possess any birds taken in this state in excess of the daily bag and possession limits. The exception to this is for the purpose of transportation, cleaning, storage (including temporary storage), shipment, or taxidermy services, where an individual may possess game birds taken by another hunter provided that they are tagged by the hunter who has lawfully taken them. The tag must contain the hunter's name, address, hunting license number, kinds and numbers of game birds taken, date and location of kill, and signature.

(b) All birds, including migratory game birds, possessed or transported within California must have a fully feathered wing or head attached until placed into a personal abode or commercial preservation facility or being prepared for immediate consumption. Doves must have a fully feathered wing attached.

(c) Migratory game birds imported into California shall be accompanied by a declaration of entry as prescribed in Section 2353 of the Fish and Game Code.

(d) Only one possession limit of migratory game birds may be possessed per individual after the close of the season for that species.

NOTE: Authority cited: Sections 202 and 355, Fish and Game Code. Reference: Sections 202, 355 and 356, Fish and Game Code.

HISTORY

1. New section filed 10–12–95; operative 10–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 41).
2. Change without regulatory effect amending subsection (d) filed 10–31–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 44).
3. Amendment of subsections (a) and (b) filed 8–29–2007; operative 9–1–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 35).

§ 251.8. Transportation of Game Birds and Game Mammals off Indian Reservations.

(a) Pursuant to the provisions of sections 3080 and 3081(b) of the Fish and Game Code, game birds and game mammals taken by California Indians on reservations under those circumstances wherein the taking of such animals is excepted from the application of the California Fish and Game Code in accordance with the provisions of section 12300 of the Fish and Game Code may be transported off the reservation and possessed within this state subject to the following conditions:

(1) A permit, in such form as shall be prescribed by the Department of Fish and Game, to transport the carcass of a game bird or mammal or parts thereof off a particular California Indian reservation shall first be obtained from tribal members designated by the tribal council of the reservation. Copies of the permit shall be maintained and distributed by the designated tribal members in accordance with instructions issued by the Department of Fish and Game.

(2) The carcass of each game bird or mammal or parts thereof shall be suitably stamped and/or tagged in such manner as shall be designated by the Department of Fish and Game prior to the transportation off the reservation.

(3) The permit, stamps and/or tags, as prescribed by the Department of Fish and Game, shall be furnished to each tribal reservation without charge. No fee shall be charged for the issuance of the permit or the stamping and/or tagging of the carcass.

(4) The permittee shall retain such permit in his possession and shall maintain the stamp and/or tags on the carcass or parts thereof at all times while transporting or possessing the carcass or parts thereof off his reservation.

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(b) Game birds and game mammals taken on Indian reservations in accordance with applicable provisions of the Fish and Game Code and part 2, division 1, title 14, of the California Code of Regulations, which apply to the remainder of the state may be transported and possessed on such reservations without a permit being issued or the carcasses being stamped or tagged as provided in this section.

NOTE: Authority cited: Sections 200, 202, 203, 3080, 3081, and 12300, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3080, 3081, and 12300, Fish and Game Code.

HISTORY

1. New section filed 7–3–70; effective thirtieth day thereafter (Register 70, No. 27).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Editorial correction of printing error in subsection (b) (Register 91, No. 31).

§ 251.9. Computer Assisted Remote Hunting.

(a) It is unlawful to take or assist in the taking of any bird or mammal in or from this state, by computer–assisted remote hunting.

(b) It is unlawful to establish or operate a computer–assisted remote hunting site for the purpose of taking any bird or mammal from or within this state.

(c) For the purposes of this section, "computer–assisted remote hunting" means the use of a computer or any other remotely controlled device, equipment, software, or technology, to remotely control the aiming or discharge of any weapon, including, but not limited to, any firearm, bow and arrow, spear, harpoon or any other weapon capable of killing or injuring any bird or mammal, for the purposes of taking any bird or mammal.

(d) For the purposes of this section, "computer–assisted remote hunting site" means any computer, internet site or web–based device or system, or other electronically operated site or system used to assist in the remote taking of any bird or mammal.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202 and 203, Fish and Game Code.

HISTORY

1. New section filed 11–1–2005; operative 12–1–2005 (Register 2005, No. 44).

§ 252. Bag and Possession Limit Defined.

"Bag and possession limit" means the daily bag limit of each kind of resident and migratory game birds, game mammals and furbearing mammals which may be taken and possessed by any one person unless otherwise authorized.

NOTE: Authority cited: Sections 200, 202, 203, 2001, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 2001, 3800, and 4150, Fish and Game Code.

HISTORY

1. Amendment filed 6–1–73; designated effective 7–1–73 (Register 73, No. 22).
2. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 253. Big Game Defined. [Repealed]

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 2001, 3800, and 4150, Fish and Game Code.

HISTORY

1. Amendments filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
2. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 255. Code Definitions Reaffirmed.

Words defined by sections 8, 9, 10, 11, 18, 22, 29, and 30 through 88 inclusive of the Fish and Game Code have had and shall have the same meaning, definition and scope whenever used in division 1 of title 14, California Code of Regulations, it being the intent of the Fish and Game Commission in adopting the orders, rules, and regulations set forth in said division that the provisions of said sections were and are applicable.

NOTE: Authority cited: Sections 200, 202, 203, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3800, and 4150, Fish and Game Code.

HISTORY

1. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Editorial correction of printing error (Register 91, No. 31).

§ 256. Forked Horn and Three Point Bucks Defined.

NOTE: Authority and reference cited: Sections 200–221, inclusive, Fish and Game Code.

HISTORY

1. Amendment filed 6–13–68; designated effective 7–1–68 (Register 68, No. 22).
2. New subsections (c) and (d) filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Renumbering and amendment of Section 256 to Section 351 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 257. Resident Small Game Defined.

"Resident small game" means the following resident game birds: Chinese spotted doves, Eurasian collared–doves, ringed turtle–doves of the family Columbidae, California quail and varieties thereof, Gambel's or desert quail, mountain quail and varieties thereof, blue grouse and varieties thereof, ruffed grouse, sage grouse (sage hens), white–tailed ptarmigan, Hungarian partridges, red–legged partridges, including the chukar and other varieties, ring–necked pheasants and varieties, and wild turkeys of the order Galliformes; and the following game mammals: jackrabbits and varying hares (genus *Lepus*), cottontail rabbits, brush rabbits, pigmy rabbits (genus *Sylvilagus*), and tree squirrels (genus *Sciurus* and *Tamiasciurus*).

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 207, 3800 and 3950, Fish and Game Code.

HISTORY

1. Amendment filed 6–23–66; designated effective 7–2–66 (Register 66, No. 19).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Amendment filed 9–27–84; effective tenth day thereafter (Register 85, No. 39).
4. Amendment of section filed 9–16–91; operative 9–16–91 pursuant to Fish and Game Code section 215 (Register 91, No. 52).
5. Amendment of section and NOTE filed 8–29–2007; operative 9–1–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 35).

§ 257.5. Prohibition Against Taking Resident Game Birds and Mammals by the Aid of Bait.

Except as otherwise provided in these regulations or in the Fish and Game Code, resident game birds and mammals may not be taken within 400 yards of any baited area.

(a) Definition of Baited Area. As used in this regulation, "baited area" shall mean any area where shelled, shucked or unshucked corn, wheat or other grains, salt, or other feed whatsoever capable of luring, attracting, or enticing such birds or mammals is directly or indirectly placed, exposed, deposited, distributed, or scattered, and such area shall remain a baited area for ten days following complete removal of all such corn, wheat or other grains, salt, or other feed.

(b) Exceptions:

(1) The taking of domestically reared and released game birds on licensed pheasant clubs and other licensed game bird clubs;

(2) The taking of resident game birds and mammals on or over standing crops, flooded standing crops (including aquatics), flooded harvested croplands, grain crops properly shocked on the field where grown, or grains found scattered solely as the result of normal agricultural planting or harvesting;

(3) The taking of resident game birds and mammals on or over any lands where shelled, shucked or unshucked corn, wheat or other grain, salt, or other feed have been distributed or scattered as the result of bona fide agricultural operations or procedures, or as a result of manipulation of a crop or other feed on the land where grown for wildlife management purposes: provided that manipulation for wildlife management purposes does not include the distributing or scattering of grain or other feed once it has been removed from or stored on the field where grown.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3800 and 3950, Fish and Game Code.

HISTORY

1. New section filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Amendment of first paragraph filed 7–1–86; effective upon filing (Register 86, No. 27).

§ 258. Season Defined.

"Season" means that period of time during which resident and migratory game birds, game mammals and fur–bearing mammals may be taken. All dates are inclusive.

NOTE: Authority cited: Sections 200, 202, 203, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 11, 29, 62, 200–203.1, 206, 207, 211–222, 355, 3800, and 4150, Fish and Game Code.

HISTORY

1. Amendment filed 6–23–66; designated effective 7–2–66 (Register 66, No. 19).
2. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 260. Prohibition Against Taking Other Than Migratory Game Birds and Quail in Picacho State Recreation Area.

Notwithstanding any other provisions of these regulations, in Picacho State Recreation Area only migratory game birds and quail may be taken or possessed as prescribed in Sections 301, 500, 501 and 502 of these regulations.

NOTE: Authority cited: Sections 200, 202, 203, 308, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800, and 4150, Fish and Game Code.

HISTORY

1. New section filed 7–31–68 as an emergency; effective upon filing (Register 68, No. 29).
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 10–8–68 (Register 68, No. 38).
3. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 260.1. Prohibition Against Hunting Other Than During September–January on Providence Mountains State Recreation Area.

Notwithstanding any other provisions of these regulations, in Providence Mountains State Recreation Area hunting is permitted only during the period September 1 to January 31.

NOTE: Authority cited: Sections 200, 202, 203, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800, and 4150, Fish and Game Code.

HISTORY

1. New section filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 260.2. Hunting Restrictions on Lake Oroville State Recreation Area.

Game species may be taken on the Lake Oroville State Recreation Area only as follows:

(a) No hunting of any type is permitted between February 1 and September 14 except for wild turkeys only, during the spring turkey hunting season as provided in Section 306 of these regulations.

(b) No waterfowl or deer hunting is permitted at any time.

(c) Game species may be taken only during their respective open seasons or portions thereof falling within the period September 15 through January 31; and as provided in (a) above; and as otherwise provided by state Parks and Recreation area regulations (see area regulations).

NOTE: Authority cited: Sections 200, 202, 203, 308, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800 and 4150, Fish and Game Code.

HISTORY

1. New section filed 8–28–74; effective thirtieth day thereafter (Register 74, No. 35).
2. Amendment of subsection (c) filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
3. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
5. Amendment of subsection (a) filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).

§ 260.3. Prohibition Against Taking Other Than Migratory Game Birds on San Luis Reservoir State Recreation Area.

Notwithstanding any other provision of these regulations, in San Luis Reservoir State Recreation Area, only migratory waterfowl may be taken or possessed as prescribed in Section 502 of these regulations.

NOTE: Authority cited: Sections 200, 202, 203, 308, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800, and 4150, Fish and Game Code.

HISTORY

1. New section filed 8–28–74; effective thirtieth day thereafter (Register 74, No. 35).
2. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 260.4. Prohibition Against Taking Other Than Waterfowl and Resident Small Game on Perris Reservoir State Recreation Area.

Notwithstanding any other provision of these regulations, in Perris Reservoir State Recreation Area only waterfowl and resident small game may be taken or possessed as prescribed in Section 551 of these regulations.

NOTE: Authority cited: Sections 200, 202, 203, 308, 355, 3800, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800, and 4150, Fish and Game Code.

HISTORY

1. New section filed 8–28–74; effective thirtieth day thereafter (Register 74, No. 35).
2. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Editorial correction (Register 79, No. 31).
4. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 260.5. Prohibition Against Taking Other Than Waterfowl, American Coots, Common Moorhens and Common Snipe Within Harry A. Merlo State Recreation Area.

Notwithstanding any other provision of these regulations, in Harry A. Merlo State Recreation Area, only waterfowl, American coots, common moorhens and common snipe may be taken or possessed as prescribed in Section 502 of these regulations.

NOTE: Authority cited: Sections 200, 202, 203, 355, 3800 and 4150, Fish and Game Code. Reference: Sections 200, 203.1, 355, 356, 3800 and 4150, Fish and Game Code.

HISTORY

1. New section filed 10–7–83; effective upon filing (Register 83, No. 41).
2. Amendment filed 10–11–85; effective upon filing (Register 85, No. 44).

§ 262. Prohibition Against Hunting on Portions of Frank's Tract State Recreation Area.

That portion of Frank's Tract State Recreation Area lying southwest of the following line is closed to hunting: Beginning at a point on Little Frank's Tract 2,000 feet north of the Piper Slough; southeast 2,000 feet east of the Piper Slough levee to the junction of the Holland Island levee.

NOTE: Authority cited: Sections 200, 202, 203, 308, 355, 3800 and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 355, 356, 3800 and 4150, Fish and Game Code.

HISTORY

1. New section filed 10–14–82; effective upon filing (Register 82, No. 42).

§ 263. Prohibition Against Night Hunting.

Notwithstanding any other provisions of these regulations, hunting wildlife from one–half hour after sunset to one–half hour before sunrise is prohibited in Monterey and San Benito counties east of Highway 101.

NOTE: Authority cited: Section 3000, Fish and Game Code. Reference: Section 3000, Fish and Game Code.

HISTORY

1. New section filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).
2. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
3. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 264. Use of Lights While Hunting—Specific Areas.

(a) Lights of any size or voltage may be used to take furbearing or nongame mammals only in the areas described in subsections (b) and (c) below, and only under the following conditions:

(1) The use of lights for night hunting is prohibited in any area where the general deer season is open.

(2) Furbearing mammals and nongame mammals may be taken with the aid of a spotlight or other artificial light operated from a vehicle provided such vehicle is stopped and standing with the motor off. No spotlight may be used from a vehicle which is on a public road or highway.

(b) Zone 1. (Portions of Butte, Colusa, Glenn, Placer, Sacramento, Sutter, Tehama, Yolo and Yuba counties.)

Area: Within the boundary beginning at the junction of Interstate 880 and Interstate 5 near Sacramento; east on Interstate 880 to its junction with Interstate 80; north and east on Interstate 80 to its junction with Highway 65 near Roseville, along Highway 65 to its junction with Highway 20 at Marysville; west on Highway 20 to its junction with Highway 45; north on Highway 45 to its junction with Highway 162; east on Highway 162 to its junction with Highway 99; north on Highway 99 to South Avenue near the town of Corning; west on South Avenue to Interstate 5 in Corning; north on Interstate 5 to Corning Road; west on Corning Road to Paskenta Road; west on the Paskenta Road to the town of Paskenta; southwest on the Round Valley Road to the Garland Road; south on the Garland Road to the town of Newville; south on the Newville–Elk Creek Road to the town of Elk Creek; south on the Elk Creek–Stonyford Road to the town of Stonyford; south on the Stonyford–Leesville Road to the town of Ladoga; south on the Stonyford–Leesville Road to the town of Leesville; south from Leesville on the Bear Valley Road to its intersection with Highway 20; east on Highway 20 to its intersection with Highway 16; south and east on Highway 16 to its intersection with Interstate 5; east on Interstate 5 to Interstate 880 and the point of beginning.

(c) Zone 2. (Portions of Inyo, Kern, Los Angeles, Mono and San Bernardino counties and all of Imperial, Orange, Riverside and San Diego counties.)

Area: Inyo, Mono and Kern counties south and east of a line beginning at the junction of Highway 182 and the California–Nevada state line; south on Highway 182 to its junction with Highway 395; south on Highway 395 to its intersection with Highway 168 at Bishop; west on Highway 168 to its intersection with the Inyo National Forest boundary; south on the Inyo National Forest boundary to its junction with County Highway J41; south and east on County Highway J41 to its junction with Highway 395; south on Highway 395 to its junction with Highway 14 near Inyokern; south on Highway 14 to its junction with Highway 178 at Freeman; west on Highway 178 to its junction with the Bodfish–Caliente Road at Isabella; south on the Bodfish–Caliente Road to its junction with Highway 58; east on Highway 58 to its junction with the Los Angeles Aqueduct; south and west on the Los Angeles Aqueduct Road to its junction with 265th Street West near Neenach; south on 265th Street West to its junction with the Elizabeth Lake–Pine Canyon Road at Three Points; east along the Elizabeth Lake–Pine Canyon Road to its junction with Highway 14 at Palmdale; south on Highway 14 to its intersection with the Angeles Forest Highway; south on the Angeles Forest Highway to the Mill Creek Summit Road; east and south on the Mill Creek Summit Road to its intersection with the Angeles Crest Highway (Highway 2) at Upper Chilao Campground; east on the Angeles Crest Highway to its intersection with the Los Angeles–San Bernardino county line; north on the Los Angeles–Kern–San Bernardino county line to its intersection with Highway 58; east on Highway 58 to its intersection with the range line between R3W and R4W; south along the range line between R3W and R4W to the southeast corner of T8N, R4W; east along T8N to its intersection with the west boundary of the U.S. Marine Corps Training Center; south and east on that boundary to its intersection with Giant Rock Road; east along Giant Rock Road to a point where it turns southeast and corresponding with a projected north extension of Sunfair Road; south on Sunfair Road and its projected extension to the San Bernardino–Riverside county line; and all of Imperial, Orange, Riverside and San Diego counties.

NOTE: Authority cited: Section 2005, Fish and Game Code. Reference: Section 2005, Fish and Game Code.

HISTORY

1. New section filed 1–18–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 3).
2. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
3. Repealer and new section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
4. Amendment of subsections (a)(2) and (c) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85.
5. Notice of Erroneous filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 by OAL (Register 85, No. 27).
6. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).

§ 264.5. Use of Lights While Hunting—Remainder of State.

Lights may be used, in those portions of the state not listed in Section 264, to take furbearers and nongame mammals under the following conditions only:

(a) Only 9 volt lights or smaller, hand–held or worn on the head are permitted.

(b) Persons using such lights must be on foot.

(c) Lights may not be used in or from a vehicle and may not be attached or powered from any source other than self–contained batteries.

(d) A landowner or tenant suffering damage to livestock or other property by furbearing mammals or nongame mammals may designate, in writing, persons allowed by such landowner or tenant to use artificial lights in excess of 9 volts to assist in taking the depredating mammals. The landowner or tenants shall notify the closest fish and game office whenever furbearing or nongame mammals are taken under this authority.

No furbearing or nongame mammals including any threatened, endangered or fully protected species may be taken contrary to any other prohibition set forth in these regulations.

NOTE: Authority cited: Section 2005, Fish and Game Code. Reference: Section 2005, Fish and Game Code.

HISTORY

1. New section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Amendment of subsections (b) and (d) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85.
3. Notice of erroneous filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 by OAL (Register 85, No. 27).
4. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).

§ 265. Use of Dogs for Pursuit/Take of Mammals or for Dog Training.

(a) Prohibitions on the Use of dogs. The use of dogs for the pursuit/take of mammals or for dog training is prohibited as follows:

(1) The use of dogs is prohibited during the archery seasons for deer or bear.

(2) The use of dogs is prohibited for the take of elk, bighorn sheep and antelope.

(3) Mountain lions may not be pursued with dogs except under the provisions of a depredation permit issued pursuant to Section 4803 of the Fish and Game Code. Dog training on mountain lions is prohibited.

(4) The use of dogs for the pursuit/take of mammals or for dog training is prohibited from the first Saturday in April through the day preceding the opening of the general deer season in the following dog control zones:

(A) Central California Dog Control Zone: Napa County north of Highway 128 and east of Highway 29; Lake County east of a line beginning at the Lake–Napa county line and Highway 29; northwest on Highway 29 to Highway 20; northwest on Highway 20 to the Lake–Mendocino county line; Mendocino County east of Highway 101, and north of Highway 20; Sierra and Alpine counties, and those portions of Nevada, Placer,

Amador and Calaveras counties east of Highway 49; and El Dorado County east of the following line: Beginning at the junction of Highway 49 and the Placer–El Dorado county line; south on Highway 49 to Highway 193 at Cool; east and south along Highway 193 to Highway 49 in Placerville; south on Highway 49 to the Amador–El Dorado county line.

(B) Northern California Dog Control Zone: Plumas and Trinity counties; Butte County east of the following line: Beginning at the junction of Highway 99 and the Butte–Tehama county line; south and east along Highway 99 to Highway 149; south and east along Highway 149 to Highway 70; south along Highway 70 to the Butte–Yuba county line; Del Norte County east of Highway 101; Glenn County west of a line beginning at the intersection of the Stonyford–Ladoga Road and the Glenn–Tehama county line; south along this road to the Colusa–Glenn county line; Humboldt County north and east of Highway 36 and 101; Siskiyou County south and west of the following line; from the Oregon–California state line south on Interstate 5 to Highway 97 at the town of Weed; north on Highway 97 to the town of Macdoel; south from Macdoel on the Mt. Hebron Road to the Redrock Road; east on the Redrock Road to the Davis Road; north on David Road to the Gold Digger Pass Road; east on the Gold Digger Pass Road to the western boundary of the Lava Beds National Monument; north and east on said boundary to the Siskiyou–Modoc county line; Shasta County south and west of Highways 89 and 44 and north of the following line; where the Trinity National Forest boundary intersects the Shasta–Tehama county line; north on said boundary to Highway 36 near the town of Platina; east on Highway 36 to County Road A16; north on Road A16 to the city of Redding; north on Interstate 5 to the south shore of Shasta Lake; east and north along the shore of Shasta Lake to Fender's Ferry Road; southeast on Fender's Ferry Road to Highway 299; southwest on Highway 299 to Oakrun; southwest on the Oakrun Road to Fern Road; east and south on Fern Road to the town of Whitmore; south on Ponderosa Way to Highway 44 near Innwood; east on Highway 44 and the Wilson Hill Road to the Shasta–Tehama county line; those portions of Tehama County within the Mendocino and Trinity National Forests and east of the Ponderosa Truck Trail; those portions of Lassen County north and west of the following line: north from the Lassen–Sierra county line on Highway 395 to Highway 36 east of Susanville; northwest on Highway 36 to Highway 139; north on Highway 139 to the Lassen–Modoc county line.

(C) Southern Sierra Dog Control Zone: Those portions of Tuolumne, Mariposa, Madera, Fresno and Tulare counties east of the following line: Beginning at the intersection of Highway 49 and the Calaveras–Tuolumne county line; south on Highway 49 to Highway 120; east on Highway 120 to the Smith Station Road (J20); south on the Smith Station Road (J20) to the Greeley Hill Road; east on the Greeley Hill Road to the North Fork of the Merced River at Bower Cave; south on the North Fork of the Merced River to Road 3S15 (Black Mountain Road); east on Road 3S15 to Forest Service Road 3S02; southwest on Forest Service Road 3S02 crossing the U.S. Forest Service–Bureau of Land Management property boundary in Section 28 located in Township 3S, Range 18E to Forest Service Road 2S05 (Bull Creek Road); south on Forest Service Road 2S05 (Bull Creek Road) to the Main Fork of the Merced River; west on the Main Fork of the Merced River to Highway 49; south on Highway 49 to Highway 140 at Mariposa; north on Highway 140 to the South Fork of the Merced River; east along the South Fork of the Merced River to Hite Cove and south on the U.S. Forest Service Road and its continuation from Hite Cove, through Jerseydale Station and Darrah to the Triangle Road; south along the Triangle Road to Highway 49; south along Highway 49 to Highway 41 at Oakhurst; north along Highway 41 to its intersection with the Bass Lake Road at Yosemite Forks; south along Bass Lake Road and Road 274 past Bass Lake on the east side of the lake to the junction with the Mammoth Pool Road at North Fork; south along the North Fork–Auberry Road to the San Joaquin River; east along the San Joaquin River to Italian Bar Road at the Italian Bar Bridge; south on Italian Bar Road to Jose Basin Road (County Road M2441; east on Jose Basin Road (County Road M2441) to its intersection with Forestry Service Roads 8S08 (Railroad Grade Road) and 9S07 (Jose Basin Road); south on 9S07 (Jose Basin Road) to Auberry Road near Pine Ridge; east on Auberry Road to Highway 168; east on Highway 168 to Toll House Road; south on Toll House Road to Peterson Mill Road; east on Peterson Mill Road to Rush Creek Road at Soaproot Saddle; south on Rush Creek Road to Big Creek Road; east on Big Creek Road to Dinkey–Trimmer Road at Haslett Basin; east on Dinkey–Trimmer Road to Sycamore Springs Road; east on Sycamore Springs Road to Black Rock Road at Balch Camp; east on the Black Rock Road to the Rodgers Ridge Road at Black Rock Station; east along Rodgers Ridge Road to Garlic Spur; south on Garlic Spur to the Kings River; west along the Kings River to Verplank Ridge; south on Verplank Ridge–Hoise Ridge to Highway 180 near Cherry Gap; south along Highway 180 to the north boundary of Kings Canyon National Park; south along that park boundary and along the west boundary of Sequoia National Park to the boundary of Sequoia National Forest between Grouse Peak and Dennison Mountain; south along the common line between R29E and R30E, M.D.B.M. to the boundary of the Sequoia National Forest; east and south along that boundary to Balch Park Road; southeast along that road to the west boundary of Mountain Home State Forest; south and east along that boundary to Forest Trail 30E15; southeast along 30E15 to the Doyle Springs Road; southwest along Doyle Springs Road to Camp Wishon; southeast along the Alder Creek Grove–Hossack Meadow Road to Camp Nelson; south along Highway 190 and the Coy Flat Road to the boundary of the Tule River Indian Reservation; south along the east boundary of that reservation to Parker Peak; southeast through Upper Parker Meadow to Parker Pass; south through Starvation Creek Grove to the southwest corner of Section 15, T23S, R31E, M.D.B.M.; east to the northeast corner of Section 22, T23S, R31E, M.D.B.M.; south approximately 6 miles to Sugarload Campground; southeast along the Forest Road 24S06 through Portuguese Pass to the Tulare–Kern county line; that portion of Kern County within a line beginning where the Tulare–Kern county line intersects the west boundary of the Sequoia National Forest; south along the said boundary to the Poso Flat–Davis Station Road; northeast along said road through Davis Flat and Shirley Meadow to Forest Highway 90 at Greenhorn Summit; northeast along Forest Highway 90, Cow Creek and Bull Run Creek to the Tulare–Kern county line; west along said county line to the point of beginning; and those portions of Inyo and Mono counties west of Highway 395.

(D) Southern California Dog Control Zone: Those portions of Los Angeles, Ventura and Santa Barbara counties within the Los Padres and Angeles National Forests; and those portions of San Bernardino County within the San Bernardino and Angeles National Forests.

(b) Authorized Use of Dogs. The use of dogs for the pursuit/take of mammals or for dog training is authorized as follows:

(1) Dog Control Zones. The use of dogs for the pursuit/take of mammals or for dog training is permitted in the dog control zones described in subsections 265(a)(4)(A), (B), (C) and (D) from the opening day of the general deer season through the first Friday in April.

(2) Areas of the State Outside the Dog Control Zones. The use of dogs for the pursuit/take of mammals or for dog training in areas outside of the dog control zones is permitted year–round, except for closures and restrictions described in this Section 265 and section 364, and the provisions of sections 3960 and 4800 of the Fish and Game Code which prohibit allowing any dog to pursue any big game mammal during the closed season on such mammal or mountain lions, elk or any fully–protected, threatened or endangered mammal at any time.

(3) Take of Depredating Mammals. The use of dogs is permitted for pursuing/taking depredating mammals by federal and county animal damage control officers or by permittees authorized under a depredation permit issued by the department.

(4) Take of Furbearers and Nongame Mammals. Furbearers and nongame mammals as specified in Section 472(a) may be taken with the aid of dogs during the appropriate open season, except for closures and restrictions described in subsections 265(a) and (b).

(5) Prohibition on Starting Pursuit Within 400 Yards of Baited Area. Pursuits may not be started within 400 yards of a baited area as described in Section 257.5 of these regulations.

(6) Dog Training. Except for the prohibitions of subsection 265(a), dog training is permitted pursuant to the following provisions:

(A) Dog Training Defined. For purposes of these regulations, dog training is defined as the education of dogs through "breaking" or "practicing" under strict provisions that preclude the injuring or take of animals. Training is distinguished from "pursuit", as used in Section 86 of the Fish and Game Code, in that the animal being chased shall not be killed, captured, or injured.

(B) Prohibition on Killing, Capturing or Injuring Mammals. No person shall kill, capture or injure any mammal, nor shall any person's dog be allowed to kill, capture or injure any mammal during dog training.

(C) Prohibition on Possession of Equipment. No firearm, archery gear, crossbow or other instrument capable of killing, injuring or capturing any animal may be possessed by any person training dogs during the seasons described in subsection 265(b)(6)(F) below. Possession of a firearm, archery gear, crossbow or other instrument capable of killing or capturing any animal is prohibited while training dogs, but such equipment may be transported to or from a campsite, transported to or from a residence or lawfully possessed by a person at a campsite provided all dogs are secured and under the control of the owner, agent or person training or transporting said dogs.

(D) Prohibition on Starting Dog Training Within 400 Yards of Baited Area. Dog Training may not be started within 400 yards of a baited area as described in Section 257.5 of these regulations.

(E) Prohibition on Training Dogs on Bear and Other Big Game Mammals or on Protected, Threatened or Endangered Mammals. It shall be unlawful to train any dog on any big game mammal or to train any dog on any fully-protected, threatened or endangered mammal at any time. A person in possession of a valid bear tag may utilize the general bear season for purposes of educating dogs for bear. A person in possession of a valid deer tag may utilize the general deer season for purposes of educating a dog for deer. Only one dog may be used for training in areas where the general deer season (as described in subsection 360(a) and (b)) is open.

(F) Seasons.

1. Gray Fox. Dogs may be trained on gray fox from March 1 through the day preceding the opening of the general gray fox season, except for closures and restrictions described in subsections 265(a) and (b).

2. Raccoon. Dogs may be trained on racoon from April 1 through the day preceding the opening of the general raccoon season, except for closures and restrictions described in subsections 265(a) and (b).

3. Bobcat. Dogs may be trained on bobcat from the day following the close of the bobcat seasons through the day preceding the opening of the general bobcat seasons, except for closures and restrictions described in subsections 265(a) and (b).

4. Other Mammals. Except for closures and prohibitions described in this Section 265 and sections 3960 and 4800 of the Fish and Game Code, dogs may be trained on mammals other than gray fox, raccoon and bobcat at any time.

(c) Restrictions on the Number of Dogs per Hunter.

(1) One Dog per Hunter Limitation During Deer Season. No more than one dog per hunter may be used in the area where the general deer season is open.

(2) Three Dogs per Hunter Limitation for the Take of Wild Pigs. Up to three dogs per hunter may be used for the purpose of taking wild pigs, pursuant to the following provisions:

(A) No more than one dog per hunter may be used in an area where the general deer season is open.

(B) No dogs may be used within the closures described in subsection 265(a).

(C) After the general deer season (as described in subsections 360(a) and (b)) closes, there is no limit on the number of dogs that may be used during the general bear season.

(d) Prohibition on Treeing Switches and Use of Global Positioning System Equipment.

(1) Treeing Switches. Effective July 1, 1995, electronic dog retrieval collars containing functioning treeing switches (devices consisting of a mercury switch mechanism that results in a change in the transmitted signals when the dog raises its head to a treed animal) are prohibited on dogs used for the pursuit/take of mammals.

(2) Global Positioning System Equipment. Electronic dog retrieval collars employing the use of global positioning system equipment (devices that utilize satellite transmissions) are prohibited on dogs used for the pursuit/take of mammals.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207 and 4756, Fish and Game Code.

HISTORY

1. Repealer and new section filed 7-8-92; operative 7-8-92 pursuant to Fish and Game Code section 215 (Register 92, No. 28). For prior history, see Register 91, No. 48.
2. New subsection (d) filed 7-13-95; operative 7-13-94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
3. Amendment of subsections (b)(2), (b)(6)(C), (b)(6)(E), and (c)(1), repealer of subsections (c)(A)-(B), and amendment of subsection (c)(2)(C) filed 6-26-96; operative 7-1-96 pursuant to section 11343.4(d) (Register 96, No. 26).
4. Amendment of subsections (a)(4)(A) and (B) filed 7-1-98; operative 7-1-98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
5. Amendment of subsection (a)(4)(C) filed 6-28-2002; operative 6-28-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 300. Upland Game Birds.

(a) Resident Upland Game Birds

(1) General Seasons: Shotgun; Crossbow; and Pistol/Revolver for Blue/Ruffed Grouse Only; Bag and Possession Limits and Open Areas

(see Authorized Methods of Take, Section 311)

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(A) Pheasants	The second Saturday in November extending for 44 consecutive days	Bag Limit: 2 males per day for the first 2 days of the season; 3 males per day after the first two days of the season Possession Limit: double the daily bag limit
3. Area:	Statewide	
Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(B) Quail [including California (valley) quail, mountain quail, and Gambel's (desert) quail	See area zone descriptions for details	Bag Limit: 10 quail in any combination of species per day Possession Limit: double the daily bag limit
Mountain Quail only:	a. Early Mountain Quail Season (Zone Q1) – The second Saturday in September extending through the Friday prior to the third Saturday in October	
All species:	General Quail Season (Zone Q1) – The third Saturday in October extending through the last Sunday in January	
All species:	b. Early Coastal Season (Zone Q2) – The last Saturday in September extending through the last Sunday in January	
All species:	c. Balance of the State Season (Zone Q3) – The third Saturday in October extending through the last Sunday in January	

QUAIL HUNTING ZONE AREA DESCRIPTIONS

3. Area Zone Descriptions:

a. Zone Q1:
The early mountain quail season hunting zone includes the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Inyo, Lassen, Modoc, Mono, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, and those portions of Amador, Calaveras, El Dorado, Fresno, Madera, Mariposa, Nevada, Placer, Tuolomne, Tulare, and Yuba counties lying east of the western boundary of the national forests.

b. Zone Q2:
The early coastal quail season (all species) hunting zone includes the counties of Marin, Napa, Solano, Sonoma, Lake, and Mendocino.

c. Zone Q3:
The balance of the state season (all species) hunting zone includes the remaining land area not included in Zone Q2 (the counties of Marin, Napa, Solano, Sonoma, Lake, and Mendocino).

(C) Chukar (Red–Legged Partridges)	The third Saturday in October through the last Sunday in January	Bag Limit: 6 chukar per day Possession Limit: double the daily bag limit
3. Area	Statewide	
Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(D) Sage Grouse	The second Saturday in September extending for two consecutive days	See area open zone descriptions (subsection 300(a)(1)(D)3.) Eastern Lassen and Central Lassen zones: Bag Limit: 2 sage grouse per day, 2 per season Possession Limit: 2 sage grouse per season North Mono and South Mono zones: Bag Limit: 1 sage grouse per day, 1 per season Possession Limit: 1 sage grouse per season

SAGE GROUSE HUNTING ZONE DESCRIPTIONS AND PERMIT PROCESS

3. Area Open Zone Descriptions:

a. East Lassen Zone:
That portion of Lassen County beginning at the intersection of Highway 395 and County Road 502 in the town of Ravendale; north and east on County Road 502 to County Road 526 (Buckhorn Road); east on County Road 526 to the Nevada state line; south along the Nevada state line to its intersection with County Road 320 (Wendel–Flanigan Road); northwest on County Road 320 to its intersection with Highway 395 between Wendal and Litchfield north on Highway 395 to the point of beginning.

b. Central Lassen Zone:
That portion of Lassen County beginning at the intersection of Highway 139 and County Road 513 (Termo–Grasshopper Road); east on County Road 513 to its intersection with County Road 523 (Westside Road); north on County Road 523 to its intersection with County Road 525 (Brockman Road); east on County Road 525 to its intersection with Highway 395; south on Highway 395 to its intersection with Highway 36 in the town of Johnstonville; west on Highway 36 to its intersection with Highway 139 in Susanville; north on Highway 139 to the point of beginning.

c. North Mono Zone:
That portion on Mono County beginning at the intersection of Highway 182 and the California–Nevada state line; south and east along the California–Nevada state line to Highway 167; west along Highway 167 to Highway 395; north along Highway 395 to Highway 182 at Bridgeport; north along Highway 182 to the point of beginning.

d. South Mono Zone:
That portion of Mono County beginning at the intersection of U.S. Highway 6 and U.S. Highway 395; north along U.S. Highway 6 to the intersection of U.S. Highway 120; west along U.S. Highway 120 to the intersection of the Benton Crossing Road; west along Benton Crossing Road to the intersection of Owens River Road; west along Owens River Road to the intersection of U.S. Highway 395; south along U.S. Highway 395 to the point of beginning.

No open season in the balance of the state not included in the above open zones.

4. Number of Permits:

a. East Lassen Zone: 20 permits

b. Central Lassen Zone: 15 permits

c. North Mono Zone: 25 permits

d. South Mono Zone: 35 permits

5. Permit Process:

The free sage grouse hunting permits shall be issued by public drawing. All applicants shall apply either on a postcard or through the Internet at the License and Revenue Branch Home Page at http://www.dfg.ca.gov/licensing and select sage grouse drawing. All applicants must provide their name, address, zip code, hunting license number, and the zone they wish to hunt. Applicants shall submit only one drawing application for either the East Lassen Zone, Central Lassen Zone, North Mono Zone, or the South Mono Zone. Up to four hunters may apply as a party. All hunter's names, addresses, and hunting license numbers must be included on the application. Postcard applications for all hunts shall be mailed to the Department of Fish and Game, License and Revenue Branch, 1740 North Market Blvd., Sacramento, California, 95834. Applications must be received by 5:00 PM on the second Monday of August for all open zones (East Lassen Zone, Central Lassen Zone, North Mono Zone, or the South Mono Zone). Successful applicants will be notified by mail prior to the opening date of the season. Permits are non-transferable. Any permits remaining after the drawing will be issued on a first–come, first–served basis and will be advertised by news release following each drawing. Applications for remaining permits shall be mailed to the above address with the same required information. Successful drawing applicants previously selected, or hunt party members, may not apply for remaining permits.

6. Falconry Only Permits:
Applicants desiring to use a sage grouse permit during the falconry–only season must declare upon the application that the permit is for falconry only.

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(E) Blue and Ruffed Grouse	The second Saturday in September extending for 31 consecutive days	Bag Limit: 2 grouse per day Bag Limit Makeup: • up to 2 blue grouse • up to 2 ruffed grouse • or one of each Possession Limit: • double the daily bag limit

BLUE AND RUFFED GROUSE HUNTING ZONE DESCRIPTIONS

3. Area Open Zone: The open hunting zone for blue and ruffed grouse includes the following counties: Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Inyo, Lake, Lassen, Madera, Mariposa, Mendocino, Modoc, Mono, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Tehama, Trinity, Tulare, Tuolumne, and Yuba. All other counties are closed to the taking of blue or ruffed grouse.

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(F) White–tailed Ptarmigan	The second Saturday in September extending for nine consecutive days	Bag Limit: 2 ptarmigan per day, 2 per season Possession Limit: 2 per season

PTARMIGAN HUNTING ZONE DESCRIPTIONS

3. Area Open Zone: The open hunting zone for ptarmigan includes Alpine County and that portion of Mono County lying north and west of a line beginning at the intersection of Highway 203 and the Madera County line; east on Highway 203 to Highway 395; and north on Highway 395 to the Nevada state line.

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(G) Wild Turkeys	a. Fall Season – The second Saturday in November extending for 16 consecutive days	Bag Limit: 1 either–sex turkey per day, 1 per season Possession Limit: 1 per season
	b. Spring Season – The last Saturday in March extending for 37 consecutive days	Bag Limit: 1 bearded turkey per day, 3 per season. No person shall take more than a total of 3 turkeys during the general,

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
	c. Additional Spring Season for Hunters with Junior Hunting Licenses — The day following the close of the general spring turkey season extending for 14 consecutive days	archery, and additional season for junior hunters, combined. Possession Limit: 3 per season (A bearded turkey is one having a beard visible through the breast feathers.)
3. Area:		

a. Fall Season:
All counties except San Diego County

b. Spring Season:
Statewide including State Game Refuge 1G, located in Tehama County

(2) Archery Seasons, Bag and Possession Limits and Open Areas

(see Authorized Methods of Take, sections 311 and 354)

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(A) Pheasants	The second Saturday in November extending for 60 consecutive days	Bag Limit: 2 pheasants per day for the first 2 days of the season; 3 pheasants per day after the first two days of the season Possession Limit: double the daily bag limit; the daily archery bag may contain not more than one female pheasant
3. Area:	Statewide	

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(B) Quail (all species)	The third Saturday in August extending for 21 consecutive days and during the general seasons as follows:	Bag Limit: 10 quail in any combination of species per day
Mountain Quail only:	a. Early Mountain Quail Season (Zone Q1) – The second Saturday in September extending through the Friday prior to the third Saturday in October	double the daily bag limit
All species:	General Quail Season (Zone Q1) – The third Saturday in October extending through the last Sunday in January	
All species:	b. Early Coastal Season (Zone Q2) – The last Saturday in September extending through the last Sunday in January	
All species:	c. Balance of the State Season (Zone Q3) – The third Saturday in October extending through the last Sunday in January	
3. Area:	Statewide	
(C) Chukar	The third Saturday in August extending for 21 consecutive days and during the general season	Bag Limit: 6 chukar Possession Limit: double the daily bag limit
3. Area:	Statewide	

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(D) Sage Grouse	The second Saturday in September extending for 2 consecutive days	See area open zone descriptions (subsection 300(a)(1)(D)3.) East Lassen and Central Lassen zones: Bag Limit: 2 sage grouse per day, 2 per season Possession Limit: 2 sage grouse per season North Mono and South Mono zones: Bag Limit: 1 sage grouse per day, 1 per season Possession Limit: 1 sage grouse per season
3. Area:	Open Zone: see open zone descriptions for details [subsection 300(a)(1)(D)3.], which include portions of Lassen, Mono, and Inyo counties. Hunting by free permit only; see permit process section for details.	

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(E) Blue and Ruffed Grouse	The third Saturday in August extending for 21 consecutive days and during the general season from the second Saturday in September extending for 31 consecutive days	Bag Limit: 2 grouse per day Bag Limit Makeup: • up to 2 blue grouse • up to 2 ruffed grouse • or one of each Possession Limit: • double the daily bag limit
3. Area:	Open Zone: see open zone descriptions for details [subsection 300(a)(1)(E)3.], which include northern and eastern portions of the state	

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(F) White-Tailed Ptarmigan	The second Saturday in September extending for nine consecutive days	Bag Limit: 2 ptarmigan per day, 2 per season Possession Limit: 2 per season
3. Area:	Open Zone: see open zone descriptions for details [subsection 300(a)(1)(F)3.], which include portions of Alpine and Mono counties	

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(G) Wild Turkeys	a. Fall Season – The second Saturday in November extending for 16 consecutive days	Bag Limit: 1 either-sex turkey per day, 1 per season Possession Limit: 1 per season
	b. Spring Season – The last Saturday in March extending for 51 consecutive days	Bag Limit: 1 bearded turkey per day, 3 per season. No person shall take more than a total of 3 turkeys during the general, archery, and additional season for junior hunters, combined. Possession Limit: 3 per season (A bearded turkey is one having a beard visible through the breast feathers.)

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*

3. Area:

a. Fall Season:
All counties except San Diego County

b. Spring Season:
Statewide including State Game Refuge 1G, located in Tehama County

(3) Falconry Seasons, Bag and Possession Limits and Open Areas

(see Authorized Methods of Take, Section 311)

Species	*1. Seasons*	*2. Daily Bag and Possession Limits and Hawking Hours*
(A) Pheasants (B) Quail (C) Chukar (D) Blue and Ruffed Grouse (E) White–Tailed Ptarmigan	October 1 extending through the last day in February	Bag and Possession Limits: same as general season regulations by species. The daily falconry bag may contain birds of either sex. Hawking hours are sunrise to sunset.
3. Area:	See open zone descriptions for details on each species [subsection 300(a)(1)]	
Species	*1. Seasons*	*2. Daily Bag and Possession Limits and Hawking Hours*
(F) Sage Grouse	The first Saturday in November extending for 60 consecutive days, and during the general season	See area open zone descriptions (subsection 300(a)(1)(D)3.) East Lassen and Central Lassen zones: Bag Limit: 2 sage grouse per day, 2 per season Possession Limit: 2 sage grouse per season North Mono and South Mono zones: Bag Limit: 1 sage grouse per day, 2 per season Possession Limit: 1 sage grouse per season Hawking hours are sunrise to sunset.
3. Area:	See open zone descriptions [subsection 300(a)(1)(D)3.]; hunting by free permit only; see permit process section for details [subsection 300(a)(1)(D)5.].	
Species	*1. Seasons*	*2. Daily Bag and Possession Limits and Hawking Hours*
(G) Wild Turkeys	a. Fall Season – The second Saturday in November extending for 16 consecutive days b. Spring Season – The last Saturday in March extending for 37 consecutive days	Bag Limit: 1 either–sex turkey per day Possession Limit: 1 per season Bag Limit: 1 bearded turkey per day Possession Limit: 3 per season (A bearded turkey is one having a beard visible through the breast feathers.)

3. Area:

a. Fall Season:
All counties except San Diego County

b. Spring Season:
Statewide including State Game Refuge 1G, located in Tehama County

(b) Migratory Upland Game Birds

(1) Shotgun, Archery, and Falconry Seasons and Bag and Possession Limits

(see Authorized Methods for Take, Section 507)

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(A) Band–Tailed Pigeons	a. Northern Zone – The third Saturday in September extending for 9 consecutive days b. Southern Zone – The third Saturday in December extending for 9 consecutive days	Bag Limit: 2 band–tailed pigeons per day Possession Limit: double the daily bag limit

BAND–TAILED PIGEON HUNTING ZONE DESCRIPTIONS

3. Area Open Zone Descriptions:

a. Northern Zone:
Includes the counties of Alpine, Butte, Del Norte, Glenn, Humboldt, Lassen, Mendocino, Modoc, Plumas, Shasta, Sierra, Siskiyou, Tehama, and Trinity.

b. Southern Zone:
Includes the balance of the state not included in the northern zone described above.

Species	*1. Seasons*	*2. Daily Bag and Possession Limits*
(B) Doves (Mourning doves, white–winged doves, spotted doves, Eurasian collared–doves, and ringed turtle doves)	September 1–15 and from the second Saturday in November extending for 45 days	Bag Limit: Spotted doves, Eurasian collared–doves, and ringed turtle doves shall be included in the bag and possession limit set for the mourning doves and white–winged doves. 10 doves per day in aggregate of the above listed dove Possession Limit: double the daily bag limit in aggregate of the above listed dove
3. Area:	Statewide for mourning doves, spotted doves, ringed turtle–doves, and Eurasian collared–doves.	
Note: There is no open hunting season on common ground–doves, ruddy ground–doves, and Inca doves.	White–winged doves may be taken only in Imperial, Riverside, and San Bernardino counties.	
(C) Common Snipe	The third Saturday in October extending for 107 days	Bag Limit: 8 per day Possession Limit: double the daily bag limit
3. Area:	Statewide	

NOTE: Authority cited: Sections 200, 202, 203 and 355, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 215, 220, 355 and 356, Fish and Game Code.

HISTORY

1. Amendment of subsections (a)(2)(B) and (b)(2)(B) filed 10–9–86 as an emergency; effective upon filing (Register 86, No. 42). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–6–87. For prior history, see Register 85, No. 39.
2. Reinstatement of subsections (a)(2)(B) and (b)(2)(B) as they existed prior to emergency amendment filed 10–9–86 by operation of Government Code section 11346.1(f) (Register 87, No. 27).
3. Amendment filed 10–3–88; operative 10–3–88 (Register 88, No. 41).
4. Amendment of subsections (a)(2) and (b)(2) filed 9–16–91; operative 9–16–91 pursuant to Fish and Game Code section 215 (Register 91, No. 52).
5. Amendment of subsections (a)(2)(A), (b) and (b)(2) filed 9–16–93; operative 9–16–93 pursuant to sections 202 and 215, Fish and Game Code (Register 93, No. 38).
6. Amendment of section heading, repealer and new section, and amendment of NOTE filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

7. Amendment of subsections (a)(1)(D)2., (a)(1)(D)4.–5., (a)(2)(D)2. and (a)(3)(F)2. filed 10–14–99; operative 10–14–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 42).
8. Amendment filed 9–1–2000; operative 9–1–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 35).
9. Amendment of subsections (a)(1)(D)4.a.–b. filed 10–31–2001; operative 11–30–2001 (Register 2001, No. 44).
10. Amendment of subsections (a)(1)(A)1. and (a)(1)(D)4. filed 9–18–2002; operative 9–18–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 38).
11. Amendment of subsection (a)(1)(D)4.c. filed 9–4–2003; operative 9–4–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 36).
12. Amendment of subsections (a)(1)(D), (a)(1)(D)3.d., (a)(1)(D)4.a.–d. and (a)(2)(G)b. filed 10–21–2004; operative 10–21–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 43).
13. Editorial correction of subsection (a)(3)(G)b. (Register 2006, No. 9).
14. Amendment of section and NOTE filed 8–29–2007; operative 9–1–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 35).
15. Amendment of subsection (a)(1)(D)5. filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).

§ 300.5. Archery Pheasant.

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

HISTORY

1. Amendment filed 8–24–77; designated effective 9–10–77 (Register 77, No. 35). For prior history, see Register 76, No. 34.
2. Amendment filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
3. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
4. Repealer filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).

§ 300.8. Falconry Pheasant.

NOTE: Authority cited: Section 200. Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

HISTORY

1. Amendment filed 8–20–76; effective tenth day thereafter (Register 76, No. 34). For prior history, see Register 75, No. 38.
2. Amendment filed 8–24–77; designated effective 9–10–77 (Register 77, No. 35).
3. Amendment filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
4. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
5. Repealer filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).

§ 301. Quail.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 208 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (a)(4) filed 10–17–84; designated effective tenth day thereafter (Register 84, No. 42). For prior history, see Register 81, No. 38.
2. Amendment of subsection (b)(1) filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
3. Amendment of subsection (a)(4) filed 8–29–86, operative 8–29–86, deleting the words "opening of the general quail seasons in areas specified in subsections (2) and (3) above" and adding the words "third Saturday in October" (Register 86, No. 36).
4. Amendment of subsection (b)(1) filed 9–8–88; operative 9–8–88 (Register 88, No. 38).
5. Amendment of subsection (a)(4) filed 9–14–90; operative 9–14–90 (Register 90, No. 43).
6. Amendment of subsections (a) and (b)(2) filed 9–16–91; operative 9–16–91 pursuant to Fish and Game Code section 215 (Register 91, No. 52).
7. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 301.5. Archery and Falconry Quail.

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

HISTORY

1. Amendment filed 8–20–76; effective tenth day thereafter (Register 76, No. 34). For prior history, see Register 75, No. 33.
2. Amendment filed 8–24–77; designated effective 9–10–77 (Register 77, No. 35).
3. Amendment filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
4. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
5. Repealer filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).

§ 302. Red–Legged Partridge (Chukar).

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 208 and 220, Fish and Game Code.

HISTORY

1. Amendment filed 8–24–77; designated effective 9–10–77 (Register 77, No. 35). For prior history, see Register 76, No. 34.
2. Amendment filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
3. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
4. Amendment filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).
5. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
6. Amendment of subsection (b)(1) filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
7. Amendment of subsection (b)(1) filed 9–8–88; operative 9–8–88 (Register 88, No. 38).
8. New subsections (c)–(c)(2) filed 9–16–93; operative 9–16–93 pursuant to sections 202 and 215, Fish and Game Code (Register 93, No. 38).
9. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 302.5. Archery and Falconry Red–Legged Partridge (Chukar).

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

HISTORY

1. New section filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
2. Repealer filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).

§ 303. Sage Grouse.

NOTE: Authority cited: Sections 200, 202, 203, 215 and 220, Fish and Game Code. Reference: Sections 200, 202, 203, 208 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 8–24–77; designated effective 9–10–77 (Register 77, No. 35).
2. Amendment of subsection (a) filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
3. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
4. Amendment filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).
5. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
6. Amendment filed 8–24–83; designated effective tenth day thereafter (Register 83, No. 35).
7. Amendment filed 9–16–87; operative 9–16–87 pursuant to Fish and Game Code section 202 (Register 87, No. 38).
8. Amendment of subsections (a)(1) and (a)(2), (c) and (e) filed 9–14–90; operative 9–14–90 (Register 90, No. 43).
9. Amendment of section filed 9–16–91; operative 9–16–91 pursuant to Fish and Game Code section 215 (Register 91, No. 52).
10. Amendment of subsections (d) and (e) filed 9–30–92; operative 9–30–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 40).
11. New subsection (b) and relettering, amendment of subsection (e) and new subsection (f)(2) filed 9–16–93; operative 9–16–93 pursuant to sections 202 and 215, Fish and Game Code (Register 93, No. 38).
12. Amendment of subsections (e) and (f)(1) filed 9–26–94; operative 9–26–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 39).
13. Amendment of subsection (e) and NOTE filed 8–31–95; operative 8–31–95 pursuant to Fish and Game Code sections 202 and 215 (Register 95, No. 35).
14. Amendment of subsections (b) and (f)(1) filed 9–30–96; operative 9–30–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 40).
15. Amendment of subsections (c)(4) and (e) filed 9–30–97; operative 9–30–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 40).
16. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 303.1. Sage Grouse: Closure to Taking.

HISTORY

1. New section filed 9–1–65 as an emergency; effective upon filing (Register 65, No. 16). For former history, see Register 61, No. 12.
2. Repealer filed 6–23–66 designated effective 7–2–66, and new section filed 6–24–66 as an emergency; effective upon filing (Register 66, No. 19).
3. Expired by own terms (Register 67, No. 24).

§ 304. Blue and Ruffed Grouse.

NOTE: Authority cited: Section 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 208, and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(1) filed 8–18–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 34). For prior history, see Register 81, No 38.
2. Amendment filed 9–27–85; effective tenth day thereafter (Register 85, No. 31).
3. Amendment of subsections (a)(2) and (b)(2) filed 9–16–91; operative 9–16–91 pursuant to Fish and Game Code section (Register 91, No. 52).
4. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 304.5. White–Tailed Ptarmigan.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 208 and 220, Fish and Game Code.

HISTORY

1. New section filed 9–5–89; operative 9–5–89 pursuant to Government Code section 11346.2(d) (Register 89, No. 36). For prior history, see Registers 87, No. 38 and 85, No. 39.
2. Amendment of subsection (c) filed 9–14–90; operative 9–14–90 (Register 90, No. 43).
3. Amendment of section deleting subsection (c), (d) and (e) filed 9–16–91; operative 9–16–91 pursuant to Fish and Game code section 215 (Register 91, No. 52).
4. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 305. Chinese Spotted Doves and Ringed Turtledoves.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 206, 214, 214.5, and 220, Fish and Game Code.

HISTORY

1. Expired by own terms (Register 61, No. 25).
2. New section filed 6–13–62; designated effective 7–1–62 (Register 62, No. 12).
3. Amendment filed 6–15–67; designated effective 7–1–67 (Register 67, No. 24).
4. Amendment filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).
5. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
6. Amendment of subsection (a)(1) filed 8–18–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34).
7. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 306. Wild Turkeys.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 206, 214, 214.5 and 220, Fish and Game Code.

HISTORY

1. Amendment of subsection (b)(1) filed 8–18–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34). For prior history, see Register 81, No. 38.
2. Amendment filed 8–24–83; designated effective tenth day thereafter (Register 83, No. 35).
3. Amendment of subsection (a) filed 10–17–84; designated effective tenth day thereafter (Register 84, No. 42).
4. Amendment filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
5. Amendment of subsections (a)(1) and (b)(1) filed 9–16–87; operative 9–16–87 pursuant to Fish and Game Code Section 202 (Register 87, No. 38).
6. Amendment of subsection (b)(1) filed 9–16–93; operative 9–16–93 pursuant to sections 202 and 215, Fish and Game Code (Register 93, No. 38).
7. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 306.5. Spring Wild Turkey.

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

[The next page is 117.]

HISTORY

1. Amendment of subsection (a) filed 8–31–78; designated effective tenth day thereafter (Register 78, No. 35).
2. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
3. Repealer filed 8–13–80; designated effective 9–1–80 (Register 80, No. 33).
4. Amendment of section heading filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).

§ 307. Tree Squirrels.

Tree squirrels may be taken only as follows:

(a) General Season and Areas:

The general season in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Luis Obispo, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Sonoma, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo, Yuba, and that portion of Kern County lying east of Interstate 5 shall open on the second Saturday in September extending through the last Sunday in January.

(b) Archery and Falconry Tree Squirrel Season and Area: Tree squirrels may be taken with bow and arrow or raptors only during the general tree squirrel season and as follows:

(1) The season in the counties of Alpine, Amador, Butte, Calaveras, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Lake, Lassen, Madera, Marin, Mariposa, Modoc, Napa, Nevada, Placer, Plumas, Shasta, Sierra, Siskiyou, Solano, Sonoma, Sutter, Tehama, Trinity, Tulare, Tuolumne, and Yuba; and that portion of Kern County lying east of Interstate 5 shall open on the first Saturday in August extending through the day before the general tree squirrel season.

(c) Bag and Possession Limit: Four squirrels per day, four in possession.

(d) Except as provided herein, tree squirrels may not be taken at any time in the balance of the state.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1 and 207, Fish and Game Code.

HISTORY

1. New section filed 6–13–62; operative 7–1–62 (Register 62, No. 12), incorporating portions of former Section 307, which was repealed by its own terms on 12–30–61, Register 61, No. 26 (Register 62, No. 12).
2. Amendment of subsections (a) and (b) filed 6–14–63; operative 7–1–63 (Register 63, No. 10).
3. Amendment of subsections (a) and (b) filed 6–16–64; operative 7–1–64 (Register 64, No. 13).
4. Amendment of subsections (a), (b) and (c) and new subsection (d) filed 6–18–65; operative 7–1–65 (Register 65, No. 10).
5. Amendment of subsections (a) and (b) and repealer of subsections (c) and (d) filed 6–23–66; operative 7–2–66 (Register 66, No. 19).
6. Amendment of subsections (a) and (b) and new subsections (c) and (d) filed 6–15–67; operative 7–1–67 (Register 67, No. 24).
7. Amendment of subsections (a), (b), and (c) filed 6–13–68; operative 7–1–68 (Register 68, No. 22).
8. Amendment of subsections (a), (b), and (c) filed 5–29–69; operative 7–1–69 (Register 69, No. 22).
9. Amendment of subsections (a), (b), (c), and (d) filed 6–4–70; operative 7–1–70 (Register 70, No. 23).
10. Amendment of subsections (a), (b), and (c) filed 5–28–71; operative 7–1–71 (Register 71, No. 22).
11. Amendment of subsections (a), (b), and (c) filed 6–5–72; operative 7–5–72 (Register 72, No. 24).
12. Amendment of subsections (a), (b), and (c) filed 6–1–73; operative 7–1–73 (Register 73, No. 22).
13. Amendment of subsections (a), (b), and (c) filed 6–7–74; operative 7–1–74 (Register 74, No. 23).
14. Amendment of subsections (a), (b), (c) and (d) filed 6–6–75; operative 7–1–75 (Register 75, No. 23).
15. Amendment of subsections (a) and (b) filed 6–4–76; operative 7–1–76 (Register 76, No. 23).
16. Amendment of subsections (a) and (b) filed 6–14–77; operative 7–1–77 (Register 77, No. 25).
17. Amendment of subsections (a)(1) and (b)(1) filed 6–13–78; operative 7–13–78 (Register 78, No. 24).
18. Amendment of subsections (a)(1) and (b)(1) filed 5–11–79; (Register 79, No. 19).
19. Amendment of subsections (a)(1) and (b)(1) filed 5–19–80; operative 5–19–80 (Register 80, No. 21).
20. Amendment of subsections (a), (b) and (c) filed 5–13–81; operative 5–23–81 (Register 81, No. 20).
21. Amendment of subsections (a)(1) and (d) filed 7–1–86; operative 7–1–86 (Register 86, No. 27).
22. Amendment of subsection (a)(1), and new subsection (d) filed 9–11–86 as an emergency; operative 9–11–86 (Register 86, No. 37). A Certificate of Compliance must be transmitted to OAL no later than 1–9–87 or emergency language will be repealed by operation of law (Gov. C. § 11346.1).
23. Editorial correction of HISTORY 21. (Register 87, No. 7).
24. Emergency language as to 9–11–86 order including amendment approved and filed in final by OAL on 2–9–87 (Register 87, No.7).
25. Amendment of subsections (a)(1), (b)(1) and NOTE, and repealer of subsection (b)(2) filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).

§ 307.5. Archery and Falconry Tree Squirrels.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, and 3800, Fish and Game Code.

HISTORY

1. Amendment of subsection (a)(1) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24). For prior history, see Register 77, No. 25.
2. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
4. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 308. Brush, Cottontail and Pigmy Rabbits, and Varying Hare (Snowshoe).

(a) General Season and Area: The general season shall open on July 1 extending through the last Sunday in January, and shall be open statewide except for that area described in (d) below.

(b) Falconry Rabbits and Hares. Brush, cottontail and pigmy rabbits and varying hare (snowshoe) may be taken with raptors only during the general rabbit and hare seasons and as follows: The season shall open on the first Monday following the close of the general season extending through the third Sunday in March, and shall be open statewide except for that area described in (d) below.

(c) Bag and Possession Limit in the Aggregate of All Species: Five per day, 10 in possession.

(d) The take of brush and cottontail rabbits is prohibited within the area described as follows: That portion of San Joaquin County generally located between Stockton and Tracy that is enclosed by the following lines: Beginning at the intersection of Stewart Road and Interstate 5; west along Stewart road to the intersection of Stewart Road and Old River; southwest along Old River to the intersection of Old River and Tom Paine Slough; south along Tom Paine Slough to the intersection of Tom Paine Slough and Sugar Cut; south along Sugar Cut to the intersection of Sugar Cut and Interstate 205; east along Interstate 205 to the intersection of Interstate 205 and Interstate 5; north along Interstate 5 to the intersection of Interstate 5 and Stewart Road.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1, 207 and 222, Fish and Game Code.

HISTORY

1. Amendment of subsections (a)(1) and (b)(1) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24). For prior history, see Register 77, No. 23.
2. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Amendment of subsections (a) and (b) filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
4. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
5. Amendment of subsection (c) and NOTE filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
6. Amendment of subsections (a) and (b) and new subsection (d) filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 308.1. Falconry Rabbits.

HISTORY

1. Amendment filed 6–4–76; designated effective 7–1–76 (Register 76, No. 23). For prior history, see Register 75, No. 23.

2. Repealer filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).

§ 308.5. Crop Damage by Rabbits.

See Section 4186, Fish and Game Code.

HISTORY

1. New section filed 6–12–59; designated effective 7–1–59 (Register 59, No. 9).
2. Amendment filed 6–16–61; designated effective 7–1–61 (Register 61, No. 12).

§ 309. Jack Rabbits, Black–Tailed and White–Tailed.

(a) General Season and Area: The general season shall be open statewide all year.

(b) Bag and Possession Limit: No limit.

NOTE: Authority and reference cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, and 3800, Fish and Game Code.

HISTORY

1. Amendment filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25). For prior history, see Register 76, No. 23.
2. Amendment of subsection (a) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
3. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 309.5. Falconry Rabbits and Hares.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, and 3800, Fish and Game Code.

HISTORY

1. New section filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).
2. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
3. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment of subsections (a) and (b)(2) filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
5. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 310. Shooting Hours on Resident Small Game Mammals.

The shooting hours for all resident small game mammals shall be one–half hour before sunrise to one–half hour after sunset.

NOTE: Authority cited: Section 3000, Fish and Game Code. Reference: Section 3000, Fish and Game Code.

HISTORY

1. Amendment filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23). For prior history, see Register 69, No. 22.
2. Amendment filed 8–20–76; effective tenth day thereafter (Register 76, No. 34).
3. New NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).

§ 310.5. Shooting Hours for Upland Game Birds.

The shooting hours for all upland game birds, except for pheasants and the spring wild turkeys season, shall be from one–half hour before sunrise to sunset. The shooting hours for pheasants shall be from 8:00 a.m. to sunset. The shooting hours for the spring wild turkey season shall be from one–half hour before sunrise to 4:00 p.m.

NOTE: Authority cited: Section 3000, Fish and Game Code. Reference: Section 3000, Fish and Game Code.

HISTORY

1. New section filed 8–20–76; effective tenth day thereafter (Register 76, No. 34).
2. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
3. Amendment filed 8–18–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34).
4. Amendment filed 8–24–83; designated effective tenth day thereafter (Register 83, No. 35).
5. Amendment filed 10–17–84; designated effective tenth day thereafter (Register 84, No. 42).
6. Amendment filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
7. Amendment filed 9–16–87; operative 9–16–87 pursuant to Fish and Game Code section 202 (Register 87, No. 38).
8. Amendment filed 9–16–93; operative 9–16–93 pursuant to sections 202 and 215, Fish and Game Code (Register 93, No. 38).
9. Amendment of section heading and repealer and new section filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 311. Methods Authorized for Taking Resident Small Game.

Only the following may be used to take resident small game:

(a) Shotguns 10 gauge or smaller using shot shells only and incapable of holding more than three shells in the magazine and chamber combined. If a plug is used to reduce the capacity of a magazine to fulfill the requirements of this section, the plug must be of one piece construction incapable of removal without disassembling the gun;

(b) Shotgun shells may not be used or possessed that contain shot size larger than No. BB, except that shot size larger than No. 2 may not be used or possessed when taking wild turkey. All shot shall be loose in the shell.

(c) Muzzle–loading shotguns;

(d) Falconry;

(e) Bow and arrow (see Section 354 for archery equipment regulations);

(f) Air rifles firing pellets and powered by compressed air or gas (0.20 caliber minimum for taking wild turkey); and firearm rifles and pistols for taking rabbits and squirrels, except in Los Angeles County, in addition to the methods listed in (a), (b), (c), (d) and (e) above;

(g) In San Diego and Orange counties only, rabbits may be taken at any time during the open season by means of box traps. Such traps shall not exceed 24 inches in any dimension, shall be tended at least once every 24 hours, and shall show the name and address of the trap owner. All rabbits taken under this section shall be immediately killed and become a part of the daily bag limit;

(h) Electronic or mechanically–operated calling or sound–reproducing devices are prohibited when attempting to take resident game birds;

(i) Coursing dogs may be used to take rabbits;

(j) Archers hunting during any archery season may not possess a firearm while in the field engaged in archery hunting during an archery season;

(k) The use of live decoys is prohibited when attempting to take resident game birds;

(l) Pistols and revolvers may be used to take blue and ruffed grouse in those counties only and for the season described in Section 300(a)(1)(E).

(m) Crossbows, except for provisions of Section 354(d) and (g).

(n) Dogs may be used to take and retrieve resident small game.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200 and 203, Fish and Game Code.

HISTORY

1. New subsection (m) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85. For prior history, see Register 84, No. 42.
2. Notice of Erroneous Filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 by OAL (Register 85, No. 27).
3. Amendment filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
4. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).
5. New subsection (n) filed 10–2–87; operative 10–2–87 (Register 87, No. 41).
6. Amendment of subsection (f) filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
7. Amendment of subsection (f) filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
8. Amendment of subsection (f) filed 9–1–2000; operative 9–1–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 35).
9. Change without regulatory effect amending subsection *(l)* filed 7–24–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 30).
10. Amendment of subsection (g) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 311.5. Prohibitions on Use of Firearms in Taking Resident and Migratory Game Birds.

HISTORY

1. Amendment filed 6–16–61; designated effective 7–1–61 (Register 61, No. 12).
2. Amendment filed 6–24–63; designated effective 7–1–63 (Register 63, No. 10).

3. Repealer filed 6–15–67; designated effective 7–1–67 (Register 67, No. 24).

§ 311.6. Prohibition of Rifles and Pistols in Picacho and Providence Mountains State Recreation Areas.

The use of rifles and pistols to take any bird or mammal is prohibited in Picacho and Providence Mountains State Recreation Areas.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 206, 214, 214.5 and 220, Fish and Game Code.

HISTORY

1. New section filed 9–21–67 as an emergency; effective upon filing (Register 67, No. 38).
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 12–12–67 (Register 67, No. 50).
3. Amendment filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
4. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).

§ 311.7. Use of Rifles and Pistols in Los Angeles County.

In Los Angeles County the use of rifles or pistols is prohibited in the taking of rabbits.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 206, 214, 214.5 and 220, Fish and Game Code.

HISTORY

1. New NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).

§ 311.8. Prohibition Against Shooting Resident Small Game from Boats.

HISTORY

1. Repealer filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).

§ 312. Sporting Hunting License: Non–Transferable Tags As Permits.

NOTE: Authority cited: Sections 200, 202, 203 and 3035, Fish and Game Code. Reference: Sections 200, 202, 203, 206, 211–214.5, 220, and 3035, Fish and Game Code.

HISTORY

1. New section 604 filed 7–6–51; effective thirtieth day thereafter (Register 25, No. 1).
2. Amendment filed 2–19–52; effective thirtieth day thereafter (Register 27, No. 4).
3. Renumbered from former section 604 (Register 59, No. 9).
4. Amendment filed 2–4–64; designated effective 7–1–64 (Register 64, No. 3).
5. Amendment of NOTE filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
6. Repealer filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 313. Upland Game Stamp.

Any adult License holder taking resident game birds including Chinese spotted doves, ringed turtle doves, of the family Columbidae; California quail and varieties thereof, Gambel's or desert quail, mountain quail and varieties thereof, blue, ruffed, and sage grouse, white–tailed ptarmigan, Hungarian partridges, red–legged partridges including the chukar and other varieties, ring–necked pheasants and varieties, and wild turkeys of the order Galliformes; and migratory game birds including common snipe, western mourning doves, white–winged doves, and band–tailed pigeons must have a current state upland game stamp affixed to their license.

NOTE: Authority cited: Sections 200, 201, 202, and 203, Fish and Game Code. Reference: Sections 3682 Fish and Game Code.

HISTORY

1. New section filed 7–15–93; operative 8–16–93 (Register 93, No. 29).

Chapter 3. Big Game

§ 350. Big Game Defined.

"Big game" means the following: deer (genus *Odocoileus*), elk (genus *Cervus*), pronghorn antelope (genus *Antilocarpa*), wild pig (feral pigs, European wild pigs and their hybrids (genus *Sus*), black bear (genus *Ursus*) and Nelson bighorn sheep (subspecies *Ovis canadensis nelsoni*) in the areas described in subsection 4902(b) of the Fish and Game Code.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 206, 211, 212, 213, 215, 3950, 4700, 4900 and 4902, Fish and Game Code.

HISTORY

1. Amendment filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25). For prior history, see Register 76, No. 23.
2. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
3. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
5. Renumbering and amendment of section 350 to section 360, and new section 350 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
6. Amendment filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
7. Editorial correction filed 6–17–83 (Register 83, No. 25).
8. Amendment filed 7–1–86; effective upon filing (Register 86. No. 27).
9. Amendment filed 6–22–87; operative 6–22–87 (Register 87, No. 27).
10. Amendment of section filed 6–28–91; operative 6–28–91 (Register 91, No. 42).

§ 350.5. Specially Protected Mammal Defined.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222 and 4850, Fish and Game Code.

HISTORY

1. New section filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
2. Repealer filed 7–1–86; effective upon filing (Register 86, No. 27).

§ 351. Forked–Horn Buck, Antlerless and Either–Sex Deer Defined.

(a) Forked–Horn Buck Defined. For the purpose of these regulations a forked–horn buck is defined as a male deer having a branched antler on either side with the branch in the upper two–thirds of the antler. Eyeguards or other bony projections on the lower one–third of the antler shall not be considered as points or branches.

(b) Antlerless Deer Defined. For the purpose of these regulations, antlerless deer are defined as female deer, fawns of either sex other than spotted fawns, and male deer with an unbranched antler on one or both sides which is not more than three inches in length.

(c) Either–Sex Deer Defined. For the purpose of these regulations, either–sex deer are defined as antlerless deer as described in Section 351 (b), or legal bucks that have two or more points in the upper two–thirds of either antler. Spike bucks may not be taken.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1 and 207, Fish and Game Code.

HISTORY

1. Amendment filed 6–13–68; designated effective 7–1–68 (Register 68, No. 22).
2. New subsections (c) and (d) filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19.)
3. Renumbering and amendment of section 351 to section 365 and renumbering and amendment of section 256 to section 351 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20). For history of former section 351, see Registers 80, No. 21; 79, No. 19 and 78, No. 24.
4. Amendment of section heading and subsection (a), repealer of subsection (b) and subsection relettering, and amendment of newly designated subsection (c) and NOTE filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).

§ 352. Shooting Hours on Big Game.

Hunting and shooting hours for big game, including but not limited to deer, antelope, elk, bear, and wild pig shall be from one–half hour before sunrise to one–half hour after sunset.

NOTE: Authority cited: Sections 3000, Fish and Game Code. Reference: Sections 3000, and 3950, Fish and Game Code.

HISTORY

1. Amendment filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
2. Amendment filed 5–28–71; designated effective 7–1–71 (Register 71, No. 22).
3. Amendment filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
4. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).

5. Renumbering of Section 356 to Section 352 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20). For history of former Section 352, see Registers 72, No. 24; 71, No. 22 and 70, No.23.

§ 353. Methods Authorized for Taking Big Game.

(a) Except for the provisions of subsections 353(b) through (h), Title 14, CCR, big game (as defined by Section 350, Title 14, CCR) may only be taken by rifles using centerfire cartridges with softnose or expanding projectiles; bow and arrow (see Section 354, Title 14, CCR, for archery equipment regulations); or wheellock, matchlock, flintlock or percussion type, including "in–line" muzzleloading rifles using black powder or equivalent black powder substitute, including pellets, with a single projectile loaded from the muzzle and at least .40 caliber in designation. For purposes of Section 353, a "projectile" is defined as any bullet, ball, sabot, slug, buckshot or other device which is expelled from a firearm through a barrel by force.

(b) Shotguns capable of holding not more than three shells firing single slugs may be used for the taking of deer, bear and wild pigs. In areas where the discharge of rifles or shotguns with slugs is prohibited by county ordinance, shotguns capable of holding not more than three shells firing size 0 or 00 buckshot may be used for the taking of deer only.

(c) Pistols and revolvers using centerfire cartridges with softnose or expanding projectiles may be used to take deer, bear, and wild pigs.

(d) Pistols and revolvers with minimum barrel lengths of 4 inches, using centerfire cartridges with softnose or expanding projectiles may be used to take elk and bighorn sheep.

(e) Except as provided in subsection 354(j), crossbows may be used to take deer and wild pigs only during the regular seasons.

(f) Under the provisions of a muzzleloading rifle only tag, hunters may only possess muzzleloading rifles as described in subsection 353(a) equipped with open or "peep" type sights only.

(g) Under the provisions of a muzzleloading rifle/archery tag, hunters may only possess muzzleloading rifles with sights as described in subsection 353(f); archery equipment as described in Section 354; or both. For purposes of this subsection, archery equipment does not include crossbows, except as provided in subsection 354(j).

(h) Methods of take within the California condor range. Except as otherwise provided, it is unlawful to use or possess projectiles containing more than one percent lead by weight while taking or attempting to take any big game (as defined in Section 350, Title 14, CCR) in those areas described in Section 3004.5, Fish and Game Code.

(1) Except as otherwise provided, it is unlawful to possess any projectile containing lead in excess of the amount permitted in subsection 353(h) and a firearm capable of firing the projectile while taking or attempting to take any big game within the area described in subsection 353(h). The possession of a projectile containing lead in excess of the amount allowed in subsection 353(h) without possessing a firearm capable of firing the projectile is not a violation of this section.

(i) Except as otherwise provided, while taking or attempting to take big game under the provisions of Section 353 or Section 354, Title 14, CCR, it is unlawful to use any device or devices which: 1) throw, cast or project an artificial light or electronically alter or intensify a light source for the purpose of visibly enhancing an animal; or 2) throw, cast or project an artificial light or electronically alter or intensify a light source for the purpose of providing a visible point of aim directly on a animal. Devices commonly referred to as "sniperscopes", night vision scopes or binoculars, or those utilizing infra–red, heat sensing or other non–visible spectrum light technology used for the purpose of visibly enhancing an animal or providing a visible point of aim directly on a animal are prohibited and may not be possessed while taking or attempting to take big game. Devices commonly referred to as laser rangefinders, "red–dot" scopes with self–illuminating reticles, and fiberoptic sights with self–illuminating sight or pins which do not throw, cast or project a visible light onto an animal are permitted.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 2005, 2055, 3004.5 and 3950, Fish and Game Code.

HISTORY

1. Repealer and new section filed 6–22–87; operative 6–22–87 (Register 87, No. 27). For prior history, see Register 85, No. 44.
2. Amendment of subsection (e) and new subsection (g) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
3. Amendment of subsection (a) and new subsection (h) filed 10–15–90 as an emergency; operative 10–15–90 (Register 90, No. 46). A Certificate of Compliance must be transmitted to OAL by 2–12–91 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency amendment filed 10–15–90 by operation of Government Code section 11346.1(f) (Register 91, No. 49).
5. Amendment of subsection (a) filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
6. Amendment of subsections (b) and (c) and NOTE filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
7. Amendment of subsections (a) and (g) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Change without regulatory effect amending subsection (g) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).
9. Amendment of subsection (a), new subsection (d), repealer of subsections (e) and (f), subsection relettering, and amendment of newly designated subsection (f) filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
10. Amendment of subsection (a) and new subsection (g) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
11. Amendment of subsections (a) and (e)–(g), new subsection (h) and amendment of NOTE filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
12. Amendment of subsections (a), (c) and (d), new subsections (h)–(h)(1), subsection relettering and amendment of NOTE filed 5–15–2008; operative 7–1–2008 (Register 2008, No. 20).

§ 354. Archery Equipment and Crossbow Regulations.

(a) Bow, as used in these regulations, means any device consisting of a flexible material having a string connecting its two ends and used to propel an arrow held in a firing position by hand only. Bow, includes long bow, recurve or compound bow.

(b) Crossbow, as used in these regulations means any device consisting of a bow or cured latex band or other flexible material (commonly referred to as a linear bow) affixed to a stock, or any bow that utilizes any device attached directly or indirectly to the bow for the purpose of keeping a crossbow bolt, an arrow or the string in a firing position. Except as provided in subsection 354(j), a crossbow is not archery equipment and cannot be used during the archery deer season.

(c) For the taking of big game, hunting arrows and crossbow bolts with a broad head type blade which will not pass through a hole seven–eighths inch in diameter shall be used. Mechanical/retractable broad heads shall be measured in the open position. For the taking of migratory game birds, resident small game, furbearers and nongame mammals and birds any arrow or crossbow bolt may be used except as prohibited by subsection (d) below.

(d) No arrows or crossbow bolt with an explosive head or with any substance which would tranquilize or poison any animal may be used. No arrows or crossbow bolt without flu–flu fletching may be used for the take of pheasants and migratory game birds, except for provisions of section 507(a)(2).

(e) No arrow or crossbow bolt may be released from a bow or crossbow upon or across any highway, road or other way open to vehicular traffic.

(f) No bow or crossbow may be used which will not cast a legal hunting arrow, except flu–flu arrows, a horizontal distance of 130 yards.

(g) Except as described in subsection 354(j), crossbows may not be used to take game birds and game mammals during archery seasons.

(h) Except as provided in subsection 353(g), archers may not possess a firearm while hunting in the field during any archery season, or while hunting during a general season under the provisions of an archery only tag.

(i) No person may nock or fit the notch in the end of an arrow to a bowstring or crossbow string in a ready–to–fire position while in or on any vehicle.

(j) Upon application to the department, the department may issue a Disabled Archer Permit, free of any charge or fee, to any person with a physical disability, as defined in 354(k), which prevents him/her from being able to draw and hold a bow in a firing position. The Disabled Archer Permit authorizes the disabled archer to use a crossbow or device which holds a string and arrow in the firing position to assist in the taking of birds and mammals under the conditions of an archery tag or during archery season.

(1) Applications for a Disabled Archer Permit, 2005/2006 Disabled Archer Permit Application, (Form FG 537 (New 1/05) shall be submitted to the department at the address specified on the application and shall include:

(A) Applicant's name
(B) Applicant's physical address
(C) Applicant's date of birth
(D) Applicant's Driver's License or DMV Number
(E) Applicant's valid hunting license number
(F) Applicant's telephone number

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(G) Applicant's signature
(H) Medical Physician's name
(I) Medical Physician's business address
(J) Medical Physician's business telephone number
(K) Medical Physician's State medical license number
(L) A description of the disabled archer's disability
(M) Medical Physician's signature
(N) Signature of the authorizing department employee and date issued

(2) The valid Disabled Archer Permit shall be in the archer's immediate possession while hunting and shall be shown on demand to any person authorized to enforce this regulation.

(3) The Disabled Archer Permit is valid from July 1 through June 30 of the following year.

(k) For the purposes of this section a physical disability means, a person having a permanent loss, significant limitation, or diagnosed disease or disorder, which substantially impairs one or both upper extremities preventing a hunter to draw and hold a bow in a firing position.

NOTE: Authority cited: Sections 200, 202, 203 and 240, Fish and Game Code. Reference: Sections 200, 202, 203 and 203.1, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (f) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85.
2. Notice of Erroneous Filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 (Register 85, No. 27).
3. Amendment filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
4. Amendment of subsection (d) filed 10–11–85; effective upon filing (Register 85, No. 44).
5. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).
6. Amendment of subsections (b) and (c) filed 6–22–87; operative 6–22–87 (Register 87, No. 27).
7. Amendment of subsection (c) filed 10–15–90 as an emergency; operative 10–15–90 (Register 90, No. 46). A Certificate of Compliance must be transmitted to OAL by 2–12–91 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to emergency amendment filed 10–15–90 by operation of Government Code section 11346.1(f) (Register 91, No. 49).
9. Amendment of subsection (f) and NOTE and new subsection (i) filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
10. Change without regulatory effect amending subsection (d) filed 7–24–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 30).
11. Amendment of subsection (c) filed 6–24–2003; operative 7–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).
12. Amendment of subsections (b) and (g)–(h) and new subsection (j) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
13. Amendment of subsection (j) and new subsections (j)(1)–(k) filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).

§ 355. Ammunition Authorized for Taking Big Game and Nongame Birds and Nongame Mammals in Condor Range.

In addition to those conditions provided for in sections 353 and 475, only centerfire rifle, centerfire pistol, muzzleloading, shotgun slug, and rimfire ammunition using projectiles certified pursuant to this section as containing no lead (as defined by subsection 353(h)) shall be used for the taking of big game and nongame birds and nongame mammals in condor range (see subsection 353(h)).

(a) Ammunition Certification Process. Any person or manufacturer of ammunition or projectiles wishing to have their ammunition or projectiles certified for hunting big game or nongame birds and nongame mammals in condor range shall submit the information identified in subsections (b)(1)–(5) to the California Department of Fish and Game, Wildlife Programs Branch, Sacramento. The Department shall accept or reject the request within 60 days of receipt. The ammunition or projectiles whose request has been accepted will be added to the list entitled "Certified ammunition and projectiles for hunting big game and nongame birds and nongame mammals in condor range" maintained by the Department.

(b) Information required for consideration of certification:

(1) Name of Manufacturer of ammunition or projectile, address, and contact information.

(2) For ammunition certifications, information shall specify as to caliber, cartridge designation, and projectile. Projectile specifications shall include unique identifying characteristics and percent content of lead by weight.

(3) For projectile certifications, information shall specify as to unique identifying characteristics and percent content of lead by weight.

(4) Signed statement verifying that all information provided is accurate.

(5) Digital color image of projectile or ammunition.

(c) The Department shall determine, based on information supplied, if the projectile contains less than the percent lead content by weight as defined in 353(h).

(d) The Department shall update the list of certified ammunition and projectiles no less than once annually and make it available to hunters.

(e) The Department shall decertify and remove from the list any projectiles or ammunition if information is received that it does not meet the standards set forth in subsection (b) within 60 days of receipt.

NOTE: Authority cited: Sections 200, 202, 203 and 3004.5, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 2055 and 3004.5, Fish and Game Code.

HISTORY

1. New section filed 6–18–2008; operative 7–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25). For prior history, see Register 81, No. 20.

§ 355.5. Firearms and Archery Equipment Authorized for Taking Nongame Animals During the Open Deer Season.

NOTE: Authority cited: Sections 200–221, Fish and Game Code. Reference: Sections 200–221, Fish and Game Code.

HISTORY

1. New section filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
2. Repealer filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Change without regulatory effect amending section heading filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 356. Shooting Hours on Big Game.

NOTE: Authority cited: Section 3000, Fish and Game Code. Reference: Sections 3000, and 3950, Fish and Game Code.

HISTORY

1. Amendment filed 6–4–70; designated effected 7–1–70 (Register 70, No. 23).
2. Amendment filed 5–28–71; designated effective 7–1–71 (Register 71, No. 22).
3. Amendment filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
4. Amendment 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
5. Renumbering of Section 356 to Section 352 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 357. Use of Dogs in Hunting Deer, Bear, Wild Pigs.

NOTE: Authority cited: Sections 200, 202, 203, 219, 3800, 4150, and 4853, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3800, 4000, 4150, 4756, and 4850–4854, Fish and Game Code.

HISTORY

1. Amendment filed 6–16–61; designated effective 7–1–61 (Register 61, No. 12).
2. Amendment filed 6–23–66; designated effective 7–2–66 (Register 66, No. 19).
3. Amendment filed 6–1–73; designated effective 7–1–73 (Register 73, No. 22).
4. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
5. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
6. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 357.1. Use of Dogs in Pursuit of and/or Hunting Wildlife.

NOTE: Authority cited: Sections 200, 202, 203, 219, 3800, 4150, and 4853, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3800, 4000, 4150, 4756, and 4850–4854, Fish and Game Code.

HISTORY

1. New section filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).
2. Amendment of subsections (a), (b), and (c) (3) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
3. Amendment of subsections (a) and (c) (3) filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
4. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).

5. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 358. Archery Deer Hunting.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, and 211–222, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 6–4–76; designated effective 7–1–76 (Register 76, No. 23). For prior history, see Register 75, No. 23.
2. Amendment filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).
3. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
4. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
5. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
6. Renumbering of Section 358 to Section 361 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 358.5. Archery Bear Hunting.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: 200–203.1, 206, 207, and 211–222, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24). For prior history, see Register 77, No. 25.
2. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
3. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
4. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 359. Archery Equipment Regulations.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: 200–203.1, 206, 207, and 211–222, Fish and Game Code.

HISTORY

1. New subsection (g) filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19). For prior history, see Register 78, No. 24.
2. Repealer filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).

§ 359.5. Use of Crossbows.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, and 211–222, Fish and Game Code.

HISTORY

1. Amendment filed 6–14–77; designated effective 7–1–77 (Register 77, No. 25).
2. Repealer filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).

§ 360. Deer.

Except as otherwise provided in this Title 14, deer may be taken only as follows:

(a) A, B, C, and D Zone Hunts.

(1) Zone A.

(A) Area: Shall include all of Zone A–South Unit 110 and Zone A–North Unit 160 (see subsections 360(a)(1)(A)1. through 2.).

1. South Unit 110. In those portions of Alameda, Contra Costa, Fresno, Kern, Kings, Los Angeles, Madera, Merced, Monterey, San Benito, San Joaquin, San Luis Obispo, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Stanislaus, Tulare and Ventura counties within a line beginning at the intersection of Highway 99 and the San Joaquin–Sacramento county line at Dry Creek; south on Highway 99 to Highway 166 in Kern County; west on Highway 166 to Highway 33; south on Highway 33 to Sespe Creek; east and south along Sespe Creek to Highway 126; east on Highway 126 to Interstate 5; south on Interstate 5 and 405 to Interstate 10; west on Interstate 10 to the Pacific Ocean; north on the Pacific Ocean coastline to the San Mateo–San Francisco county line; east on the San Mateo–San Francisco county line to the Alameda county line; north on the Alameda–San Francisco county line to the Contra Costa–San Francisco county line; northwest on Contra Costa–San Francisco county line to the Contra Costa–Marin county line; northeast on the Contra Costa–Marin county line to the Contra Costa–Solano county line in San Pablo Bay; east on the Contra Costa–Solano county line and the Sacramento River to the confluence of the San Joaquin River and Sacramento–Contra Costa county line; east on the Sacramento–Contra Costa county line and San Joaquin River to the confluence of the Mokelumne River and San Joaquin–Sacramento county line; northeast on the San Joaquin–Sacramento county line and Mokelumne River to the confluence of Dry Creek; east on the San Joaquin–Sacramento county line and Dry Creek to the point of beginning at Highway 99.

2. North Unit 160. In those portions of Colusa, Glenn, Lake, Marin, Mendocino, Napa, Sacramento, Solano, Sonoma and Yolo within a line beginning at the junction of the mouth of Hardy Creek (Mendocino County) and the Pacific Ocean; east along Hardy Creek to Highway 1; north along Highway 1 to Highway 101; south along Highway 101 to Commercial Avenue in the town of Willits; east on Commercial Avenue to the Hearst–Willits Road (County Road 306); north and east on the Hearst–Willits Road to the Main Eel River; southeast on the Main Eel River to Lake Pillsbury at Scott Dam; southeast along the west shore of Lake Pillsbury and the Rice Fork of the Eel River to Forest Service Road M–10; east on Forest Service Road M–10 to Forest Service Road 17N16; east on Forest Service Road 17N16 to Forest Service Road M–10; east on Forest Service Road M–10 to Letts Valley–Fouts Spring Road; east on the Letts Valley–Fouts Spring Road to the Elk Creek–Stonyford Road (County Road 306); north on the Elk Creek–Stonyford Road to the Glenn–Colusa county line; east along the Glenn–Colusa County line to Interstate 5; Interstate 5 south to Highway 99 in the City of Sacramento; Highway 99 south to the Sacramento/San Joaquin County line at Dry Creek, west along the Sacramento/San Joaquin County line and Dry Creek to the confluence with the Mokelumne River, southwest on the Sacramento/San Joaquin County line and Mokelumne River to the confluence with the San Joaquin River and Sacramento/Contra Costa County line, west on the Sacramento/Contra Costa County line and San Joaquin River to the confluence of the Sacramento River and Solano/Contra Costa County line, west on the Sacramento River and Solano/Contra Costa County line to the Marin County line in San Pablo Bay, southwest on the Marin/Contra Costa and Marin/San Francisco county lines to the North Peninsula shoreline near the Golden Gate Bridge, west on the shoreline to the Pacific Ocean coastline, northwest on the Pacific Ocean coastline to the point of beginning.

(B) Season: The season in Zone A–South Unit 110 and Zone A–North Unit 160 shall open on the second Saturday in August and extend for 44 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 65,000. Zone A tags are valid in Zone A–South Unit 110 and Zone A–North Unit 160.

(2) Zone B.

(A) Area: Shall include all of Zones B–1, B–2, B–3, B–4, B–5 and B–6 (see subsections 360(a)(2)(A) 1–6).

1. Zone B–1.

In the County of Del Norte and those portions of Glenn, Humboldt, Lake, Mendocino, Siskiyou and Trinity counties within a line: Beginning at the California–Oregon state line and the Pacific Ocean; east along the state line to the point where Cook–Green Pass Road (Forest Service Road 48N20) intersects the California–Oregon state line; south on the Cook–Green Pass Road to Highway 96 near Seiad Valley; west and south along Highway 96 to Highway 299 at Willow Creek; southeast along Highway 299 to the South Fork of the Trinity River; southeast along the South Fork of the Trinity River to the boundary of the Yolla Bolly–Middle Eel Wilderness Area; southwest along the boundary of the Yolla Bolly–Middle Eel Wilderness Area to the Four Corners Rock–Washington Rock Trail; south and east on the Four Corners Rock–Washington Rock Trail to the North Fork of Middle Fork Eel River; south on the North Fork of Middle Fork Eel River to Middle Fork Eel River; east on Middle Fork Eel River to confluence with Balm of Gilead Creek; north and east on Balm of Gilead Creek to confluence with Minnie Creek; east and south on Minnie Creek to Soldier Ridge Trail; north on Soldier Ridge Trail to Summit Trail; south on Summit Trail to Green Springs Trail head at Pacific Crest Road (U.S. Forest Service Road M–2); south on the Mendocino Pass Road to the intersection of Forest Highway 7; west on Forest Highway 7 to the Middle Fork of the Eel River near Eel River Work Center; southwest on the Middle Fork of the Eel River to the Black Butte River; Black Butte River to the Glenn–Mendocino county line; south along the Glenn–

Mendocino and Lake–Mendocino county lines to the northern boundary of State Game Refuge 2–A; east and south along the northern and eastern boundaries of State Game Refuge 2–A to the Glenn–Lake near Sheetiron Mountain; south along the Glenn–Lake and Colusa–Lake county lines to Forest Service Road 17N16; west on Forest Service Road 17N16 to Forest Service Road M–10; west on Forest Service Road M–10 to the Rice Fork of the Eel River; northwest along the Rice Fork of the Eel River and the shore of Lake Pillsbury to the Main Eel River at Scott Dam; west and north along the Main Eel River to the Hearst–Willits Road; southwest on the Hearst–Willits Road to Commercial Avenue; west on Commercial Avenue to Highway 101; north on Highway 101 to Highway 1 at Leggett; west on Highway 1 to its intersection with the South Fork of the Eel River; north and west along the South Fork of the Eel River to the main Eel River; west and north along the main Eel River to mouth of the Eel River and north along the Pacific coastline to the point of beginning.

2. Zone B–2.

In those portions of Humboldt, Shasta, Siskiyou, Tehama, and Trinity counties within a line beginning at the intersection of Interstate 5 and Highway 299 in Redding; west on Highway 299 to the Bully Choop Mountain Road at the Shasta–Trinity county line and Buckhorn Summit; south on the Bully Choop Mountain Road to a point where this road leaves the Shasta–Trinity county line at Mud Springs; southwest along the Shasta–Trinity county line to the Browns Creek–Harrison Gulch Road; south on the Browns Creek–Harrison Gulch Road to Highway 36; east on Highway 36 (200 yards) to Forest Service Arterial Road 41; south on Forest Service Arterial Road 41 to Stuart Gap at the Tehama–Trinity county line; south on the Tehama–Trinity county line to the north boundary of the Yolla Bolly–Middle Eel Wilderness Area; west and south on the Yolla Bolly–Middle Eel Wilderness boundary to the South Fork of the Trinity River; north and west along the South Fork of the Trinity River to Highway 299; west and north on Highway 299 to Highway 96 at Willow Creek; north on Highway 96 to the Cecilville–Salmon River Road (Forest Service Road 93) at Somes Bar; east along the Cecilville–Salmon River Road to Highway 3 at Callahan; east along Highway 3 to the Gazelle–Callahan Road (Forest Service Road 1219); east along the Gazelle–Callahan Road to Highway 99; north along Highway 99 to Louie Road; east along Louie Road to Interstate 5; south along Interstate 5 to the point of beginning.

3. Zone B–3.

In those portions of Colusa, Glenn, Lake, Mendocino, and Tehama counties within a line beginning at the intersection of Interstate 5 and Black Butte Reservoir Road; south on Interstate 5 to the Glenn–Colusa county line; west along the Glenn–Colusa county line to the Elk Creek–Stonyford Road (County Road 306); south on the Elk Creek–Stonyford Road to the Letts Valley–Fouts Spring Road; west on the Letts Valley–Fouts Spring Road through Fouts Spring to Forest Service Road M–10; west on Forest Service Road M–10 to the Colusa–Lake county line; north along the Colusa–Lake and Glenn–Lake county lines to the eastern boundary of State Game Refuge 2–A, near Sheetiron Mountain; north and west along the eastern and northern boundaries of State Game Refuge 2–A to the Lake–Mendocino county line; north on the Lake–Mendocino and Glenn–Mendocino county lines to the Black Butte River; northwest along the Black Butte River to the Middle Fork of the Eel River; east and north along the Middle Fork of the Eel River to Forest Highway 7 near the Eel River Work Center; east on Forest Highway 7 to the Low Gap–Government Flat Road; north on the Low Gap–Government Flat Road to the Round Valley–Paskenta Road at Government Flat; east on the Round Valley–Paskenta Road to the Black Butte Lake–Newville Road; south and east on the Black Butte Lake–Newville Road to Interstate 5 at the point of beginning.

4. Zone B–4.

In those portions of Mendocino and Humboldt counties within a line beginning at the mouth of Hardy Creek and the Pacific Ocean; north along the Pacific coastline to the mouth of the Eel River; east and south along the main Eel River to the South Fork of the Eel River; south along the South Fork of the Eel River to state Highway 1 at Leggett; west on state Highway 1 to Hardy Creek; west along Hardy Creek to the point of beginning.

5. Zone B–5.

In those portions of Glenn, Mendocino, Shasta, Tehama and Trinity counties within a line beginning at the intersection of Highway 299 and Interstate 5 in Redding; south along Interstate 5 to the Black Butte Lake–Newville Road near Orland; west and north on the Black Butte Lake–Newville Road to the Round Valley–Paskenta Road; west on the Round Valley–Paskenta Road to the Pacific Crest Road (U.S. Forest Service Road M–2) near Government Flat; north on the Pacific Crest Road to the Summit Trailhead at Green Springs; north along Summit Trail to Soldier Ridge Trail; south and west along Soldier Ridge Trail to Minnie Creek; north and west on Minnie Creek to Balm of Gilead Creek; west on Balm of Gilead Creek to the Middle Fork of the Eel River; west on the Middle Fork of the Eel River to the North Fork of the Middle Fork of the Eel River; north on the North Fork of the Middle Fork of the Eel River to the Four Corners Rock–Washington Rock Trail; north and west on the Four Corners Rock–Washington Rock Trail to the boundary of the Yolla Bolly–Middle Eel Wilderness Area; north along the boundary of the Yolla Bolly–Middle Eel Wilderness Area to the Tehama–Trinity county line; north on the Tehama–Trinity county line to Forest Service Arterial Road 41 at Stuart Gap; north on Forest Service Arterial Road 41 to Highway 36; west on Highway 36 (200 yards) to the Browns Creek–Harrison Gulch Road; north on the Browns Creek–Harrison Gulch Road to the Shasta–Trinity county line; northeast along the Shasta–Trinity county line to Mud Springs, where the Bully Choop Mountain Road joins the Shasta–Trinity county line; north on the Bully Choop Mountain Road to Highway 299 at Buckhorn Summit and the Shasta–Trinity county line; east on HIghway 299 to Interstate 5 in Redding.

6. Zone B–6.

In that portion of Siskiyou County within a line beginning at the California–Oregon state line and its intersection with Interstate 5; south on Interstate 5 to Louie Road near Gazelle; west on Louie Road to Highway 99; south on Highway 99 to the Gazelle–Callahan Road at Gazelle; west on the Gazelle–Callahan Road to Highway 3; west on Highway 3 to the Cecilville–Salmon River Road (Forest Service Road 93) at Callahan; west on the Cecilville–Salmon River Road to Highway 96 at Somes Bar; north on Highway 96 to the Cook–Green Pass Road at Seiad Valley; north on the Cook–Green Pass Road to the California–Oregon state line; east along the California–Oregon state line to Interstate 5.

(B) Season: The seasons for the B Zone shall be those specified for the areas described as B–1, B–2, B–3, B–4, B–5 and B–6 (see subsections 360(a)(2)(B)1–6).

1. Zone B–1.

The season in Zone B–1 shall open on the third Saturday in September and extend for 37 consecutive days.

2. Zone B–2.

The season in Zone B–2 shall open on the third Saturday in September and extend for 37 consecutive days.

3. Zone B–3.

The season in Zone B–3 shall open on the third Saturday in September and extend for 37 consecutive days.

4. Zone B–4.

The season in Zone B–4 shall open on the fourth Saturday in August and extend for 37 consecutive days.

5. Zone B–5.

The season in Zone B–5 shall open on the third Saturday in September and extend for 37 consecutive days.

6. Zone B–6.

The season in Zone B–6 shall open on the third Saturday in September and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 55,500. Zone B tags are valid in Zones B–1, B–2, B–3, B–4, B–5 and B–6

(3) Zone C.

(A) Area: Shall include all of Zones C–1, C–2, C–3, and C–4 (see subsections 360(a)(3)(A)1. through 4.).

1. Zone C–1.

In that portion of Siskiyou County within a line beginning at the California–Oregon state line and its intersection with Interstate 5; south on Interstate 5 to Highway 97 at Weed; north and east on Highway 97 to the intersection with the California–Oregon state line; west on the California–Oregon state line to the point of beginning.

2. Zone C–2.

In those portions of Shasta and Siskiyou counties within a line beginning at the junction of Interstate 5 and Highway 89 south of the town of Mt. Shasta; east and south on Highway 89 to the Pit River at Lake Britton; west and south along the Pit River to Interstate 5 at Shasta Lake; north on Interstate 5 to the point of beginning.

3. Zone C–3.

In that portion of Shasta County within a line beginning at the intersection of Cottonwood Creek and Interstate 5 at Cottonwood; north on Interstate 5 to the Pit River at Shasta Lake; east and north on the Pit River to Highway 89 at Lake Britton; south on Highway 89 to Highway 44 at Old Station; south and west on Highway 44 to the North Fork of Battle Creek; southwest on the North Fork of Battle Creek to Battle Creek; west on Battle Creek to the Sacramento River; north on the Sacramento River to the mouth of Cottonwood Creek; west on Cottonwood Creek to the point of beginning.

4. Zone C–4.

In those portions of Butte, Glenn, Lassen, Plumas, Shasta, and Tehama counties within a line beginning at the junction of Interstate 5 and Cottonwood Creek at Cottonwood; east on Cottonwood Creek to the Sacramento River; south on the Sacramento River to Battle Creek; east on Battle Creek to the North Fork of Battle Creek; northeast on the North Fork of Battle Creek to Highway 44; east on Highway 44 to Highway 89 at the north entrance of Lassen Volcanic National Park; north and east on Highway 89 and 44 to the junction of Highway 44 at Old Station; south and east on Highway 44 to Highway 36 west of Susanville; west on Highway 36 to Highway 147 near Westwood; south on Highway 147 to Highway 89; south on Highway 89 to Highway 70; southwest on Highway 70 to Highway 162 at Oroville; west on Highway 162 to Interstate 5; north on Interstate 5 to Cottonwood Creek to the point of beginning.

(B) Season: The seasons for the C Zone shall be those specified for the areas described as C–1, C–2, C–3, and C–4 (see subsections 360(a)(3)(B)1. through 4.).

1. Zone C–1.

The season in Zone C–1 shall open on the third Saturday in September and extend for 30 consecutive days.

2. Zone C–2.

The season in Zone C–2 shall open on the third Saturday in September and extend for 37 consecutive days.

3. Zone C–3.

The season in Zone C–3 shall open on the third Saturday in September and extend for 37 consecutive days.

4. Zone C–4.

The season in Zone C–4 shall open on the third Saturday in September and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 8,575. Zone C tags are valid in Zones C–1, C–2, C–3, and C–4 during the general season only as described above in subsections 360(a)(3)(B)1. through 4.

(4) Zone D–3–5.

(A) Area: Shall include all of zones D–3, D–4, and D–5 (see subsections 360(a)(4)(A)1. through 3.).

1. Zone D–3.

In those portions of Butte, Colusa, Glenn, Nevada, Placer, Plumas, Sierra, Sutter and Yuba counties within a line beginning at the junction of Interstate 5 and Highway 162 at Willows; east on Highway 162 to Highway 70 at Oroville; northeast on Highway 70 to Highway 89; south on Highway 89 to the new Gold Lake Road (near Graeagle); south on the new Gold Lake Road to Highway 49 at Bassetts; east on Highway 49 to Yuba Pass; south on the Yuba Pass–Webber Lake Road (main haul road) through Bonta Saddle to the Jackson Meadows Highway (Fiberboard Road); west on the Jackson Meadows Highway for two miles to the White Rock Lake Road; south on the White Rock Lake Road to the new road to White Rock Lake (below Bear Valley); south and east on the new White Rock Lake Road to the Pacific Crest Trail (one mile west of White Rock Lake in section 21, T18N, R14E, M.D.B.M.); south and east on the Pacific Crest Trail to Interstate 80 near the Castle Peak–Boreal Ridge Summit; west on Interstate 80 to Highway 20; west on Highway 20 to the Bear River in Bear Valley; west along the Bear River to Highway 65 near Wheatland; north on Highway 65 to Highway 70; north on Highway 70 to Highway 20 in Marysville; west on Highway 20 to Interstate 5 at Williams; north on Interstate 5 to the point of beginning.

2. Zone D–4.

In those portions of Colusa, Nevada, Placer, Sacramento, Sutter, Yolo and Yuba counties within a line beginning at the junction of Interstate 5 and Highway 20 at Williams; east on Highway 20 to Highway 70 in Marysville; south on Highway 70 to Highway 65; south on Highway 65 to the Bear River (south of Wheatland); east along the Bear River to Highway 20; east on Highway 20 to Interstate 80; east on Interstate 80 to the Pacific Crest Trail near the Castle Peak–Boreal Ridge Summit; south on the Pacific Crest Trail to Forest Route 03 at Barker Pass; east and north along Forest Route 03 to Blackwood Canyon Road; east along Blackwood Canyon Road to Highway 89 at Lake Tahoe near Idlewild; south on Highway 89 to Blackwood Creek; east on Blackwood Creek to the Lake Tahoe shoreline; south along the shore of Lake Tahoe to the mouth of Miller Creek and the common boundary between the Eldorado and Tahoe National Forests; west along Miller Creek to the Rubicon River; west along the Rubicon River through Hell Hole Reservoir to the Middle Fork of the American River; west along the Middle Fork of the American River to the American River; west along the American River to Interstate 5; north on Interstate 5 to the point of beginning.

3. Zone D–5.

In the counties of Amador and Calaveras and those portions of Alpine, El Dorado, Placer, Sacramento, San Joaquin, Stanislaus and Tuolumne counties within a line beginning at the junction of Interstate 5 and the American River in Sacramento; east along the American River to the Middle Fork of the American River; northeast along the Middle Fork of the American River to the Rubicon River; east along the Rubicon River through Hell Hole Reservoir to its confluence with Miller Creek; east along Miller Creek to its junction with the new (marked) USFS Pacific Crest Trail; north on the Pacific Crest Trail one–quarter mile to a junction with the McKinney–Rubicon Springs Road (Miller Lake Road); east along the McKinney–Rubicon Springs Road to McKinney Creek (NE 1/4, section 23, T14N, R16E, M.D.B.M.); east along McKinney Creek to the west shoreline of Lake Tahoe near Chambers Lodge; south along the shore of Lake Tahoe to the California–Nevada state line; southeast along the California–Nevada state line to Highway 50; southwest on Highway 50 to the Pacific Crest Trail at Echo Summit; south along the Pacific Crest Trail to the township line between Townships 7 and 8 North near Wolf Creek Pass; due west on that township line to the road connecting Lower and Upper Highland Lakes at Lower Highland Lake; west along that road to Highland Creek; southwest along Highland Creek to the North Fork of the Stanislaus River; west along the North Fork of the Stanislaus River to the Stanislaus River; west along the Stanislaus River to Highway 99; north along Highway 99 to Interstate 80; west on Interstate 80 to Interstate 5; north on Interstate 5 to the point of beginning.

(B) Season: The season for zones for D–3 through D–5 shall open on the fourth Saturday in September and extend for 37 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 33,000. The Zone D–3–5 tag is valid in zones D–3, D–4, and D–5.

(5) Zone D–6.

(A) Area: In those portions of Alpine, Madera, Mariposa, Merced, Stanislaus and Tuolumne counties within a line beginning at the intersection of Highway 99 and the Stanislaus River at Ripon; east along the Stanislaus River and following the North Fork of the Stanislaus River to Highland Creek; east up Highland Creek to the road connecting Lower and Upper Highland Lakes at Upper Highland Lake; east along that road to the township line between Townships 7 and 8 North; east on that township line to the Sierra crest near Wolf Creek Pass; south along the Sierra crest to the Yosemite National Park boundary near Rodger Peak; along the eastern Yosemite National Park boundary to Highway 41; south along Highway 41 to the Madera–Mariposa county line south of Westfall Station; along the Madera–Mariposa and the Madera–Merced county lines to Highway 99; north along Highway 99 to the point of beginning.

(B) Season: The season in Zone D–6 shall open on the third Saturday in September and extend for 44 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 10,000.

(6) Zone D–7.

(A) Area: In those portions of Fresno, Madera, Mariposa and Tulare counties within a line beginning at the intersection of Highway 99 and the Madera–Merced county line; northeast along the Madera–Merced and Madera–Mariposa county lines to Highway 41 south of Westfall Station; north along Highway 41 to Yosemite National Park boundary; east along the park boundary to the Mono–Madera county line near Rodger Peak; south along the Inyo National Forest boundary (crest of the Ritter Range) to the junction of the Inyo National Forest boundary and Ashley Creek; east to Ashley Lake; northeast along Ashley Creek to the junction of King Creek; southeast along King Creek to its junction with the middle fork of the San Joaquin River; south and west along the middle fork of the San Joaquin River to the junction of the Inyo National Forest boundary; east along Fish Creek to its confluence with Deer Creek; north and east along Deer Creek to the upper crossing of the Deer Creek trail; north and east along the Deer Creek trail to the Inyo National Forest Boundary (the Sierra Crest); south along the Sierra crest and the Inyo National Forest boundary to Bishop Pass; west along the Dusy Basin Trail to the Middle Fork of the Kings River; southwest and downstream along the Middle Fork of the Kings River to the junction of the Middle Fork and South Fork of the Kings River; southwest along the Kings River through Pine Flat Reservoir, Piedra and Reedley to Highway 99; north along Highway 99 to the point of beginning.

(B) Season: The season in Zone D–7 shall open on the third Saturday in September and extend for 44 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 9,000.

(7) Zone D–8.

(A) Area: In those portions of Fresno, Kern and Tulare counties within a line beginning at the intersection of Highway 99 and the Kings River; upstream and northeast along the Kings River through Reedley, Piedra and Pine Flat Reservoir to the junction of the Middle and South Forks of the Kings River; northeast along the Middle Fork Kings River to the Dusy Basin Trail; east along this trail to the Kings Canyon National Park boundary at Bishop Pass; south along the Kings Canyon and Sequoia National Park boundaries to the Main Kern River; southeast along the Main Kern River and the common boundary between the Inyo and Sequoia National Forests to the end of the Chimney Meadow–Blackrock Station Road (Forest Road 21S03) near Blackrock Mountain; southeast along the Chimney Meadow–Blackrock Station Road through Troy Meadows to the South Fork of the Kern River; south along the South Fork of the Kern River to the Doyle Ranch Road; south along the Doyle Ranch Road to Highway 178 in the town of Onyx; southwest along Highway 178 to Highway 99 at Bakersfield; north along Highway 99 to the point of beginning.

(B) Season: The season in Zone D–8 shall open on the fourth Saturday in September and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 8,000.

(8) Zone D–9.

(A) Area: In that portion of Kern County within a line beginning at the intersection of Highways 99 and 178; northeast along Highway 178 along Lake Isabella and through Walker Pass to Highway 14; southwest along Highway 14 to Highway 58; northwest along Highway 58 to Highway 99; north along Highway 99 to the point of beginning.

(B) Season: The season in Zone D–9 shall open on the fourth Saturday in September and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 2,000.

(9) Zone D–10.

(A) Area: In those portions of Kern and Los Angeles counties within a line beginning at the intersection of Highways 99 and 58; southeast along Highway 58 to Highway 14; south along Highway 14 to Highway 138; west along Highway 138 to Interstate 5; north on Interstate 5 to Highway 99; north on Highway 99 to the point of beginning.

(B) Season: The season in Zone D–10 shall open on the fourth Saturday in September and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 700.

(10) Zone D–11.

(A) Area: Those portions of Los Angeles and San Bernardino counties, within a line beginning at the intersection of Interstate 5 and Highway 138, south of Gorman; east on Highway 138 to Highway 14; south on Highway 14 to Palmdale and Highway 138; east on Highways 138 and 18 to Interstate 15; south on interstates 15 and 15E to Interstate 10; west on Interstate 10 to Interstate 405; north on Interstates 405 and 5 to the point of beginning.

(B) Season: The season in Zone D–11 shall open on the second Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 5,500.

(E) Special Conditions: Hunters that possess a D–11 deer tag may also hunt in zones D–13 and D–15 as described in subsections 360(a)(12)(A), (B) and (C), and subsections 360(a)(14)(A), (B) and (C).

(11) Zone D–12.

(A) Area: Those portions of Imperial, Riverside and San Bernardino counties within a line beginning at Highway 62 and the Twentynine Palms–Amboy Road in Twentynine Palms; east along Highway 62 to Highway 95 at Vidal Junction; north on Highway 95 to Interstate 40; east on Interstate 40 to the California–Arizona state line; south along this state line to the U.S.–Mexican border; west along the U.S.–Mexican border to Highway 111 in Calexico; north on Highway 111 to Interstate 10; north and west on Interstate 10 to Highway 62; north and east on Highway 62 to the point of beginning.

(B) Season: The season in Zone D–12 shall open on the first Saturday in November and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 950.

(12) Zone D–13.

(A) Area: In those portions of Kern, Los Angeles, San Luis Obispo, Santa Barbara, and Ventura counties within a line beginning at the intersection of Highways 99 and 166 at Mettler; south on Highway 99 and Interstate 5 to Highway 126; west on Highway 126 to the crossing of Sespe Creek; north and then west along Sespe Creek to Highway 33; north on Highway 33 to Highway 166; north and east on Highway 166 to the point of beginning.

(B) Season: The season in Zone D–13 shall open on the second Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 4,000.

(E) Special Conditions: Hunters that possess a D–13 deer tag may also hunt in zones D–11 and D–15 as described in subsections 360(a)(10)(A), (B) and (C), and subsections 360(a)(14)(A), (B) and (C).

(13) Zone D–14.

(A) Area: In those portions of Riverside and San Bernardino counties within a line beginning at the junction of Interstates 10 and 15E; northwest on Interstates 15E and 15 through Cajon Pass to Bear Valley Cutoff Road; east on Bear Valley Cutoff Road to Highway 18; east along Highway 18 to Highway 247; southeast on Highway 247 to Highway 62; southwest on Highway 62 to Interstate 10; west on Interstate 10 to the point of beginning.

(B) Seasons: The season in Zone D–14 shall open on the second Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 3,000.

(14) Zone D–15.

(A) Area: Including Santa Catalina Island, those portions of Los Angeles, Orange, Riverside, San Bernardino and San Diego counties within a line beginning at the Pacific Ocean and Interstate 10 in Santa Monica; east on Interstate 10 to Highway 79 at Beaumont; south on Highway 79 to Hemet; south on County Road R–3 through Sage to Highway 79; west on Highway 79 to Interstate 15; south on Interstate 15 to Highway 76; west on Highway 76 to the Pacific Ocean; north along the shoreline to the point of beginning.

(B) Season: The season in Zone D–15 shall open on the second Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: one buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 1,500.

(E) Special Conditions: Hunters that possess a D–15 deer tag may also hunt in zones D–11 and D–13 as described in subsections 360(a)(10)(A), (B) and (C), and subsections 360(a)(12)(A), (B) and (C).

(15) Zone D–16.

(A) Area: Those portions of Imperial, Riverside and San Diego counties within the line beginning at the Pacific Ocean and Highway 76; east on Highway 76 to Interstate 15; north on Interstate 15 to Highway 79; east on Highway 79 to the San Diego–Riverside county line; east along the San Diego–Riverside county line to the Anza–Borrego State Park boundary; south along the Anza–Borrego State Park boundary to Highway 78; east on Highway 78 to Highway 111; south on Highway 111 to the U.S.–Mexican border; west along the U.S.–Mexican border to the Pacific Ocean; north along the shoreline to the point of beginning.

(B) Season: The season in Zone D–16 shall open on the fourth Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better per tag.

(D) Number of Tags: 3,000.

(16) Zone D–17.

(A) Area: Those portions of Inyo, Kern, Los Angeles and San Bernardino counties within a line beginning at Highway 395 and the Kern–Inyo county line; east along the Kern–Inyo county line to the San Bernardino–Inyo county line; east along the San Bernardino–Inyo county line to Highway 127; north along Highway 127 to the California–Nevada state line; south along the California–Nevada state line to the California–Arizona state line; south along the California–Arizona state line to Interstate 40; Interstate 40 north to Needles; Highway 95 south to Highway 62; west on Highway 62 to Highway 247; northwest on Highway 247 to Highway 18; west on Highway 18 to Bear Valley Cutoff Road; west on Bear Valley Cutoff Road to Interstate 15; north on Interstate 15 to Highway 18; west on Highways 18 and 138 to Highway 14; north on Highways 14 and 395 to the point of beginning.

(B) Season: The season in Zone D–17 shall open on the second Saturday in October and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better per tag.

(D) Number of Tags: 500.

(17) Zone D–19.

(A) Area: Those portions of Imperial, Riverside and San Diego counties within a line beginning at the junction of Interstate 10 and Highway 79; south on Highway 79 to Hemet; south on County Road R–3 to Highway 79; south on Highway 79 to the Riverside–San Diego county line; east on the Riverside–San Diego county line to the Anza–Borrego State Park boundary; south on the Anza–Borrego State Park boundary to Highway 78; east on Highway 78 to Highway 111; north on Highway 111 to the junction of Interstate 10 in Indio; west on Interstate 10 to the point of beginning.

(B) Season: The season in D–19 shall open the first Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 1,500.

(b) X–Zone Hunts.

(1) Zone X–1.

(A) Area: In those portions of Lassen, Modoc, Shasta and Siskiyou counties within a line beginning at the California–Oregon state line and its intersection with Highway 139; south on Highway 139 to the Lookout–Hackamore Road; south on the Lookout–Hackamore Road to Highway 299; west on Highway 299 to the Pit River near Bieber; south and west on the Pit River to Highway 89 at Lake Britton; northwest on Highway 89 to Interstate 5 at Mt. Shasta; north on Interstate 5 to the junction of Highway 97 at Weed; north and east on Highway 97 to the California–Oregon state line; east on the California–Oregon state line to the point of beginning.

(B) Season: The season in Zone X–1 shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 2,280.

(2) Zone X–2.

(A) Area: In those portions of Modoc and Siskiyou counties within a line beginning at the intersection of Highway 139 and the California–Oregon state line near Tulelake; east along the California–Oregon state line to the eastern shoreline of Goose Lake; southwest along the eastern shoreline of Goose Lake to Westside Road (Modoc County 48); southeast along the Westside Road to Highway 395 in Davis Creek; south along Highway 395 to Highway 299 in Alturas; west along Highway 299 to Highway 139 near Canby; northwest along Highway 139 to the Oregon–California state line and the point of beginning.

(B) Season: The season in Zone X–2 shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 180.

(3) Zone X–3a.

(A) Area: In those portions of Lassen and Modoc counties within a line beginning at the intersection of the Lookout–Hackamore Road and Highway 139; southeast on Highway 139 to Highway 299; east on Highway 299 to Highway 395 in Alturas; south on Highway 395 to the Termo–Grasshopper Road (Lassen County 513); west on the Termo–Grasshopper Road to Highway 139; south on Highway 139 to the Cleghorn Road (Lassen County 521); west and north on the Cleghorn Road to Lassen County Road 519 near Coulthurst Flat; west on Lassen County Road 519 to U.S. Forest Service Designated Through Route 22 near Gooch Mountain; west and north on U.S. Forest Service Designated Through Route 22 to the Little Valley Road (Lassen County 404); north on the Little Valley Road to the Western Pacific Railroad; northeast on the Western

Pacific Railroad to Horse Creek; northwest on Horse Creek to the Pit River; north on the Pit River to Highway 299 at Bieber; northeast on Highway 299 to the Bieber–Lookout–Hackamore Road; north along the Bieber–Lookout–Hackamore Road to the point of beginning.

(B) Season: The season in Zone X–3a shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 250.

(4) Zone X–3b.

(A) Area: In those portions of Lassen and Modoc counties within a line beginning at the east shoreline of Goose Lake and the California–Oregon state line; east along this state line to the California–Nevada state line; south along the California–Nevada state line to the Clarks Valley–Red Rock–Tuledad Road (Lassen County Roads 512, 510 and 506); west along the Tuledad Red Rock–Clarks Valley Road to Highway 395 at Madeline; north on Highway 395 to Westside Road (Modoc County 48) in Davis Creek; west and north along Westside Road to the south shoreline of Goose Lake; east and north along the south and east shoreline of Goose Lake to the point of beginning.

(B) Season: The season in Zone X–3b shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 845.

(5) Zone X–4.

(A) Area: In those portions of Lassen and Shasta counties within a line beginning at the junction of Highways 89 and 44 at Old Station; north on Highway 89 to the intersection with the Pit River at Lake Britton; east and south on the Pit River to Horse Creek; southeast on Horse Creek to the Burlington Northern Railroad; southwest on the Burlington Northern Railroad to the Little Valley Road (Lassen County 404); south on the Little Valley Road to U.S. Forest Service Designated Through Route 22; south and east on U.S. Forest Service Designated Through Route 22 to Lassen County 519 near Gooch Mountain; east on Lassen County 519 to Cleghorn Road (Lassen County 521) near Coulthurst Flat; east on Cleghorn Road to Highway 139; south on Highway 139 to its crossing of Willow Creek in the Willow Creek Valley; south (downstream) on Willow Creek to its crossing of Conservation Center Road (Lassen County A–27); west on Conservation Center Road to Highway 36; northwest on Highway 36 to the intersection with Highway 44; north and west on Highway 44 to the point of beginning.

(B) Season: The season in Zone X–4 shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 425.

(6) Zone X–5a.

(A) Area: In that portion of Lassen County within a line beginning at the junction of Highway 395 and Conservation Center Road (Lassen County A–27) in the town of Litchfield; west on Conservation Center Road to its crossing of Willow Creek; northwest (upstream) on Willow Creek to its crossing of Highway 139 in the Willow Creek Valley; north along Highway 139 to the Termo–Grasshopper Road; east on the Termo–Grasshopper Road to Highway 395; south along Highway 395 to the point of beginning.

(B) Season:

The season in Zone X–5a shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 60.

(7) Zone X–5b.

(A) Area: That portion of Lassen County lying within the following line: Beginning at the junction of Highway 395 and the Clarks Valley–Red Rock–Tuledad Road (Lassen County Roads 506, 510 and 512); east on the Clarks Valley–Red Rock–Tuledad Road to the California–Nevada state line; south on the California–Nevada state line to the Pyramid Lake Road (Lassen County 320); west on the Pyramid Lake Road to Highway 395; north on Highway 395 to the point of beginning.

(B) Season:

The season in Zone X–5b shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 85.

(8) Zone X–6a.

(A) Area: In those portions of Lassen and Plumas counties within a line beginning at the junction of Highway 147 and Highway 36 near Westwood; east on Highway 36 to Conservation Center Road at Susanville (County Road A–27); east on Conservation Center Road to Highway 395 at the town of Litchfield; east on Highway 395 to the Wendel–Pyramid Lake Road (County Road 320); east on the Wendel–Pyramid Lake Road to the Nevada–California state line; south on the Nevada–California state line to the UP–WP railroad line near Herlong; west on the UP–WP railroad line to the Herlong Access Road (County Road A– 25) at Herlong; west on the Herlong Access Road to Highway 395; north on Highway 395 to County Road 336 at Milford; southwest on County Road 336 to U.S. Forest Service Road 26N16 near the Plumas–Lassen county line; west on Forest Service Road 26N16 to Forest Service Road 28N03 at Doyle Crossing; west on Forest Services Road 28N03 to Forest Service Road 29N43 near Antelope Lake; south on Forest Service Road 29N43 to County Road 111 at Flournoy Bridge; south on County Road 111 to Forest Service Road 24N08; south on Forest Service Road 24N08 to County Road 112 at Lake Davis; south on County Road 112 to Highway 70; west on Highway 70 to the Highway 89 junction at Blairsden; west on Highway 89/70 to the Greenville Y west of Quincy; northwest on Highway 89 to Highway 147 at Canyon Dam; north on Highway 147 to the point of beginning.

(B) Seasons: The season in Zone X–6a shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 325.

(9) Zone X–6b.

(A) Area: In those portions of Lassen and Plumas counties within a line beginning at the junction of County Road 336 and Highway 395 at Milford; south on Highway 395 to the junction of Highway 395 and the Herlong Access Road (County Road A–25); east on the Herlong Access Road to its junction with the UP–WP railroad line at Herlong; east on the UP–WP railroad line to the Nevada–California state line; south on the Nevada–California state line to the junction of the Nevada–California state line and Highway 395 at Bordertown; northwest on Highway 395 to its junction at Highway 70; west on Highway 70 to its junction with County Road 112; north on County Road 112 to its junction with U.S. Forest Service Road 24N08 at Lake Davis; north on Forest Service Road 24N08 to its junction with County Road 111; northwest on County Road 111 to its junction with Forest Service Road 29N43 at Flournoy Bridge; north on Forest Service Road 29N43 to Forest Service Road 28N03 near Antelope Lake; southeast on Forest Service Road 28N03 to Forest Service Road 26N16 at Doyle Crossing; east on Forest Service Road 26N16 to County Road 336 near the Plumas–Lassen county line; north on County Road 336 to the point of beginning.

(B) Season: The season in Zone X–6b shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 375.

(10) Zone X–7a.

(A) Area: In those portions of Lassen, Nevada, Plumas and Sierra counties lying within a line beginning at the junction of Highway 395 and the California–Nevada state line at Bordertown; south along the Long

Valley Road (County Road S570) to its intersection with the Henness Pass Road (County Road S860); west on Henness Pass Road over Summit 2 to the intersection with County Road S450 (near the Davies Creek Campground at Stampede Reservoir); west on County Road S450 (the Henness Pass Road) through Kyburz Flat to its intersection with Highway 89; south on Highway 89 to its intersection with Interstate 80 at Truckee; west on Interstate 80 to the Pacific Crest Trail near the Castle Peak–Boreal Ridge Summit; north on the Pacific Crest Trail to the new road to White Rock Lake (one mile west of White Rock Lake in section 21, T18N, R14E, M.D.B.M.); north on the new White Rock Lake Road below Bear Valley to the White Rock Lake Road; north on the White Rock Lake Road to the Jackson Meadows Highway (Fiberboard Road); east two miles on the Jackson Meadows Highway to the Yuba Pass Road at Webber Lake; north on the Yuba Pass Road (main haul road) through Bonta Saddle to Highway 49 at Yuba Pass; west on Highway 49 to the new Gold Lake Road at Bassetts; north on the new Gold Lake Road to Highway 89 near Graeagle; north on Highway 89 to Highway 70; east on Highway 70 to Highway 395 at Hallelujah Junction; south on Highway 395 to the point of beginning.

(B) Season: The season in Zone X–7a shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 205.

(11) Zone X–7b.

(A) Area: In those portions of Nevada, Placer and Sierra counties lying within a line beginning at the junction of Highway 395 and the California–Nevada state line at Bordertown; south along the California–Nevada state line to the shore of Lake Tahoe; west and south along the shore of Lake Tahoe to the mouth of Blackwood Creek near Idlewild; west on Blackwood Creek to Highway 89; north on Highway 89 to Blackwood Canyon Road; Blackwood Canyon Road near Idlewild; west along Blackwood Canyon Road to Forest Route 03; west and south along Forest Route 03 to the Pacific Crest Trail at Barker Pass; north on the Pacific Crest Trail to its intersection with Interstate 80 near the Castle Peak–Boreal Ridge Summit; east on Interstate 80 to its intersection with Highway 89 at Truckee; north on Highway 89 to County Road S450 (the Henness Pass Road, a.k.a. the Kyburz Flat Road); east on County Road S450 to its intersection with County Road S860 (continuation of Henness Pass Road) near the Davies Creek Campground at Stampede Reservoir; east on County Road S860, over Summit 2 to the junction with County Road S570 (the Long Valley Road); north on County Road S570 to Bordertown at the point of beginning.

(B) Season: The season in Zone X–7b shall open on the first Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 125.

(12) Zone X–8.

(A) Area: In those portions of Alpine and El Dorado counties within a line beginning at the junction of the California–Nevada state line and Highway 50; southeast along the California–Nevada state line to the Indian Springs Road, south to the Alpine–Mono County line; south along the Alpine–Mono county line to the Sierra crest; northwest along the Sierra crest to the intersection with the Pacific Crest Trail near Wolf Creek Pass; northwest along the Pacific Crest Trail to Highway 50 at Echo Summit; northeast on Highway 50 to the point of beginning.

(B) Season: The season in Zone X–8 shall open on the fourth Saturday in September and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 230.

(13) Zone X–9a.

(A) Area: In those portions of Fresno, Inyo, Madera and Mono counties within a line beginning at the intersection of Highway 6 and the California–Nevada state line; south along Highway 6 to its junction with Highway 395; south along Highway 395 to its junction with Highway 168; west and south along Highway 168 to the North Lake Road turnoff; west along the North Lake Road and the Piute Pass Trail to the Sierra Crest (Inyo National Forest Boundary); north along the Inyo National Forest Boundary to the Deer Creek Trail; south and west along the Deer Creek Trail to the upper crossing of Deer Creek; west and south along Deer Creek to its confluence with Fish Creek; west along Fish Creek to its confluence with the middle fork of the San Joaquin River; north along the middle fork of the San Joaquin River to the junction of King Creek; west along King Creek to the junction of Ashley Creek; west along Ashley Creek to Ashley Lake; continue west along Ashley Creek to the junction of the Inyo National Forest boundary; north along the Inyo National Forest Boundary (the crest of the Ritter Range) to the Mono–Madera county line; north along the Mono–Madera county line to Mono–Tuolumne county line; north on the Mono–Tuolumne county line to the Virginia Lakes Trail (Entry Trail D–11); east along Virginia Lakes Trail to Virginia Lakes Road; east along Virginia Lakes Road to Highway 395; south along Highway 395 to Highway 167; east on Highway 167 to the California–Nevada state line; southeast on the California–Nevada state line to the point of beginning.

(B) Season: The season in Zone X–9a shall open on the third Saturday in September and extend for 24 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 775.

(14) Zone X–9b.

(A) Area: That portion of Inyo County within a line beginning at the intersection of Highway 395 and Cottonwood Creek; northwest along Cottonwood Creek to the Horseshoe Meadow Road; south along the Horseshoe Meadow Road to the Cottonwood Pass Trail; west along the Cottonwood Pass Trail through Horseshoe Meadow to the Inyo–Tulare county line at Cottonwood Pass; north on the Inyo–Tulare and the Inyo–Fresno county lines to the Piute Pass Trail; east along the Piute Pass Trail to the North Lake Road; east and south on the North Lake Road to Highway 168; north and east on Highway 168 to Highway 395; south on Highway 395 to the point of beginning.

(B) Season: The season in Zone X–9b shall open on the third Saturday in September and extend for 24 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 325.

(15) Zone X–9c.

(A) Area: In those portions of Inyo and Mono counties within a line beginning at Highway 395 and the Kern–Inyo county line; north along Highway 395 to Highway 6; north on Highway 6 to the California–Nevada state line; southeast along the California–Nevada state line to Highway 127; south along Highway 127 to the Inyo–San Bernardino county line; west along the Inyo–San Bernardino county line to the Kern–Inyo county line; west along the Kern–Inyo county line to the point of beginning.

(B) Season: The season in Zone X–9c shall open on the third Saturday in October and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 325.

(16) Zone X–10.

(A) Area: In those portions of Kern, Tulare and Inyo counties within a line beginning at the intersection of Highway 178 and the Doyle Ranch Road in the town of Onyx; north along the Doyle Ranch Road to the South Fork of the Kern River; north along the South Fork of the Kern River to the Chimney Meadow–Blackrock Station Road (Forest Road 21S03); northwest along the Chimney Meadow–Blackrock Station Road through Troy Meadows to the road's end at the Inyo and Sequoia National Forest boundary near Blackrock Mountain; northwest along the Inyo and Sequoia National Forest boundary to the main Kern River; northwest along the main Kern River to the Sequoia National Park boundary; north-

east along the Sequoia National Park boundary to the Inyo–Tulare county line; southeast along the Inyo–Tulare county line to the Cottonwood Pass Trail at Cottonwood Pass; east along the Cottonwood Pass Trail through Horseshoe Meadow to the Horseshoe Meadow Road; north along the Horseshoe Meadow Road to Cottonwood Creek; southeast along Cottonwood Creek to Highway 395; south along Highway 395 to Highway 14; south along Highway 14 to Highway 178; north and west along Highway 178 to the point of beginning.

(B) Season:

The season in Zone X–10 shall open on the last Saturday in September and extend for 16 consecutive days.

(C) Bag and Possession Limit:

One buck, forked horn (See subsection 351(a)) or better, per tag.

(D) Number of Tags: 400.

(17) Zone X–12.

(A) Area: That portion of Mono County within a line beginning at the junction of the California–Nevada state line and Highway 167 (Pole Line Road); west on Highway 167 to Highway 395; north on Highway 395 to Virginia Lakes Road; west on Virginia Lakes Road to the Virginia Lakes Trail (Entry Trail D11); northwest on the Virginia Lakes Trail to the Mono–Tuolumne county line; north along the Mono–Tuolumne county line to the Mono–Alpine county line; northeast along the Mono–Alpine county line to Indian Springs Road; northeast on Indian Springs Road to the California–Nevada state line; southeast on the California–Nevada state line to the point of beginning.

(B) Season: The season in Zone X–12 shall open on the third Saturday in September and extend for 24 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351 (a)) or better, per tag.

(D) Number of Tags: 850.

(c) Additional Hunts.

(1) G–1 (Late Season Buck Hunt for Zone C–4).

(A) Area: Those portions of Butte, Glenn, Lassen, Plumas, Shasta, and Tehama counties within the area described as Zone C–4 (see subsection 360(a)(3)(A)4.).

(B) Season: The season for additional hunt G–1 (Late Season Buck Hunt for Zone C–4) shall open on the fourth Saturday in October and extend for 9 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 2,850.

(2) G–3 (Goodale Buck Hunt).

(A) Area: In that portion of Inyo County within a line beginning at the intersection of Highway 395 and Lone Pine Creek; west along Lone Pine Creek to the Inyo–Tulare county line; northwest along the Inyo–Tulare and Inyo–Fresno county lines to Taboose Creek; east along Taboose Creek to Highway 395; south along Highway 395 to the point of beginning.

(B) Season: The season for additional hunt G–3 (Goodale Buck Hunt) shall open on the first Saturday in December and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 35.

(3) G–6 (Kern River Deer Herd Buck Hunt).

(A) Area: In those portions of Kern and Tulare counties lying within a line beginning at the intersection of County Road 521 and County Road 495 at Kernville; south on County Road 495 to the intersection of Highway 155 at Wofford Heights; west on Highway 155 to the intersection of U.S. Forest Service Road 24S15 at Greenhorn Summit; north on U.S. Forest Service Road 24S15 to the intersection of U.S. Forest Service Road 23S16 (near Portuguese Pass); northeast on U.S. Forest Service Road 23S16 to County Road SM50; west on County Road SM50 to the *intersection of the Western Divide Highway* (County Road SM107); north on County Road SM107 to the junction of U.S. Forest Service Road 21S50 (near Quaking Aspen Campground); north on U.S. Forest Service Road 21S50 to the junction of U.S. Forest Service Road 20S79; northeast on U.S. Forest Service Road 20S79 to the junction of U.S. Forest Service Road 20S53; northeast on U.S. Forest Service Road 20S53 to the Golden Trout Wilderness boundary (at Lewis Camp Trail Head); east on the Golden Trout Wilderness Boundary to Rattlesnake Creek; southeast on Rattlesnake Creek to U.S. Forest Service Road 22S05; south on U.S. Forest Service Road 22S05 to the Dome Land Wilderness Boundary; southwest on the Dome Land Wilderness Boundary to the intersection of the South Fork of the Kern River; south along the South Fork of the Kern River to the intersection of County Road 521; west on County Road 521 to the point of beginning.

(B) Season: The season for additional hunt G–6 (Kern River Deer Herd Buck Hunt) shall open on the first Saturday in December and extend for 9 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 50.

(4) G–7 (Beale Either–Sex Deer Hunt).

(A) Area: That portion of Yuba County lying within the exterior boundaries of Beale Air Force Base.

(B) Season: The season for additional hunt G–7 (Beale Either–Sex Deer Hunt) shall open on the third Saturday in August and extend for 79 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 20 (military only).

(E) Special Conditions:

1. Only shotguns with single slugs or muzzleloading rifles, crossbows, and archery equipment as specified in sections 353 and 354 may be used.

2. In the event the Commanding Officer cancels the hunt, G–7 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(5) G–8 (Fort Hunter Liggett Antlerless Deer Hunt).

(A) Area: That portion of Monterey County lying within the exterior boundaries of the Hunter Liggett Military Reservation, except as restricted by the Commanding Officer.

(B) Season: The season for additional hunt G–8 (Fort Hunter Liggett Antlerless Deer Hunt) shall open on October 4 and extend for 2 consecutive days and reopen on October 11 and extend for 3 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

(C) Bag and Possession Limit: One antlerless deer (see subsection 351(b)) per tag.

(D) Number of Tags: 20 (10 military and 10 general public).

(E) Special Conditions: In the event the Commanding Officer cancels the hunt, G–8 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(6) G–9 (Camp Roberts Antlerless Deer Hunt).

(A) Area: That portion of San Luis Obispo County lying within the exterior boundaries of Camp Roberts, except as restricted by the Commanding Officer.

(B) Season: The season for additional hunt G–9 (Camp Roberts Antlerless Deer Hunt) shall open the last Monday in August and extend for 8 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

(C) Bag and Possession Limit: One antlerless deer (see subsection 351(b)) per tag.

(D) Number of Tags: 30 (15 military and 15 general public).

(E) Special Conditions: In the event the Commanding Officer cancels the hunt, G–9 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(7) G–10 (Camp Pendleton Either–Sex Deer Hunt).

(A) Area: That portion of San Diego County lying within the exterior boundaries of the U.S. Marine Corps Base, Camp Joseph Pendleton.

(B) Season: The season for additional hunt G–10 (Camp Pendleton Either–Sex Deer Hunt) shall be open on Saturdays, Sundays, holidays and the day after Thanksgiving beginning the first Saturday in September and extend through the first Sunday in December. Season dates may be subject to further restriction, or additional hunt days scheduled with concurrence from the Department, between the season opener and December 31 by the Commanding Officer due to military operations.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 400 (military only).

(E) Special Conditions:

1. Only archery equipment is permitted during the first six weeks of the season.

2. Hunting with firearms is permitted beginning on the seventh weekend through the end of season.

3. A permit fee and method of take registration with the Base may be required.

4. In the event the Commanding Officer cancels the hunt, G–10 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(8) G–11 (Vandenberg Either–Sex Deer Hunt).

(A) Area: That portion of Santa Barbara County lying within the exterior boundaries of Vandenberg Air Force Base.

(B) Season: The season for additional hunt G–11 (Vandenberg Either–Sex Deer Hunt) shall open on the last Monday in August and extend through December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 500 (military and Department of Defense employees only).

(E) Special Conditions: In the event the Commanding Officer cancels the hunt, G–11 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(9) G–12 (Gray Lodge Shotgun Either–Sex Deer Hunt).

(A) Area: Those portions of Butte and Sutter counties within the exterior boundaries of the Gray Lodge State Wildlife Area.

(B) Season: The season for additional hunt G–12 (Gray Lodge Shotgun Either–Sex Deer Hunt) shall open on the third Saturday in September and extend for nine consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 30.

(E) Special Conditions: Only shotguns and ammunition as specified in Section 353 may be used.

(10) G–13 (San Diego Antlerless Deer Hunt).

(A) Area: That portion of San Diego County within Zone D–16 (see subsection 360(a)(15)(A)).

(B) Season: The season for additional hunt G–13 (San Diego Antlerless Deer Hunt) shall open on the fourth Saturday in October and extend for 23 consecutive days.

(C) Bag and Possession Limit: One antlerless deer (see subsection 351(b)) per tag.

(D) Number of Tags: 300.

(11) G–19 (Sutter–Yuba Wildlife Areas Either–Sex Deer Hunt).

(A) Area: Those portions of Yuba and Sutter counties within the exterior boundaries of: (1) the Feather River Wildlife Area, and (2) the Sutter Bypass Wildlife Area (as defined in Section 550, Title 14, CCR).

(B) Season: The season for additional hunt G–19 (Sutter–Yuba Wildlife Areas Either–Sex Deer Hunt) shall open on the fourth Saturday in September and extend through December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 25.

(E) Special Conditions: Only archery equipment and crossbows (as specified in Section 354) and shotguns and ammunition (as specified in Section 353) may be used.

(12) G–21 (Ventana Wilderness Buck Hunt).

(A) Area: That portion of Monterey County and the Los Padres National Forest within the exterior boundaries of the Ventana Wilderness Area.

(B) Season: The season for additional hunt G–21 (Ventana Wilderness Buck Hunt) shall open on the second Saturday in November and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 25.

(13) G–37 (Anderson Flat Buck Hunt).

(A) Area: In that portion of hunt Zone D–6 in Mariposa and Tuolumne counties lying within a line beginning at the intersection of Highway 140 and Bull Creek Road at Briceburg; north on Bull Creek Road (U.S. Forest Service Road 2S05) to Greeley Hill Road; west on Greeley Hill Road to Smith Station Road (County Route J20); north on Smith Station Road to Highway 120 (near Burch Meadow); east on Highway 120 to the Yosemite National Park Boundary (near Big Oak–Flat Ranger Station); southeast along the Yosemite National Park Boundary to Highway 140; west on Highway 140 to the Yosemite National Park Boundary; northwest along the Yosemite National Park Boundary to Highway 140 (at Redbud Campground); west on Highway 140 to the point of beginning.

(B) Season: The season for additional hunt G–37 (Anderson Flat Buck Hunt) shall open on the fourth Saturday in November and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 25.

(14) G–38 (X–10 Late Season Buck Hunt).

(A) Area: In those portions of Kern, Tulare, and Inyo counties within a line beginning at the intersection of Highway 178 and the Doyle Ranch Road in the town of Onyx; north along the Doyle Ranch Road to the South Fork of the Kern River; north along the South Fork of the Kern River to the Chimney Meadow–Blackrock Station Road (Forest Road 21S03); northwest along the Chimney Meadow–Blackrock Station Road through Troy Meadows to the road's end at the Inyo and Sequoia National Forest boundary near Blackrock Mountain; northwest along the Inyo and Sequoia National Forest boundary to the main Kern River; northwest along the main Kern River to the Sequoia National Park boundary; northeast along the Sequoia National Park boundary to the Inyo–Tulare county line; southeast along the Inyo–Tulare county line to the Cottonwood Pass Trail at Cottonwood Pass; east along the Cottonwood Pass Trail through Horseshoe Meadow to the Horseshoe Meadow Road; north along the Horseshoe Meadow Road to Cottonwood Creek; southeast along Cottonwood Creek to Highway 395; south along Highway 395 to Highway 14; south along Highway 14 to Highway 178; north and west along Highway 178 to the point of beginning.

(B) Season: The season for additional hunt G–38 (X–10 Late Season Buck Hunt) shall open on the third Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 300.

(15) G–39 (Round Valley Late Season Buck Hunt).

(A) Area: In that portion of Inyo and Mono counties within a line beginning at the intersection of U.S. Highway 395 and California Highway 168; west and south along Highway 168 to the North Lake Road turnoff; west along the North Lake Road and the Piute Pass Trail to the Inyo–Fresno county line; north along the Inyo–Fresno county line to the Mono–Fresno county line; north along the Mono–Fresno and Mono–Madera county lines to the junction of the Mono–Madera county line and California Highway 203 at Minaret Summit; southeast along Highway 203 to its

junction with Highway 395; south along Highway 395 to the point of beginning.

(B) Season: The season for additional hunt G–39 (Round Valley Late Season Buck Hunt) shall open on the fourth Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 5.

(16) M–3 (Doyle Muzzleloading Rifle Buck Hunt).

(A) Area: That portion of Lassen County within the area described as X–6b (see subsection 360(b)(9)(A)).

(B) Season: The season for additional hunt M–3 (Doyle Muzzleloading Rifle Buck Hunt) shall open on the third Saturday in November and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 20.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(17) M–4 (Horse Lake Muzzleloading Rifle Buck Hunt).

(A) Area: That portion of Lassen County within the area described as X5a (see subsection 360(b)(6)(A)).

(B) Season: The season for additional hunt M–4 (Horse Lake Muzzleloading Rifle Buck Hunt) shall open on the fourth Saturday in October and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 10.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(18) M–5 (East Lassen Muzzleloading Rifle Buck Hunt).

(A) Area: That portion of Lassen County within the area described as X–5b (see subsection 360(b)(7)(A)).

(B) Season: The season for additional hunt M–5 (East Lassen Muzzleloading Rifle Buck Hunt) shall open on the fourth Saturday in October and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 10.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(19) M–6 (San Diego Muzzleloading Rifle Either–Sex Deer Hunt).

(A) Area: That portion of San Diego County within Zone D–16 (see subsection 360(a)(15)(A)).

(B) Season: The season for additional hunt M–6 (San Diego Muzzleloading Rifle Either–Sex Deer Hunt) shall open on the third Saturday in December and extend through December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 80.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(20) M–7 (Ventura Muzzleloading Rifle Either–Sex Deer Hunt).

(A) Area: All of Ventura County.

(B) Season: The season for additional hunt M–7 (Ventura Muzzleloading Rifle Either–Sex Deer Hunt) shall open on the last Saturday in November and extend for 16 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 150.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(21) M–8 (Bass Hill Muzzleloading Rifle Buck Hunt).

(A) Area: That portion of Lassen County within the area described as Zone X–6a (see subsection 360(b)(8)(A)).

(B) Season: The season for additional hunt M–8 (Bass Hill Muzzleloading Rifle Buck) shall open on the fourth Saturday in October and extend for 9 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 20.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(22) M–9 (Devil's Garden Muzzleloading Rifle Buck Hunt).

(A) Area: That portion of Modoc County within a line beginning at the intersection of the Malin Road (Modoc County 114) and the California/Oregon state line; east along the state line to the Crowder Flat Road; south along the Crowder Flat Road to the Blue Mountain Road (Modoc County 136); west on the Blue Mountain Road to the Blue Mountain–Mowitz Butte–Ambrose Road; south on the Blue Mountain–Mowitz Butte–Ambrose Road to Highway 139; north on Highway 139 to the Malin Road; north on the Malin Road to the point of beginning.

(B) Season: The season for additional hunt M–9 (Devil's Garden Muzzleloading Rifle Buck Hunt) shall open on the fourth Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 15.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(23) M–11 (Northwestern California Muzzleloading Rifle Buck Hunt).

(A) Area: Those portions of Del Norte, Glenn, Humbolt, Lake, Mendocino, Siskiyou, and Trinity counties within the area described as Zone B–1 (see subsection 360(a)(2)(A)1.

(B) Season: The season for additional hunt M–11 (Northwestern California Muzzleloading Rifle Buck Hunt) shall open on the second Saturday in November and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 20.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 may be used.

(24) MA–1 (San Luis Obispo Muzzleloading Rifle/Archery Either–Sex Deer Hunt).

(A) Area: That portion of San Luis Obispo County lying within the Los Padres National Forest.

(B) Season: The season for additional hunt MA–1 (San Luis Obispo Muzzleloading Rifle/Archery Either–Sex Deer Hunt) shall open the last Saturday in November and extend for 16 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 150.

(E) Special Conditions: Only archery equipment as specified in Section 354 or muzzleloading rifles as specified in Section 353 may be used.

(25) MA–3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt).

(A) Area: All of Santa Barbara County.

(B) Season: The season for additional hunt MA–3 (Santa Barbara Muzzleloading Rifle/Archery Buck Hunt) shall open on the last Saturday in November and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 150.

(E) Special Conditions: Only muzzleloading rifles as specified in Section 353 and archery equipment as specified in Section 354 may be used.

(26) J–1 (Lake Sonoma Apprentice Either–Sex Deer Hunt).

(A) Area: That portion of Sonoma County within the boundaries of the Lake Sonoma Area, U.S. Army Corps of Engineers (COE) property described as follows: Beginning at the intersection of Hot Springs Road and the COE boundary; east and south along the boundary line to the intersec-

tion with Brush Creek; west along the north bank of Brush Creek (shoreline) to the Dry Creek arm of Lake Sonoma; south along the shoreline of the Dry Creek arm to Smittle Creek; north along the COE property line to Dry Creek; east along the COE boundary across Cherry Creek, Skunk Creek, and Yorty Creek to the point of beginning.

(B) Season: The season for additional hunt J-1 (Lake Sonoma Apprentice Either-Sex Deer Hunt) shall open on the first Saturday in November and extend for two consecutive days.

(C) Bag and Possession Limit: One either-sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 25.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

3. Tagholders shall attend an orientation meeting the day before the opening day of the season.

4. The use of dogs is prohibited.

5. Boats are required for all areas west of Cherry Creek (2/3 of the hunt area). Only cartop boats are allowed to launch from the Yorty Creek access.

(27) J-3 (Tehama Wildlife Area Apprentice Buck Hunt).

(A) Area: That portion of Tehama County within the boundaries of the Tehama Wildlife Area.

(B) Season: The season for additional hunt J-3 (Tehama Wildlife Area Apprentice Buck Hunt) shall open on the last Saturday in November and extend for 2 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 15.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

3. Tagholders shall attend an orientation meeting the day before the opening day of the season.

(28) J-4 (Shasta-Trinity Apprentice Buck Hunt).

(A) Area: In those portions of Shasta and Trinity counties beginning at the junction of Highway 3 and Highway 299 in Weaverville; north on Highway 3 to the East Side Road at the north end of Trinity Lake; east on the East Side Road to Dog Creek Road; east on Dog Creek Road to Interstate 5 at Vollmers; south on Interstate 5 to Shasta Lake; south along the west shore of Shasta Lake to Shasta Dam; south along Shasta Dam along the Sacramento River to Keswick Dam Road; west on Keswick Dam Road to Rock Creek Road; south on Rock Creek Road to Highway 299; west on Highway 299 to the point of beginning.

(B) Season: The season for additional hunt J-4 (Shasta-Trinity Apprentice Buck Hunt) shall open on the fourth Saturday in November and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 15.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(29) J-7 (Carson River Apprentice Either-Sex Deer Hunt).

(A) Area: That portion of Alpine County within the area described as Zone X-8 (see subsection 360(b)(12)(A)).

(B) Season: The season for additional hunt J-7 (Carson River Apprentice Either-Sex Deer Hunt) shall open on the first Saturday following the closure of the X-8 general season (see subsection 360(b)(12)(B)) and extend for 9 consecutive days.

(C) Bag and Possession limit: One either-sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 15.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(30) J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt).

(A) Area: That portion of Yuba County within the exterior boundaries of the Daugherty Hill Wildlife Area (as defined in Section 550, Title 14, CCR).

(B) Season: The season for additional hunt J-8 (Daugherty Hill Wildlife Area Apprentice Either-Sex Deer Hunt) shall open on the first Saturday in December and extend through December 31.

(C) Bag and Possession Limit: One either-sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 15.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

3. Tagholders shall attend an orientation meeting the day before the opening day of the season.

(31) J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt).

(A) Area: That portion of Butte County within the exterior boundaries of the Little Dry Creek Unit Upper Butte Basin Wildlife Area (as defined in Section 550).

(B) Season: The season for additional hunt J-9 (Little Dry Creek Apprentice Shotgun Either-Sex Deer Hunt) shall open on the third Saturday in September and extend for 9 consecutive days.

(C) Bag and Possession Limit: One either-sex deer (see subsection 351(c)), per tag.

(D) Number of Tags: 5.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

3. Tagholders shall attend an orientation meeting the day before the opening day of the season.

4. Only shotguns and ammunition as specified in Section 353 may be used.

(32) J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt).

(A) Area: That portion of Monterey County lying within the exterior boundaries of the Fort Hunter Liggett Military Reservation, except as restricted by the Commanding Officer.

(B) Season: The season for additional hunt J-10 (Fort Hunter Liggett Apprentice Either-Sex Deer Hunt) shall open on October 4 and extend for 2 consecutive days and reopen October 11 and extend for 3 consecutive days, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

(C) Bag and Possession Limit: One either-sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 85 (10 military and 75 general public).

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

3. Tagholders shall attend an orientation meeting the day before the opening day of the season.

4. In the event the Commanding Officer cancels the hunt, J-10 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(33) J-11 (San Bernardino Apprentice Either-Sex Deer Hunt).

(A) Area: In those portions of Zone D–14 within San Bernardino County (see subsection 360(a)(13)(A).

(B) Season: The season for additional hunt J–11 (San Bernardino Apprentice Either–Sex Deer Hunt) shall open on the third Saturday in November and extend for 9 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 40.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(34) J–12 (Round Valley Apprentice Buck Hunt).

(A) Area: In that portion of Inyo and Mono counties within a line beginning at the intersection of U.S. Highway 395 and California Highway 168; west and south along Highway 168 to the North Lake Road turnoff; west along the North Lake Road and the Paiute Pass Trail to the Inyo–Fresno county line; north along the Inyo–Fresno county line to the Mono–Fresno county line; north along the Mono–Fresno and Mono–Madera county lines to the junction of the Mono–Madera county line and California Highway 203 at Minaret Summit; southeast along Highway 203 to its junction with Highway 395; south along Highway 395 to the point of beginning.

(B) Season: The season for additional hunt J–12 (Round Valley Apprentice Buck Hunt) shall open on the first Saturday in December and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 10.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(35) J–13 (Los Angeles Apprentice Either–Sex Deer Hunt).

(A) Area: In that portion of Los Angeles County within Zone D–11 (see subsection 360(a)(10)(A)).

(B) Season: The season for additional hunt J–13 (Los Angeles Apprentice Either–Sex Deer Hunt) shall open on the third Saturday in November and extend for 9 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 40.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(36) J–14 (Riverside Apprentice Either–Sex Deer Hunt).

(A) Area: In that portion of Riverside County within Zone D–19 (see subsection 360(a)(17)(A)).

(B) Season: The season for additional hunt J–14 (Riverside Apprentice Either–Sex Deer Hunt) shall open on the third Saturday in November and extend for 9 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 30.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(37) J–15 (Anderson Flat Apprentice Buck Hunt).

(A) Area: In that portion of Zone D–6 in Mariposa and Tuolumne counties lying within a line beginning at the intersection of Highway 140 and Bull Creek Road at Briceburg; north on Bull Creek Road (U.S. Forest Service Road 2S05) to Greeley Hill Road; west on Greeley Hill Road to Smith Station Road (County Route J20); north on Smith Station Road to Highway 120 (near Burch Meadow); east on Highway 120 to the Yosemite National Park Boundary (near Big Oak–Flat Ranger Station); southeast along the Yosemite National Park Boundary to Highway 140; west on Highway 140 to the Yosemite National Park Boundary; northwest along the Yosemite National Park Boundary to Highway 140 (at Redbud Campground); west on Highway 140 to the point of beginning.

(B) Season: The season for additional hunt J–15 (Anderson Flat Apprentice Buck Hunt) shall open on the fourth Saturday in November and extend for nine consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 10.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(38) J–16 (Bucks Mountain–Nevada City Apprentice Either–Sex Deer Hunt).

(A) Area: Excluding Butte, Colusa and Glenn Counties, in those portions of Nevada, Placer, Plumas, Sierra, Sutter and Yuba Counties within the area described as zone D–3 (see subsection 360(a)(4)(A)1).

(B) Season: The season for additional hunt J–16 (Bucks Mountain–Nevada City Apprentice Either–Sex Deer Hunt) shall be concurrent with the zone D–3 general season as defined in subsection 360(a)(4)(B).

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 75.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(39) J–17 (Blue Canyon Apprentice Either–Sex Deer Hunt).

(A) Area: Excluding Colusa County, in those portions of Nevada, Placer, Sacramento, Sutter, Yolo and Yuba Counties within the area described as zone D–4 (see subsection 360(a)(4)(A)2).

(B) Season: The season for additional hunt J–17 (Blue Canyon Apprentice Either–Sex Deer Hunt) shall be concurrent with the zone D–4 general season as defined in subsection 360(a)(4)(B).

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 25.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(40) J–18 (Pacific–Grizzly Flat Apprentice Either–Sex Deer Hunt).

(A) Area: Excluding Amador, Calaveras and Tuolumne Counties, in those portions of Alpine, El Dorado, Placer, Sacramento, San Joaquin, and Stanislaus counties within the area described as zone D–5 (see subsection 360(a)(4)(A)3).

(B) Season: The season for additional hunt J–18 (Pacific–Grizzly Flat Apprentice Either–Sex Deer Hunt) shall be concurrent with the zone D–5 general season as defined in subsection 360(a)(4)(B).

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 75.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(41) J–19 (Zone X–7a Apprentice Either–Sex Deer Hunt).

(A) Area: In those portions of Lassen, Nevada, Plumas and Sierra Counties within the area described as zone X–7a (see subsection 360(b)(10)(A)).

(B) Season: The season for additional hunt J–19 (Zone X–7a Apprentice Either–Sex Deer Hunt) shall be concurrent with the zone X–7a general season as defined in subsection 360(b)(10)(B).

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 25.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(42) J–20 (Zone X–7b Apprentice Either–Sex Deer Hunt).

(A) Area: In those portions of Nevada, Placer and Sierra Counties within the area described as zone X–7b (see subsection 360(b)(11)(A)).

(B) Season: The season for additional hunt J–20 (Zone X–7b Apprentice Either–Sex Deer Hunt) shall be concurrent with the zone X–7b general season as described in subsection 360(b)(11)(B).

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 20.

(E) Special Conditions:

1. Only junior license holders shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(43) J–21 (East Tehama Apprentice Either–Sex Deer Hunt).

(A) Area: In that portion of Tehama County within the area described as zone C–4 (see subsection 360(a)(3)(A)4.).

(B) Season: The season for additional hunt J–21 (East Tehama Apprentice Either–Sex Deer Hunt) shall open on the third Saturday in September and extend for 44 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 50.

(E) Special Conditions:

1. Only junior license holder shall apply (see subsection 708(a)(2)).

2. Tagholders shall be accompanied by an adult chaperon 18 years of age or older while hunting.

(44) Conditions for Special Hunts.

(A) When hunting on military reservations or private lands, hunters shall have in their possession a written permit signed by the landowner, which may specify where and when the permittee may hunt.

(B) When required, tagholders shall check in and check out of designated check stations.

(d) Fund–raising License Tags.

Fund–raising license tags (Golden Opportunity and Open Zone) for the taking of buck deer (as defined in subsection 351(a)) shall be offered for sale to raise funds for the management of deer through the Deer Herd Management Plan Implementation Program. Any resident or nonresident is eligible to purchase a fund–raising license tag. The sale price of a fund–raising license tag includes the fees for deer tag applications and for processing and issuing a hunting license. The purchaser shall be issued a hunting license and fund–raising license tag only after meeting the hunter education requirements for a hunting license.

(1) Golden Opportunity Tag.

(A) Area: Golden Opportunity tags shall be valid statewide.

(B) Season: Golden Opportunity tags shall be valid beginning on the second Saturday in July and extend through December 31.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 5.

(E) Special Conditions:

1. The holder of a Golden Opportunity tag may take deer using methods authorized in sections 353 and 354.

2. Fund–raising license tagholders who receive a deer tag pursuant to Section 708(a)(2) shall be allowed to exchange that tag under the provisions of subsection 708(a)(2)(F). Tagholders shall not be entitled to obtain more than two (2) deer tags as described in subsection 708(a)(2).

3. Tagholders shall report to the Regional Patrol Chief at the appropriate Department of Fish and Game Regional Headquarters prior to hunting as to the time and area they intend to hunt.

(2) Open Zone Tag.

(A) Area: Open Zone tags shall be valid in the areas as described in sections 360 and 361.

(B) Season: Open Zone tags shall be valid during the authorized seasons described in sections 360 and 361.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 5.

(E) Special Conditions:

1. The holder of an Open Zone tag shall meet any special conditions and take deer using the method of take described in sections 360 and 361.

2. Fund–raising license tagholders who receive a deer tag pursuant to Section 708(a)(2) shall be allowed to exchange that tag under the provisions of subsection 708(a)(2)(F). Tagholders shall not be entitled to obtain more than two (2) deer tags as described in subsection 708(a)(2).

3. Tagholders shall report to the Regional Patrol Chief at the appropriate Department of Fish and Game Regional Headquarters prior to hunting as to the time and area they intend to hunt.

NOTE: Authority: Sections 200, 202, 203, 220, 460, 3452, 3453 and 4334, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 458, 459, 460, 3452, 3453 and 4334, Fish and Game Code.

HISTORY

1. Amendment of subsections (a)(6) and (a)(12) filed 9–18–87 as an emergency; operative 9–18–87 (Register 87, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–18–88. For prior history, see Register 87, No. 2.
2. Reinstatement of subsections (a)(6) and (a)(12) as they existed prior to emergency amendment filed 9–18–87 by operation of Government Code section 11346.1(f) (Register 88, No. 23).
3. Amendment of subsections (a)–(c) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
4. Amendment of subsections (a)–(c) filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
5. Amendment filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
6. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
7. Amendment filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
8. Amendment of section and NOTE filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
9. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
10. Amendment of section and NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
11. Editorial correction of subsections (a)(2)(A)1., (a)(3)(D) and (b)(15)(A) (Register 96, No. 26).
12. Amendment of section and NOTE filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
13. Amendment filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
14. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
15. Amendment filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
16. Amendment of subsection (c)(29)(B) filed 10–14–99 as an emergency; operative 10–14–99 (Register 99, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–11–99 or emergency language will be repealed by operation of law on the following day.
17. Editorial correction of HISTORY 16 (Register 2000, No. 23).
18. Reinstatement of subsection (c)(29)(B) as it existed prior to 10–14–99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 23).
19. Editorial correction of subsections (c)(6)(B) and (d)(2)(E)1. (Register 2000, No. 26).
20. Amendment filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).

21. Editorial correction of subsection (a)(3)(B)1. (Register 2001, No. 21).

22. Amendment of subsections (a)(3)(D), (b)(1)(D), (b)(2)(D), (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(12)(D), (b)(17)(D), (c)(1)(D), (c)(15)(D), (c)(20)(D) and (c)(29)(D) filed 5-21-2001; operative 6-1-2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).

23. Amendment filed 6-28-2002; operative 6-28-2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

24. Amendment filed 6-24-2003; operative 7-1-2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).

25. Amendment filed 7-7-2004; operative 7-7-2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

26. Amendment of subsections (a)(3)(D), (b)(1)(D), (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(12)(D), (b)(13)(D), (c)(1)(D), (c)(11)(D), (c)(15)(D), (c)(16)(D), (c)(17)(D), (c)(21)(D) and (c)(22)(D) filed 7-19-2005; operative 7-19-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).

27. Amendment of subsections (b)(1)(D), (b)(2)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(12)(D), (b)(13)(D), (b)(17)(D), (c)(15)(D), (c)(16)(D), (c)(17)(D), (c)(18)(D) and (c)(21)(D) filed 6-30-2006; operative 6-30-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 26).

28. Amendment of subsections (a)(3)(D), (b)(1)(D), (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(12)(D), (c)(2)(D), (c)(5)(B), (c)(7)(B), (c)(7)(D), (c)(7)(E)1.-3., (c)(17)(D), (c)(18)(D), (c)(21)(D), (c)(32)(B) and (c)(32)(D) filed 5-29-2007; operative 5-29-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).

29. Amendment of subsections (a)(1)(A)1., (b)(1)(D), (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(12)(D), (b)(13)(D), (b)(17)(D), (c)(5)(B), (c)(17)(D), (c)(21)(D), (c)(26), (c)(26)(B), (c)(27), (c)(27)(B), (c)(28), (c)(28)(B), (c)(29), (c)(29)(B), (c)(30), (c)(30)(B), (c)(31), (c)(31)(B), (c)(32), (c)(32)(B), (c)(33), (c)(33)(B), (c)(34), (c)(34)(B), (c)(35), (c)(35)(B), (c)(36), (c)(36)(B), (c)(37), (c)(37)(B), (c)(38), (c)(38)(B), (c)(39), (c)(39)(B), (c)(40), (c)(40)(B), (c)(41), (c)(41)(B), (c)(42), (c)(42)(B), (c)(43) and (c)(43)(B) filed 6-20-2008; operative 6-20-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 361. Archery Deer Hunting.

(a) Archery Hunting With General Deer Zone Tags. Deer may be taken during the archery season only with archery equipment specified in Section 354 as follows:

(1) Zone A.

(A) Area: As described in subsection 360(a)(1)(A)1. through 2.

(B) Season: The archery deer season in Zone A–South Unit 110 and Zone A–North Unit 160 shall open on the second Saturday in July and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(2) B Zones.

(A) Zones B–1 through B–3, B–5 and B–6.

1. Area: As described in subsection 360(a)(2)(A).

2. Season: The archery deer season in Zones B–1 through B–3, B–5 and B–6 shall open on the third Saturday in August and extend for 23 consecutive days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(B) Zone B–4.

1. Area: As described in subsection 360(a)(2)(A)4.

2. Season: The archery deer season in Zone B–4 shall open on the fourth Saturday in July and extend for 23 consecutive days.

(3) C Zones (Note: see subsection 361(b) below for area-specific archery hunt A–1 (C Zones Archery Only Hunt)).

(4) D Zones.

(A) Zones D–3 through D–5.

1. Area: As described in subsection 360(a)(4)(A)1. through 3.

2. Season: The archery season in Zones D–3, D–4, and D–5 shall open on the third Saturday in August and extend for 23 days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

4. Special Conditions: Hunters that possess a Zone D–3–5 tag may hunt in zones D–3, D–4, and D–5.

(B) Zones D–6 through D–10.

1. Area: As described in subsection 360(a)(5)(A) through (9)(A).

2. Season: The archery season in zones D–6 through D–10 shall open on the third Saturday in August and extend for 23 days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(C) Zones D–11, D–13 and D–15.

1. Area: As described in subsection 360(a)(10)(A), (12)(A) and (14)(A), respectively.

2. Season: The archery season in Zones D–11, D–13 and D–15 shall open on the first Saturday in September and extend for 23 days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

4. Special Conditions: Hunters that possess a D–11, D–13, or D–15 tag may hunt in any, or all three of those zones.

(D) Zone D–12.

1. Area: As described in subsection 360(a)(11)(A).

2. Season: The archery season in Zone D–12 shall open on the first Saturday in October and extend for 23 consecutive days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(E) Zones D–14, D–16, D–17 and D–19.

1. Area: As described in subsection 360(a)(13)(A), (15)(A), (16)(A) and (17)(A), respectively.

2. Season: The archery season in zones D–14, D–16, D–17 and D–19 shall open on the first Saturday in September and extend for 23 consecutive days.

3. Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(b) Archery Hunting With Area-specific Archery Tags. Deer may be taken only with archery equipment specified in Section 354, only during the archery seasons as follows:

(1) A–1 (C Zones Archery Only Hunt).

(A) Area: Shall include all of Zones C–1, C–2, C–3, and C–4 as described in subsections 360(a)(3)(A)1 through 4.

(B) Season:

1. Zone C–1. The archery season for Zone C–1 shall open on the third Saturday in August and extend for 16 consecutive days.

2. Zone C–2. The archery season for Zone C–2 shall open on the third Saturday in August and extend for 23 consecutive days.

3. Zone C–3. The archery season for Zone C–3 shall open on the third Saturday in August and extend for 23 consecutive days.

4. Zone C–4. The archery season for Zone C–4 shall open on the third Saturday in August and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 2,045 A–1 (C Zones Archery Only Hunt) tags are valid in Zones C–1, C–2, C–3, and C–4 only during the archery season as specified above in subsections 361(b)(1)(B)1 through 4.

(2) A–3 (Zone X–1 Archery Hunt)

(A) Area: As described in subsection 360(b)(1)(A).

(B) Season: The archery season for hunt A–3 (Zone X–1 Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 255.

(3) A–4 (Zone X–2 Archery Hunt)

(A) Area: As described in subsection 360(b)(2)(A).

(B) Season: The archery season for hunt A–4 (Zone X–2 Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 15.

(4) A–5 (Zone X–3a Archery Hunt).

(A) Area: As described in subsection 360(b)(3)(A).

(B) Season: The archery season for hunt A–5 (Zone X–3a Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 35.

(5) A–6 (Zone X–3b Archery Hunt).

(A) Area: As described in subsection 360(b)(4)(A).

(B) Season: The archery season for hunt A–6 (Zone X–3b Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 95.

(6) A–7 (Zone X–4 Archery Hunt).

(A) Area: As described in subsection 360(b)(5)(A).

(B) Season: The archery season for hunt A–7 (Zone X–4 Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 135.

(7) A–8 (Zone X–5a Archery Hunt).

(A) Area: As described in subsection 360(b)(6)(A).

(B) Season: The archery season for hunt A–8 (Zone X–5a Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 25.

(8) A–9 (Zone X–5b Archery Hunt).

(A) Area: As described in subsection 360(b)(7)(A).

(B) Season: The archery season for hunt A–9 (Zone X–5b Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 10.

(9) A–11 (Zone X–6a Archery Hunt).

(A) Area: As described in subsection 360(b)(8)(A).

(B) Season: The archery season for hunt A–11 (Zone X–6a Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 55.

(10) A–12 (Zone X–6b Archery Hunt).

(A) Area: As described in subsection 360(b)(9)(A).

(B) Season: The archery season for hunt A–12 (Zone X–6b Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 140.

(11) A–13 (Zone X–7a Archery Hunt).

(A) Area: As described in subsection 360(b)(10)(A).

(B) Season: The archery season for hunt A–13 (Zone X–7a Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 60.

(12) A–14 (Zone X–7b Archery Hunt).

(A) Area: As described in subsection 360(b)(11)(A).

(B) Season: The archery season for hunt A–14 (Zone X–7b Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 20.

(13) A–15 (Zone X–8 Archery Hunt).

(A) Area: As described in subsection 360(b)(12)(A).

(B) Season: The archery season for hunt A–15 (Zone X–8 Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 55.

(14) A–16 (Zone X–9a Archery Hunt).

(A) Area: As described in subsection 360(b)(13)(A).

(B) Season: The archery season for hunt A–16 (Zone X–9a Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 150.

(15) A–17 (Zone X–9b Archery Hunt).

(A) Area: As described in subsection 360(b)(14)(A).

(B) Season: The archery season for hunt A–17 (Zone X–9b Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 300.

(16) A–18 (Zone X–9c Archery Hunt).

(A) Area: As described in subsection 360(b)(15)(A).

(B) Season: The archery season for hunt A–18 (Zone X–9c Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 350.

(17) A–19 (Zone X–10 Archery Hunt).

(A) Area: As described in subsection 360(b)(16)(A).

(B) Season: The archery season for hunt A–19 (Zone X–10 Archery Hunt) shall open on the third Saturday in August and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 120.

(18) A–20 (Zone X–12 Archery Hunt).

(A) Area: As described in subsection 360(b)(17)(A).

(B) Season: The archery season for hunt A–20 (Zone X–12 Archery Hunt) shall open on the third Saturday in August and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better per tag.

(D) Number of Tags: 200.

(19) A–21 (Anderson Flat Archery Buck Hunt).

(A) Area: In that portion of hunt Zone D–6 in Mariposa and Tuolumne counties lying within a line beginning at the intersection of Highway 140 and Bull Creek Road at Briceburg; north on Bull Creek Road (U.S. Forest Service Road 2S05) to Greeley Hill Road; west on Greeley Hill Road to Smith Station Road (County Route J20); north on Smith Station Road to Highway 120 (near Burch Meadow); east on Highway 120 to the Yosemite National Park Boundary (near Big Oak–Flat Ranger Station); southeast along the Yosemite National Park Boundary to Highway 140; west on Highway 140 to the Yosemite National Park Boundary; northwest

along the Yosemite National Park Boundary to Highway 140 (at Redbud Campground); west on Highway 140 to the point of beginning.

(B) Season: The season for hunt A–21 (Anderson Flat Archery Buck Hunt) shall open on the second Saturday in November and extend for 14 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 25.

(20) A–22 (San Diego Archery Either–Sex Deer Hunt).

(A) Area: That portion of San Diego County within Zone D–16 (see subsection 360(a)(15)(A)).

(B) Season: The season for hunt A–22 (San Diego Archery Either–Sex Deer Hunt) shall open on the first Saturday in September and extend for 44 consecutive days, and reopen on the third Saturday in November and extend through December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 1,000.

(21) A–24 (Monterey Archery Either–Sex Deer Hunt).

(A) Area: All of Monterey County, except Fort Ord Military Reservation.

(B) Season: The season for hunt A–24 (Monterey Archery Either–Sex Deer Hunt) shall open on the second Saturday in October and extend for 30 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 100.

(22) A–25 (Lake Sonoma Archery Either–Sex Deer Hunt).

(A) Area: That portion of Sonoma County within the boundaries of the Lake Sonoma Area, U.S. Army Corps of Engineers (COE) property described as follows: Beginning at the intersection of Hot Springs Road and the COE boundary; east and south along the boundary line to the intersection with Brush Creek; west along the north bank of Brush Creek (shoreline) to the Dry Creek arm of Lake Sonoma; south along the shoreline of the Dry Creek arm to Smittle Creek; north along the COE property line to Dry Creek; east along the COE boundary across Cherry Creek, Skunk Creek, and Yorty Creek to the point of beginning.

(B) Season: The season for hunt A–25 (Lake Sonoma Archery Either–Sex Deer Hunt) shall be open on Saturdays, Sundays and Mondays only, beginning on the first Saturday in October and extending for 24 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 35.

(E) Special Conditions:

1. The use of dogs is prohibited.

2. Boats are required for all areas west of Cherry Creek (some 2/3 0f the hunt area). Only cartop boats are allowed to launch from the Yorty Creek access.

(23) A–26 (Bass Hill Archery Buck Hunt).

(A) Area: That portion of Lassen County within the area described as Zone X–6a (see subsection 360(b)(8)(A)).

(B) Season: The season for hunt A–26 (Bass Hill Archery Buck Hunt) shall open on the third Saturday in November and extend for 23 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 30.

(24) A–27 (Devil's Garden Archery Buck Hunt).

(A) Area: That portion of Modoc County within a line beginning at the intersection of the Malin Road (Modoc County 114) and the California/Oregon state line; east along the state line to the Crowder Flat Road; south along the Crowder Flat Road to the Blue Mountain Road (Modoc County 136); west on the Blue Mountain Road to the Blue Mountain–Mowitz Butte–Ambrose Road; south on the Blue Mountain–Mowitz Butte–Ambrose Road to Highway 139; north on Highway 139 to the Malin Road; north on the Malin Road to the point of beginning.

(B) Season: The season for hunt A–27 (Devil's Garden Archery Buck Hunt) shall open on the fourth Saturday in October and extend for 16 consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 10.

(25) A–30 (Covelo Archery Buck Hunt).

(A) Area: That portion of Mendocino County within a line beginning at the intersection of Highway 101 and the Humboldt–Mendocino county line; east along the Humboldt–Mendocino county line to the Trinity–Mendocino county line; east along Trinity–Mendocino county line to the Mendocino–Tehama county line; south on the Mendocino–Tehama county line to the Mendocino–Glenn county line; south on the Mendocino–Glenn county line to the Mendocino–Lake county line; west and south on the Mendocino–Lake county line to the Main Eel River; west and north on the Main Eel River to the Hearst–Willits Road; southwest on the Hearst–Willits Road to Commercial Avenue; west on Commercial Avenue to Highway 101; north on Highway 101 to the point of beginning.

(B) Season: The season for hunt A–30 (Covelo Archery Buck Hunt) shall open on the second Saturday in November and extend for sixteen consecutive days.

(C) Bag and Possession Limit: One buck, forked horn (see subsection 351(a)) or better, per tag.

(D) Number of Tags: 40.

(26) A–31 (Los Angeles Archery Either–Sex Deer Hunt).

(A) Area: That portion of Los Angeles County within Zone D–11 (see subsection 360(a)(10)(A)).

(B) Season: The season for hunt A–31 (Los Angeles Archery Either–Sex Deer Hunt) shall open on the fourth Saturday in September and extend through December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(b)) per tag.

(D) Number of Tags: 1,000.

(27) A–32 (Ventura/Los Angeles Late Season Archery Either–Sex Deer Hunt).

(A) Area: In those portions of Los Angeles and Ventura counties within the area described as the A Zone (see subsection 360(a)(1)(A)).

(B) Season: The season for hunt A–32 (Ventura/Los Angeles Late Season Archery Either–Sex Deer Hunt) shall open on the second Saturday in November and extend for 23 consecutive days.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 250.

(28) A–33 (Fort Hunter Liggett Late Season Archery Either–Sex Deer Hunt).

(A) Area: That portion of Monterey County lying within the exterior boundaries of the Hunter Liggett Military Reservation, except as restricted by the Commanding Officer.

(B) Season: The season for hunt A–33 (Fort Hunter Liggett Late Season Archery Either–Sex Deer Hunt) shall be open on Saturdays, Sundays and holidays only beginning the first Saturday in October and continuing through November 9, except if rescheduled by the Commanding Officer with Department concurrence between the season opener and December 31.

(C) Bag and Possession Limit: One either–sex deer (see subsection 351(c)) per tag.

(D) Number of Tags: 50 (25 military and 25 general public).

(E) Special Conditions: In the event the Commanding Officer cancels the hunt, A–33 tagholders will only have the option of exchanging the unused tag for any remaining deer tag or receiving a refund.

(c) Archery Hunting with Archery Only Tags. Deer may be taken only with archery equipment specified in Section 354, during the archery seasons and general seasons as follows:

(1) Number of Archery Only Tags Permitted. A person may obtain an archery only tag using a one–deer tag application and a second archery only tag using a second deer tag application.

(2) Zones in Which Archery Only Tags are Valid. An archery only tag is valid for hunt G–10, and during the archery season and general season in all zones except C–1 through C–4 and X–1 through X–12.

(3) Areas: As described in subsections 360(a) and (c).

(4) Seasons: The archery season and general seasons are provided in subsection 361(a) above and in subsections 360(a) and (c).

(5) Bag and Possession Limit: All bag and possession limits per zone are the same as those described in subsections 360(a) and (c).

(d) Hunting Area Limitations. Archers not in possession of an archery only tag may hunt only in the zone, zones, or areas for which they have a general tag or an area–specific archery tag. (Refer to subsection 361(c)(2) for zones in which archery only tags are valid).

(e) Crossbow Prohibition. Except as provided in subsection 354(j), crossbows may not be used during any archery season or during the general season when using an archery only tag.

NOTE: Authority cited: Sections 200, 202, 203, 220 and 4370, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207 and 4370, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85. For prior history, see Register 84, No. 48.
2. Notice of Erroneous Filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 by OAL (Register 85, No. 27).
3. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).
4. Amendment filed 7–1–86; effective upon filing (Register 86, No. 27).
5. Amendment of subsection (a)(2) filed 6–22–87; operative 6–22–87 (Register 87, No. 27).
6. Amendment of subsections (a) and (b) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
7. Amendment of subsection (b) filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
8. Amendment of subsection (a) filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
9. Amendment filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
10. Amendment of subsections (a)(2), (a)(2)(B), (b) and (c), repealer of subsections (a)(6)–(a)(6)(B) and subsection renumbering filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
11. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
12. Amendment of section and NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
13. Change without regulatory effect amending subsection (b)(15)(B) filed 7–6–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 27).
14. Amendment filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
15. Amendment filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
16. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
17. Amendment filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
18. Editorial correction of subsection (a)(4)(D)1.. (Register 2000, No. 26).
19. Amendment filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
20. Amendment of subsections (b)(1)(D), (b)(2)(D), (b)(3)(D), (b)(5)(D), (b)(7)(D), (b)(11)(D), (b)(12)(D) and (b)(26)(D) filed 5–21–2001; operative 6–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).
21. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
22. Amendment filed 6–24–2003; operative 7–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).
23. Amendment filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
24. Amendment of subsections (b)(1)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(13)(D) and (c)(23)(D) filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
25. Amendment of subsections (b)(2)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(13)(D), (b)(14)(D), (b)(18)(D) and (b)(23)(D) filed 6–30–2006; operative 6–30–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 26).
26. Amendment of subsections (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(13)(D), (b)(23)(D), (b)(25)(A) and (b)(27)(C) and new subsections (b)(28)–(28)(E) filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
27. Amendment of subsections (b)(2)(D), (b)(3)(D), (b)(4)(D), (b)(5)(D), (b)(6)(D), (b)(7)(D), (b)(8)(D), (b)(9)(D), (b)(10)(D), (b)(11)(D), (b)(13)(D), (b)(14)(D), (b)(18)(D), (b)(23)(D) and (b)(28)(B) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 362. Nelson Bighorn Sheep.

(a) Areas:

(1) Zone 1—Marble/Clipper Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the National Trails Highway; north on Kelbaker Road to the junction with Interstate Highway 40; east on Interstate Highway 40 to the intersection with National Trails Highway; southwest on National Trails Highway to junction with Kelbaker Road.

(2) Zone 2—Kelso Peak and Old Dad Mountains: That portion of San Bernardino County beginning at the intersection of Kelbaker Road and the Union Pacific Railroad in Kelso; southwest along the Union Pacific Railroad to intersection with unnamed road at Crucero; north on unnamed road to the junction with Rasor Road; northwest on Rasor Road to the junction with Interstate Highway 15; northeast on Interstate Highway 15 to the intersection with Cima Road; south on Cima Road to the intersection with the Union Pacific Railroad in Cima; southwest on the Union Pacific Railroad to the intersection with Kelbaker Road in Kelso.

(3) Zone 3—Clark and Kingston Mountain Ranges: That portion of San Bernardino and Inyo counties beginning at the intersection of Interstate Highway 15 and California State Highway 127 in Baker; north on California State Highway 127 to the junction with Old Spanish Gentry Road on Tecopa; southeast on Old Spanish Gentry Road to the junction with Furnace Creek Road; southeast on Furnace Creek Road to the junction with Mesquite Valley Road; north on Mesquite Valley Road to Old Spanish Trail Highway; north and east on Old Spanish Trail Highway to California/Nevada state line; southeast on California/Nevada state line to the intersection with Interstate Highway 15; southwest on Interstate Highway 15 to the junction with California State Highway 127.

(4) Zone 4—Orocopia Mountains: That portion of Riverside County beginning at the intersection of Interstate Highway 10 and Cottonwood Springs Road; east on Interstate Highway 10 to the junction with Red Cloud Mine Road; south on Red Cloud Mine Road to the junction with the Eagle Mountain Mining Railroad; southwest on the Eagle Mountain Mining Railroad to the junction with the Bradshaw Trail; southwest on the Bradshaw Trail to the Intersection with the Coachella Canal; west along the Coachella Canal to the junction with Box Canyon Road; northeast on Box Canyon Road to the junction with Cottonwood Springs Road; north on Cottonwood Springs Road to the intersection with Interstate Highway 10.

(5) Zone 5—San Gorgonio Wilderness: That portion of Riverside and San Bernardino counties beginning at the intersection of Interstate Highway 10 and California State Highway 62, west on Interstate Highway 10 to the junction with California State Highway 30; north on California State Highway 30 to the junction with California State Highway 38; east and north on California State Highway 38 to the junction with Forest Service Route 1N01; east on Forest Service Route 1N01 to its joining with Pipes Road; east on Pipes Road to the junction with Pioneertown Road; southeast on Pioneertown Road to the junction with California State Highway 62; southwest on California State Highway 62 to the intersection with Interstate Highway 10.

(6) Zone 6—Sheep Hole Mountains: That portion of San Bernardino County beginning at the junction of California State Highway 62 and Ironage Road; northwest on Ironage Road to the intersection with Amboy Road; north on Amboy Road to the intersection with National Trails Highway; east on National Trails Highway to the junction with Saltus Road; southeast on Saltus Road to the junction with unnamed road in Saltus that runs through Cadiz Valley; southeast on unnamed road to the intersection with California State Highway 62; west on California State Highway 62 to the junction with Ironage Road.

(7) Zone 7—White Mountains: That portion of Mono County within a line beginning at U.S. Highway 6 and the Mono–Inyo county line; northward on Highway 6 to the California–Nevada State Line; southeasterly along the California–Nevada State Line to the Mono–Inyo County Line; westward along the Mono–Inyo County Line to the point of beginning.

(b) Seasons:

(1) Fund–raising Hunts: The holder of the fund–raising license tag issued pursuant to subsection 4902(d) of the Fish and Game Code may hunt:

(A) Zones 1 through 4, and 6: Beginning the first Saturday in November and extending through the first Sunday in February.

(B) Zone 5: Beginning the third Saturday in November and extending through the third Sunday in February.

(C) Zone 7: Beginning the first Saturday in August and extending through the last Sunday in September.

(2) Except as provided in subsection 362(b)(1), the Nelson bighorn sheep season in the areas described in subsection 362(a) shall be defined as follows:

(A) Zones 1 through 4, and 6: The first Saturday in December and extend through the first Sunday in February.

(B) Zone 5: The third Saturday in December and extend through the third Sunday in February.

(C) Zone 7: Beginning the third Saturday in August and extending through the last Sunday in September.

(3) Except as specifically provided in section 362, the take of bighorn sheep is prohibited.

(c) Bag and possession Limit: One mature ram defined as follows: a male Nelson bighorn sheep (*Ovis canadensis nelsoni*) having at least one horn, the tip of which extends beyond a point in a straight line beginning at the front (anterior) edge of the horn base, and extending downward through the rear (posterior) edge of the visible portion of the eye and continuing downward through the horn. All reference points are based on viewing the ram directly from a 90 degree angle from which the head is facing. A diagram showing the correct viewing procedure shall be distributed by the department to each successful applicant.

(d) Number of License Tags:

Nelson Bighorn Sheep Hunt Zones	*Tag Allocation for 2008*
Zone 1 – Marble/Clipper Mountains	5
Zone 2 – Kelso Peak/Old Dad Mountains	6
Zone 3 – Clark/Kingston Mountain Ranges	3
Zone 4 – Orocopia Mountains	1
Zone 5 – San Gorgonio Wilderness	1
Zone 6 – Sheep Hole Mountains	1
Zone 7 – White Mountains	4
Fund–Raising Tags	2
Total:	23

(e) Conditions:

(1) Nelson bighorn rams shall only be taken between one–half hour before sunrise and one–half hour after sunset.

(2) Only methods specified in sections 353 and 354, Title 14, CCR, for taking bighorn sheep may be used.

(3) Each tagholder shall possess a spotting telescope capable of magnification of 15 power (15X), which is not affixed to a rifle, while hunting.

(4) Successful general tagholders shall present the head and edible portion of the carcass of a bighorn ram to the department's checking station within 48 hours after killing the animal. All successful tagholders shall notify the department's Bishop office by telephone at (760) 872–1171 or (760) 240–1372 within 24 hours of killing the animal and arrange for the head and carcass to be examined.

(5) All successful bighorn sheep tagholders shall make the horns of each ram available to the department to be permanently marked in the manner prescribed by the department for identification purposes within 48 hours of killing the animal. The purpose of the permanent marking shall be to identify Nelson bighorn rams which were legally taken and which may be transported and possessed outside the areas described in subsection 362(a).

(6) The department reserves the right to take and use any part of the tagholder's bighorn ram, except the horns, for biological analysis as long as no more than one pound of edible meat is removed.

NOTE: Authority cited: Sections 200, 202, 203, 220, 1050 and 4902, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 1050, 3950 and 4902, Fish and Game Code.

HISTORY

1. New section filed 6–22–87; operative 6–22–87 (Register 87, No. 27). For history of former section 362, see Register 81, No. 20.
2. Amendment of subsections (d)–(f) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
3. Amendment of subsections (d) and (e) filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
4. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
5. Amendment of subsections (a)–(b), (d)–(e) filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
6. Amendment of subsections (b)(1), (d), (e)(1), (e)(2) and (f)(2) filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
7. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of subsections (d), (e)(1)(B), (e)(2) and NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
9. Amendment filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
10. Amendment of subsections (b)(1), (d) and (e)(1), repealer of subsection (e)(1)(B) and amendment of subsection (e)(2) filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
11. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
12. Amendmentof subsections (d), (e)(2) and (f)(8) filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
13. Amendment filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
14. Editorial correction of subsection (e)(2) (Register 2001, No. 10).
15. Change without regulatory effect amending subsection (e)(2) filed 3–7–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).
16. Amendment of subsections (d)–(e)(1)(A) filed 5–21–2001; operative 6–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).
17. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
18. Amendment of subsection (d) filed 6–24–2003; operative 7–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).
19. Amendment filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
20. New subsections (a)(7) and (b)(1)(B), subsection relettering, new subsections (b)(1)(D) and (b)(2)(C) and amendment of subsection (d) filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
21. Amendment of subsections (b)(1)(A)–(B) and (d) filed 6–30–2006; operative 6–30–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 26).
22. Amendment of subsection (d) filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
23. Amendment of subsection (b)(1)(A), repealer of subsection (b)(1)(B), subsection relettering and amendment of subsection (d) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 363. Pronghorn Antelope.

The Lava Beds National Monument and Federal and State Game Refuges lying within the hunt boundary are closed to pronghorn antelope hunting, except for the state's Hayden Hill (1S) and Blacks Mountain (1F) game refuges in Lassen County and the Clear Lake National Wildlife Refuge in Modoc County. Refer to subsection 363(b)(5) for special conditions for permission to enter and hunt pronghorn antelope in the Clear Lake National Wildlife Refuge.

(a) Zone 1—Mount Dome:

(1) Area: That portion of Siskiyou County within a line beginning at the junction of Interstate 5 and the California–Oregon state line; east along the California–Oregon state line to the Ainsworth Corners–Lava Beds National Monument Road; south along the Ainsworth Corners–Lava Beds National Monument Road to the Mammoth Crater–Medicine Lake Road; southwest along the Mammoth Crater–Medicine Lake Road to the Medicine Lake–Telephone Flat Road; east and south along the Medicine Lake–Telephone Flat Road to the Telephone Flat–Bartle Road; southwest along the Telephone Flat–Bartle Road to Highway 89; west along Highway 89 to Interstate 5; north along Interstate 5 to the California–Oregon state line to the point of beginning.

(2) Seasons:

(A) The general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: 8 buck tags and 0 doe tags.

(B) Archery Only Season: 1 buck tags and 0 doe tags.

(b) Zone 2—Clear Lake:

(1) Area: Those portions of Modoc and Siskiyou counties within a line beginning at the junction of the Lava Beds National Monument Road and the California–Oregon state line at Ainsworth Corners; east along the California–Oregon state line to the Crowder Flat Road; south along the Crowder Flat Road to Modoc County Road 73; south along Modoc County Road 73 to Modoc County Road 136; west along Modoc County Road 136 to the Blue Mountain–Mowitz Road; west and south along the Blue Mountain–Mowitz Road to the Deadhorse Flat–Badger Well Road; southwest along the Deadhorse Flat–Badger Well Road to the Badger Well–Browns Well Road; south along the Badger Well–Browns Well Road to the Sorholus Tank–Hackamore Road; southwest along the Sorholus Tank–Hackamore Road to Highway 139; southeast along Highway 139 to Modoc County Road 91; south along Modoc County Road 91 to the Mud Lake–Mud Springs Road; west along the Mud Lake–Mud Springs Road to the North Main Road; southwest along the North Main Road to the Long Bell–Iodine Prairie Road at Long Bell Forest Service Station; northwest along the Long Bell–Iodine Prairie Road to the Bartle–Telephone Flat Road; north along the Bartle–Telephone Flat Road to the Telephone Flat–Medicine Lake Road; north and west along the Telephone Flat–Medicine Lake Road to the Medicine Lake–Mammoth Crater Road; northeast along the Medicine Lake–Mammoth Crater Road to the Lava Beds National Monument–Ainsworth Corners Road; north along the Lava Beds National Monument–Ainsworth Corners Road to the California–Oregon state line to the point of beginning.

(2) Seasons:

(A) The general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: 15 buck tags and 0 doe tags.

(B) Archery Only Season: 1 buck tags and 0 doe tags.

(5) Special Conditions: The special regulations regarding the Peninsula "U" portion of the Clear Lake National Wildlife Refuge are summarized as follows:

(A) The area will be open on weekends and holidays only during the general season.

(B) Permission to enter this area must be obtained at the gate entrance located on the Clear Lake Road. Hunters for this area will be selected by public drawing. Persons selected for pronghorn antelope tags for Zone 2 (Clear Lake) may apply for this drawing by submitting an application upon receipt of their license tag to the Department of Fish and Game, 601 Locust Street, Redding, CA 96001. Applicants may apply as a party of two. Applications shall consist of the following: a standard U.S. Postal Service postcard with the applicant's tag number, name, address, city, zip code, area code, telephone number, and the notation "Application for Pronghorn Antelope Hunt Access Permit, Clear Lake Peninsula." Applications must reach the Redding office before the close of the business day on the first Friday in August. Successful applicants will be notified. A two–party application will not be split. The specific number of hunters will be determined each year by the Department. No more than five hunters will be allowed on the area at any one time unless a party of two is drawn for the fifth place. If the fifth place is the first member of a party, then no more than six hunters will be allowed on the area at any time.

(C) The gate entrance will be open from 6:00 a.m. to one hour after sunset.

(D) The fence near the gate entrance constitutes the south boundary of the area.

(E) The specific number of pronghorn antelope to be taken from this area is determined by the number of pronghorn antelope present. This area will be closed once this number is reached.

(c) Zone 3—Likely Tables:

(1) Area: Those portions of Modoc and Lassen counties within a line beginning at the junction of the Crowder Flat Road and the California–Oregon state line; east along the California–Oregon state line to the crest of the Warner Mountains; south along the crest of the Warner Mountains to the Summit Trail at Pepperdine Camp; south along the Summit Trail to the South Warner Road near Patterson Forest Service Station; west along the South Warner Road to the Long Valley–Clarks Valley Road; south along the Long Valley–Clarks Valley Road to the Clarks Valley–Madeline Road; west along the Clarks Valley–Madeline Road to Highway 395 at the town of Madeline; north along Highway 395 to the Madeline–Adin Road; northwest along the Madeline–Adin Road to the Hunsinger Draw–Sweagert Flat Road; east and north along the Hunsinger Draw–Sweagert Flat Road to the Sweagert Flat–Hunters Ridge Road; north and west along the Sweagert Flat–Hunters Ridge Road to Highway 299 near Lower Rush Creek Recreation Site; north along Highway 299 to the Canby Bridge–Cottonwood Flat Road; northwest along the Canby Bridge–Cottonwood Flat Road to the Cottonwood Flat–Happy Camp Road; northwest along the Cottonwood Flat–Happy Camp Road to Modoc County Road 91; north along Modoc County Road 91 to Highway 139; north along Highway 139 to the Hackamore–Sorholus Tank Road; northeast along the Hackamore–Sorholus Tank Road to the Browns Well–Badger Well Road; north along the Browns Well–Badger Well Road to the Badger Well–Deadhorse Flat Road; northeast and east along the Badger Well–Deadhorse Flat Road to the Mowitz–Blue Mountain Road; north and east along the Mowitz–Blue Mountain Road to Modoc County Road 136; east along Modoc County Road 136 to Modoc County Road 73; north along Modoc County Road 73 to the Crowder Flat Road; north along the Crowder Flat Road to the California–Oregon state line, to the point of beginning.

(2) Seasons:

(A) Period One of the general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days. Period Two of the general season shall open on the first Saturday in September and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the earliest general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: Period One: 40 buck tags and 0 doe tags. Period Two: 40 buck tags and 0 doe tags.

(B) Archery Only Season: 9 buck tags and 0 doe tags.

(d) Zone 4—Lassen:

(1) Area: Those portions of Lassen, Plumas and Shasta counties within a line beginning at the junction of Highway 36 and the Juniper Lake Road in the town of Chester; north along the Juniper Lake Road to the Lassen National Park boundary; north and west along the Lassen National Park boundary to Highway 89; north along Highway 89 to U.S. Forest Service Road 22 near the Hat Creek Ranger Station; east along U.S. Forest Service Road 22 to U.S. Forest Service Road 35N06; east and north along U.S. Forest Service Road 35N06 to the State Game Refuge 1S boundary; northwest along the State Game Refuge 1S boundary to the Coyote Canyon–Dixie Valley Road; northwest along the Coyote Canyon–Dixie Valley Road to the Dixie Valley–Boyd Hill Road; northwest along the Dixie Valley–Boyd Hill Road to the Snag Hill–Hayden Hill Road; northeast and north along the Snag Hill–Hayden Hill Road to Highway 139; southeast on Highway 139 to the Willow Creek–Hunsinger Flat Road; northeast and northwest along the Willow Creek–Hunsinger Flat Road to the Adin–Madeline Road; southeast along the Adin–Madeline Road to Highway 395 at the town of Madeline; south along Highway 395 to the Madeline–Clarks Valley Road; east along the Madeline–Clarks Valley Road to the Clarks Valley–Tuledad Road; east and southeast along the Clarks Valley–Tuledad Road to the California–Nevada state line; south along the California–Nevada state line to the Lassen–Sierra county line; west along the Lassen–Sierra county line to the Lassen–Plumas county line; north and west along the Lassen–Plumas county line to Highway 36; west along Highway 36 to the Juniper Lake Road, to the point of beginning.

(2) Seasons:

(A) Period One of the general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days. Period Two of the general season shall open on the first Saturday in September and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the earliest general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: Period One: 40 buck tags and 0 doe tags. Period Two: 40 buck tags and 0 doe tags.

(B) Archery Only Season: 7 buck tags and 0 doe tags.

(e) Zone 5—Big Valley:

(1) Area: Those portions of Modoc, Lassen, Shasta and Siskiyou counties within a line beginning at the intersection of Highways 299 and 89; north and northwest along Highway 89 to the Bartle–Telephone Flat Road; northeast along the Bartle–Telephone Flat Road to the Iodine Prairie–Long Bell Road; southeast along the Iodine Prairie–Long Bell Road to the North Main Road at Long Bell Forest Service Station; northeast along the North Main Road and the Mud Springs–Mud Lake Road to Modoc County Road 91; south along Modoc County Road 91 to the Happy Camp–Cottonwood Flat Road; southeast along the Happy Camp–Cottonwood Flat Road to the Cottonwood Flat–Canby Bridge Road; southeast along the Cottonwood Flat–Canby Bridge Road to Highway 299; south along Highway 299 to the Hunters Ridge–Sweagert Flat Road near Lower Rush Creek Recreation Site; east and south along the Hunters Ridge–Sweagert Flat Road to the Sweagert Flat–Hunsinger Draw Road; south and west along the Sweagert Flat–Hunsinger Draw Road to the Adin–Madeline Road; southeast along the Adin–Madeline Road to the Hunsinger Flat–Willow Creek Road; southeast and southwest along the Hunsinger Flat–Willow Creek Road to Highway 139; northwest along Highway 139 to the Hayden Hill–Snag Hill Road; south and southwest along the Hayden Hill–Snag Hill Road to the Boyd Hill–Dixie Valley Road; southeast along the Boyd Hill–Dixie Valley Road to the Dixie Valley–Coyote Canyon Road; southeast along the Dixie Valley–Coyote Canyon Road to the State Game Refuge 1S boundary; southeast along the State Game Refuge 1S boundary to U.S. Forest Service Road 35N06; south and west along U.S. Forest Service Road 35N06 to U.S. Forest Service Road 22; west along U.S. Forest Service Road 22 to Highway 89 near the Hat Creek Ranger Station; north along Highway 89 to Highway 299, to the point of beginning.

(2) Seasons:

(A) The general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the earliest general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: 3 buck tags and 0 doe tags.

(B) Archery Only Season: 1 buck tags and 0 doe tags.

(f) Zone 6—Surprise Valley:

(1) Area: Those portions of Modoc and Lassen counties within a line beginning at the intersection of the crest of the Warner Mountains and the California–Oregon state line; east along the California–Oregon state line to the California–Nevada state line; south along the California–Nevada state line to the Tuledad–Clarks Valley Road; west and northwest along the Tuledad–Clarks Valley Road to the Clarks Valley–Long Valley Road; north on the Clarks Valley–Long Valley Road to the South Warner Road; east along the South Warner Road to the Summit Trail near Patterson Guard Station; north along the Summit Trail to the crest of the Warner Mountains at Pepperdine Camp; north along the crest of the Warner Mountains to the California–Oregon state line to the point of beginning.

(2) Seasons:

(A) The general season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(B) The archery only season shall open 14 days prior to the general season and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags:

(A) General Season: 10 buck tags and 0 doe tags.

(B) Archery Only Season: 1 buck tags.

(g) Big Valley Pronghorn Antelope Apprentice Hunt:

(1) Area: Those portions of Modoc, Lassen, Shasta and Siskiyou counties within a line beginning at the intersection of Highway 299 and 89; north and northwest along Highway 89 to the Bartle–Telephone Flat Road; northeast along the Bartle–Telephone Flat Road to the Iodine Prairie–Long Bell Road; southeast along the Iodine Prairie–Long Bell Road to the North Main Road at Long Bell Forest Service Station; northeast along the North Main Road and the Mud Springs–Mud Lake Road to Modoc County Road 91; south along Modoc County Road 91 to the Happy Camp–Cottonwood Flat Road; southeast along the Happy Camp–Cottonwood Flat Road to the Cottonwood Flat–Canby Bridge Road; southeast along the Cottonwood Flat–Canby Bridge Road to Highway 299; south along Highway 299 to the Hunters Ridge–Sweagert Flat Road near Lower Rush Creek Recreation Site; east and south along the Hunters Ridge–Sweagert Flat Road to the Sweagert Flat–Hunsinger Draw Road; south and west along the Sweagert Flat–Hunsinger Draw Road to the Adin–Madeline Road; southeast along the Adin–Madeline Road to the Hunsinger Flat–Willow Creek Road; southeast and southwest along the Hunsinger Flat–Willow Creek Road to Highway 139; northwest along Highway 139 to the Hayden Hill–Snag Hill Road; south and southwest along the Hayden Hill–Snag Hill Road to the Boyd Hill–Dixie Valley Road; southeast along the Boyd Hill–Dixie Valley Road to the Dixie Valley–Coyote Canyon Road; southeast along the Dixie Valley–Coyote Canyon Road to the State Game Refuge 1S boundary; southeast along the State Game Refuge 1S boundary to U.S. Forest Service Road 35N06; south and west along U.S. Forest Service Road 35N06 to U.S. Forest Service Road 22; west along U.S. Forest Service Road 22 to Highway 89 near the Hat Creek Ranger Station; north along Highway 89 to Highway 299, to the point of beginning.

(2) Season: The season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags: 1 either–sex tags.

(5) Special Conditions: Tagholders wishing to hunt the Ash Creek Wildlife Area may contact Ash Creek Wildlife Area by telephone at (530) 294–5824, and shall attend an orientation meeting before hunting. Only persons possessing valid junior hunting licenses and apprentice hunt license tags may hunt during the pronghorn antelope apprentice hunt season in the Ash Creek Wildlife Area. Tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(h) Lassen Pronghorn Antelope Apprentice Hunt:

(1) Area: Those portions of Lassen, Plumas and Shasta counties within a line beginning at the junction of Highway 36 and the Juniper Lake Road in the town of Chester; north along the Juniper Lake Road to the Lassen National Park boundary; north and west along the Lassen National Park boundary to Highway 89; north along Highway 89 to U.S. Forest Service Road 22 near the Hat Creek Ranger Station; east along U.S. Forest Service Road 22 to U.S. Forest Service Road 35N06; east and north along U.S. Forest Service Road 35N06 to the State Game Refuge 1S boundary; northwest along the State Game Refuge 1S boundary to the Coyote Canyon–Dixie Valley Road; northwest along the Coyote Canyon–Dixie Valley Road to the Dixie Valley–Boyd Hill Road; northwest along the Dixie Valley–Boyd Hill Road to the Snag Hill–Hayden Hill Road; northeast and north along the Snag Hill–Hayden Hill Road to Highway 139; southeast on Highway 139 to the Willow Creek–Hunsinger Flat Road; northeast and northwest along the Willow Creek–Hunsinger Flat Road to the Adin–Madeline Road; southeast along the Adin–Madeline Road to Highway 395 at the town of Madeline; south along Highway 395 to the Madeline–Clarks Valley Road; east along the Madeline–Clarks Valley Road to the Clarks Valley–Tuledad Road; east and southeast along the Clarks Valley–Tuledad Road to the California–Nevada state line; south along the California–Nevada state line to the Lassen–Sierra county line; west along the Lassen–Sierra county line to the Lassen–Plumas county line; north and west along the Lassen–Plumas county line to Highway 36, west along Highway 36 to the Juniper Lake Road, to the point of beginning. The Honey Lake Wildlife Area shall not be open to antelope apprentice hunt tag holders.

(2) Season: The season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags: 5 either–sex tags.

(i) Surprise Valley Pronghorn Antelope Apprentice Hunt:

(1) Area: Those portions of Modoc and Lassen counties within a line beginning at the intersection of the crest of the Warner Mountains and the California–Oregon state line; east along the California–Oregon state line to the California–Nevada state line; south along the California–Nevada state line to the Tuledad–Clarks Valley Road; west and northwest along the Tuledad–Clarks Valley Road to the Clarks Valley–Long Valley Road; north on the Clarks Valley–Long Valley Road to the South Warner Road; east along the South Warner Road to the Summit Trail near Patterson Guard Station; north along the Summit Trail to the crest of the Warner Mountains at Pepperdine Camp; north along the crest of the Warner Mountains to the California–Oregon state line to the point of beginning.

(2) Season: The season shall open on the Saturday following the third Wednesday in August and continue for nine consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags: 4 either–sex tags.

(5) Special Conditions: Tagholders must possess valid junior hunting licenses and apprentice hunt license tags. Tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(j) Fund–raising Hunt:

(1) Area: Those portions of Lassen, Modoc, Plumas, Shasta, and Siskiyou counties described as zones 1 through 6 in subsections 363(a) through (f).

(2) Season: The season for the Fund–Raising Hunt shall open on the Saturday before the first Wednesday in August and continue for 51 consecutive days.

(3) Bag and Possession Limit: One pronghorn antelope in a license year.

(4) Number of License Tags: 2 buck tags.

(k) Conditions:

(1) Pronghorn antelope license tags do not give the tagholders the right of entry onto privately–owned lands.

(2) Buck pronghorn antelope are defined as pronghorn antelope with horns longer than the ears. Doe pronghorn antelope are defined as pronghorn antelope with horns shorter than the ears. Either–sex pronghorn antelope are defined as buck or doe pronghorn antelope.

(3) Shooting time shall be from one–half hour before sunrise to one–half hour after sunset.

(4) Method of take:

(A) The holder of any archery–only pronghorn antelope license tag may only take pronghorn antelope using archery equipment, as defined in Section 354 of these regulations.

(B) The holder of a general season, fund–raising hunt season, or junior hunt season license tag may take pronghorn antelope using legal firearms and archery equipment as described in sections 353 and 354 of these regulations.

(5) Any person taking any pronghorn antelope shall retain that portion of the head, which bears the horns during the open season and for 15 days thereafter, and shall produce it upon the demand of any officer authorized to enforce the provisions of these regulations.

(6) No person shall at any time capture or destroy any pronghorn antelope and detach or remove from the carcass only the head, hide or horns; nor shall any person at any time leave through carelessness or neglect any pronghorn antelope which is in his possession or any portion of the flesh thereof usually eaten by humans, to go needlessly to waste.

(7) Prior to the acceptance or issuance of a pronghorn antelope license tag, all tagholders shall consent in writing to the terms and conditions set forth on the license tag.

(*l*) Pronghorn Antelope Tag Allocations Table.

2008 Pronghorn Antelope
Tag Quotas

Hunt Area	*Archery–Only Season*		*General Season*			
			Period 1		*Period 2*	
	Buck	*Doe*	*Buck*	*Doe*	*Buck*	*Doe*
Zone 1 — Mount Dome	1	0	8	0	0	0
Zone 2 — Clear Lake	1	0	15	0	0	0
Zone 3 — Likely Tables	9	0	40	0	40	0
Zone 4 — Lassen	7	0	40	0	40	0
Zone 5 — Big Valley	1	0	3	0	0	0
Zone 6 — Surprise Valley	1	0	10	0	0	0
Big Valley Apprentice Hunt	N/A		1 Either–Sex		0	
Lassen Apprentice Hunt	N/A		5 Either–Sex		0	
Surprise Valley Apprentice	N/A		4 Either–Sex		0	
Fund–Raising Hunt	N/A		2 Buck			

NOTE: Authority cited: Sections 219, 220, 331, 1050 and 10502, Fish and Game Code. Reference: Sections 331, 713, 1050, 10500 and 10502, Fish and Game Code.

HISTORY

1. Amendment of subsections (e)–(g) filed 5–31–88; operative 5–31–88 (Register 88, No. 23). For prior history, see Register 87, No. 27.
2. Amendment of subsections (e) and (f) filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
3. Amendment filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
4. Amendment of section filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
5. Amendment of subsections (a)(5), (b)–(f) and (g)(4) and NOTE filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
6. Amendment filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
7. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of subsections (a)(9), (b)(2), (d), (e)(1) and NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
9. Amendment filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
10. Amendment of subsection (d), table, subsection (e)(1), new subsection (e)(2) designator, subsection renumbering, and amendment of newly designated subsection (e)(2) filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
11. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
12. Amendment filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
13. Amendment filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
14. Editorial correction of subsection (k)(2) (Register 2001, No. 10).
15. Change without regulatory effect amending subsections (k)(1)–(2) filed 3–7–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).
16. Amendment of subsections (a)(4)(A), (j)(4)—Table and (k)(2) filed 5–21–2001; operative 6–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).
17. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
18. Amendment filed 6–24–2003; operative 7–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).
19. Amendment filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
20. Amendment of subsections (a)(4)(A), (b)(4)(A), (c)(4)(A)–(B), (d)(4)(A)–(B), (e)(4)(A), (i)(4) and (*l*) filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
21. Amendment of subsections (c)(4)(B), (e)(4)(A), (g)(4), (h)(5) and (*l*) filed 6–30–2006; operative 6–30–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 26).
22. Amendment of subsections (b)(5)(B), (c)(4)(A)–(B), (d)(4)(A)–(B), (f)(4)(A) and (h)(1), repealer of subsection (h)(5) and amendment of subsection (*l*) filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
23. Amendment of subsections (c)(4)(B), (f)(4)(A), (g), (g)(5), (h), (h)(1), (i), (i)(5) and (*l*) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 364. Elk.

(a) Siskiyou Roosevelt Elk Hunt:

(1) Area: In that portion of Siskiyou County beginning at the junction of Interstate Highway 5 with the California–Oregon state line; east along the state line to Hill Road at Ainsworth Corner; south along Hill Road to Lava Beds National Monument Road; south along Lava Beds National Monument Road to USDA Forest Service Road 49; south along USDA Forest Service Road 49 to USDA Forest Service Road 77; west along USDA Forest Service Road 77 to USDA Forest Service Road 15 (Harris Spring Road); south along USDA Forest Service Road 15 to USDA Forest Service Road 13 (Pilgrim Creek Road); southwest along USDA Forest Service Road 13 to Highway 89; northwest along Highway 89 to Interstate Highway 5; north along Interstate Highway 5 to the point of beginning.

(2) Season: The season shall open on Wednesday preceding the second Saturday in September and continue for 12 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 15 either–sex tags and 15 antlerless tags.

(b) Northeastern California Rocky Mountain Elk Hunt:

(1) Area: Those portions of Siskiyou, Modoc, Lassen, and Shasta counties within a line beginning in Siskiyou County at the junction of the California–Oregon state line and Hill Road at Ainsworth Corner; east along the California–Oregon state line to the California–Nevada state line; south along the California–Nevada state line to the Tuledad–Red Rock–Clarks Valley Road (Lassen County Roads 506, 512 and 510); west along the Tuledad–Red Rock–Clarks Valley Road to Highway 395 at Madeline; west on USDA Forest Service Road 39N08 to Adin; west on Highway 299 to Interstate 5; north on Interstate 5 to Highway 89; southeast along Highway 89 to USDA Forest Service Road 13 (Pilgrim Creek Road); northeast along USDA Forest Service Road 13 to USDA Forest Service Road 15 (Harris Spring Road); north along USDA Forest Service Road to USDA Forest Service Road 77; east along USDA Forest Service Road 77 to USDA Forest Service Road 49; north along USDA Forest Service Road 49 to Lava Beds National Monument Road; north along Lava Beds National Monument Road to Hill Road; north along Hill Road to the point of beginning.

(2) Season:

(A) The General and Apprentice Hunt season shall open on the Wednesday preceding the third Saturday in September and continue for 12 consecutive days.

(B) The Archery Only Season shall open on the Wednesday preceding the first Saturday in September and continue for 12 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags:

(A) General Season: 10 either–sex tags.

(B) Archery Only Season: 9 either–sex tags.

(C) Apprentice Hunt: 2 either–sex tags.

(5) Special Conditions: Elk may be taken during the Northeastern California Rocky Mountain Elk Hunt, Archery Only Season, with Archery Equipment only as specified in Section 354. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt License tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(c) Del Norte Roosevelt Elk Hunt:

(1) Area: Those portions of Del Norte County owned or leased by the Green Diamond Resource Company within a line beginning at the intersection of Highway 101 and the California–Oregon state line; south along Highway 101 to North Bank Road; southeast along North Bank Road to High Divide Road; northeast along High Divide Road to North Fork Smith River/Wimer Road; north along North Fork Smith River/ Wimer Road to the California Oregon state line; west along the California–Oregon state line to the point of beginning.

(2) Season: The season shall open on the last Wednesday in August and continue for 10 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 5 bull tags and 10 antlerless tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(d) Marble Mountains Roosevelt Elk Hunt

(1) Area: In those portions of Humboldt, Trinity, Shasta and Siskiyou counties beginning at the intersection of Interstate Highway 5 and the California–Oregon state line; west along the state line to the Del Norte County line; south along the Del Norte County line to the intersection of the Siskiyou–Humboldt county lines; east along the Siskiyou–Humboldt county lines to Highway 96; south along Highway 96 to Highway 299; east along Highway 299 to Interstate Highway 5; north on Interstate Highway 5 to the point of beginning.

(2) Season: The General and Apprentice Hunt season shall open on the Wednesday preceding the second Saturday in September and continue for 12 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags:

(A) General Hunt: 40 either–sex tags.

(B) Apprentice Hunt: 2 either–sex tags.

(C) Special Conditions: Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(e) Klamath Roosevelt Elk Hunt:

(1) Area: Those portions of Humboldt and Del Norte counties owned or leased by the Green Diamond Resource Company within a line beginning at the intersection of Highway 101 and the Klamath River; south on Highway 101 to South Klamath Beach Road; west on South Klamath Beach Road to the Redwood National Park boundary; southwest and south along the Redwood National Park boundary to Highway 101; south on Highway 101 to the Redwood National Park boundary; southeast along the Redwood National Park boundary to the Bald Hills Road; southeast along the Bald Hills Road to the Klamath River; northwest along the Klamath River to the point of beginning.

(2) Season: The season shall open on the first Wednesday in September and continue for 10 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 10 bull tags and 10 antlerless tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(f) Big Lagoon Roosevelt Elk Hunt:

(1) Area: In that portion of Humboldt County owned or leased by the California Redwood Company and the Green Diamond Resource Company within a line beginning at the intersection of Highway 101 and Hiltons Road; south on Hiltons Road to the western boundary of Redwood National Park; south and east along the western to its southern tip; north and east along the eastern boundary of Redwood National Park to Redwood Creek; south along Redwood Creek to Highway 299; east along Highway 299 to Forest Service Road 1; south along Forest Service Road 1 to Roddiscraft Road; west along Roddiscraft Road to the intersection of Snow Camp Road and the Humboldt–Trinity 115 Line and Trinity–Maple Creek 60 Line power line right–of–way; west along the Humboldt–Trinity 115 Line and Trinity–Maple Creek 60 Line power line right–of–way to Maple Creek Road; south along Maple Creek Road to Butler Valley Road; west along Butler Valley Road to Fickle Hill Road; north along Fickle Hill Road to Bayside Road; west along Bayside Road and 7th Street to Highway 101; north along Highway 101 to point of beginning.

(2) Season: The season shall open the last Wednesday in August and continue for 10 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 10 either–sex tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(g) Owens Valley Tule Elk Hunt:

(1) Area:

(A) Bishop Zone: In that portion of Inyo County beginning at the junction of Highway 395 and Highway 6 in the town of Bishop; north and east along Highway 6 to the junction of Silver Canyon Road; east along Silver Canyon Road to the White Mountain Road (Forest Service Road 4S01); south along the White Mountain Road to Highway 168 at Westgard Pass; south and west along Highway 168 to the junction of Highway 395; north on Highway 395 to the point of beginning.

(B) Lone Pine Zone: In that portion of Inyo County beginning at the junction of Highway 395 and Mazourka Canyon Road; east and then north on Mazourka Canyon Road to the Inyo National Forest Boundary at the junction of the southern boundary of Township 12S and the northern boundary of Township 13S; east along the southern boundary of Township 12S to Saline Valley Road; south on Saline Valley Road to Highway 190; north and then southwest on Highway 190 to the junction of Highway 395 at Olancha; north on Highway 395 to the intersection of Whitney Portal Road; west along Whitney Portal Road to the northern boundary of Section 36, Township 15S, Range 34E; west along the northern boundary of sections 36, 35, 34 and 33 Township 15S, Range 34 E to the Inyo County Line; north along the Inyo County Line to the intersection of Section 27 Township 13S, range 33E; east along the sountern boundary of sections 27, 26 and 25 Township 13S, Range 33E; north along the eastern boundary of Section 25 Township 13S, Range 33E to the intersection of Onion Valley Road; east along Onion Valley Road to the point of beginning.

(C) Independence Zone: In that portion of Inyo County beginning at the junction of Highway 395 and Aberdeen Station Road; east on Aberdeen Station Road to its terminus at the southern boundary of Section 5, Township 11S, Range 35E; east along the southern boundary of sections 5, 4, 3, and 2, Township 11S, Range 35E to the Papoose Flat Road at Papoose Flat; south and east on Papoose Flat Road to Mazourka Canyon Road; south and then west on Mazourka Canyon Road to Highway 395; west along Onion Valley Road to the intersection of the Section 25 Township 13S, Range 33E; south along the eastern boundary of Section 25 Township 13S, Range 33E to the southern boundary of Section 25 Township 13S, Range 33E; west along the southern boundary of sections 27, 26, 25 Township 13S, Range 33E to the Inyo County line; North along the Inyo County Line to Taboose Creek; east along Taboose Creek to the intersection of Highway 395; south along Highway 395 to the point of beginning.

(D) Tinemaha Zone: In that portion of Inyo County beginning at the junction of Highway 395 and Highway 168 in the town of Big Pine; north and east along Highway 168 to the junction of the Death Valley Road; south and east along the Death Valley Road to the junction of the Papoose Flat Road; south along the Papoose Flat Road to the southern boundary of Section 2, Township 11S, Range 35E; west along the southern boundaries of sections 2, 3, 4 and 5 to the terminus of the Aberdeen Station Road in Section 5, Township 11S, Range 35E; south and west along the Aberdeen Station Road to Highway 395; north along Highway 395 to the point of beginning.

(E) West Tinemaha Zone: In that portion of Inyo County beginning at the junction of Highway 395 and Highway 168 in the town of Big Pine; south along Highway 395 to the north junction of Fish Springs Road; south along Fish Springs Road to the junction of Highway 395; south along Highway 395 to Taboose Creek in Section 14, Township 11S, Range 34E; west along Taboose Creek to the Inyo County line; north and west along the Inyo County line to the southeast corner of Section 23, Township 10S, Range 32E; north along the eastern boundaries of sections 23, 14, 11, 2, Township 10S, Range 32E, and the eastern boundary of Section 36, Township 9S, Range 32E to Glacier Lodge Road; east along Glacier Lodge Road to Crocker Avenue; east along Crocker Avenue to Highway 395; north along Highway 395 to the point of beginning.

(F) The Owens Valley fund–raising license tag shall be valid in any zone described in subsections 364(g)(1)(A), (B), (C), (D) and (E).

(G) The Owens Valley archery only license tags shall be valid in any zone described in subsections 364(g)(1)(A), (B), (C), (D) and (E).

(H) The Bishop Muzzleloader Only license tags shall be valid in the Bishop zone described in subsection 364(g)(1)(A) only during periods listed in (2)(A). The Lone Pine Muzzleloader Only license tags shall be valid in the Lone Pine zone described in subsection 364(g)(1)(B) only during periods listed in (2)(A).

(I) The Tinemaha and West Tinemaha Archery Only license tags shall be valid in the Tinemaha and West Tinemaha zones described in subsections 364(g)(1)(D) and (E) only during periods listed in (2)(A). The Independence Archery Only license tags shall be valid in the Independence zone described in subsection 364(g)(1)(C) only during periods listed in (2)(A).

(J) The apprentice hunt license tags shall be valid in the Bishop zone described in subsections 364(g)(1)(A) only during periods listed in (2)(B).

(2) Seasons:

(A) For Period One, the season for the Bishop, Lone Pine, Independence, Tinemaha, and West Tinemaha zones shall open on the second Saturday in September and extend for 16 consecutive days.

(B) For Period Two, the season for the Bishop, Lone Pine, Independence, Tinemaha, and West Tinemaha zones shall open on the first Saturday in October and extend for 9 consecutive days.

(C) For Period Three, the season for the Bishop, Lone Pine, Independence, Tinemaha, and West Tinemaha zones shall open on the third Saturday in October and extend for 9 consecutive days.

(D) For Period Four, the season for the Bishop, Lone Pine, Independence, Tinemaha and West Tinemaha zones shall open on the first Saturday in November and extend for 9 consecutive days.

(E) For Period Five, the season for the Bishop, Lone Pine, Independence, Tinemaha and West Tinemaha zones shall open on the first Saturday in December and continue for 9 consecutive days.

(F) The Owens Valley Archery Only season shall open on the second Saturday in August and extend for 9 consecutive days

(G) Fund–raising Hunt: The Owens Valley Fund–raising Hunt shall open on the last Saturday in July and extend for 30 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of Tags:

(A) Period One: Bishop Zone — 1 bull tag and 4 antlerless. Lone Pine Zone — 1 bull tag and 1 antlerless tag. Independence Zone – 1 bull tag. Tinemaha and West Tinemaha zones — 1 bull tag and 6 antlerless tags.

(B) Period Two: Bishop Zone — 4 antlerless tags. Lone Pine Zone — 2 bull tags and 2 antlerless tags. Tinemaha and West Tinemaha zones — 9 antlerless tags.

(C) Period Three: Bishop Zone — 1 bull tag and 4 antlerless tags. Lone Pine Zone — 2 antlerless tags. Tinemaha and West Tinemaha zones — 2 bull tags and 9 antlerless tags.

(D) Period Four: Bishop Zone — 4 antlerless tags. Lone Pine Zone — 1 bull tag and 2 antlerless tags. Tinemaha and West Tinemaha zones — 9 antlerless tags.

(E) Period Five: Bishop Zone — 4 antlerless tags. Lone Pine Zone — 2 antlerless tags. Tinemaha and West Tinemaha zones — 2 bull tags and 9 antlerless tags.

(F) Archery Only Season: 5 either–sex tags.

(G) Fund–raising Hunt: 1 bull tag.

(5) Special Conditions:

(A) Elk may be taken during the Owens Valley Tule Elk Hunt, Archery Only Season with Archery Equipment only as specified in Section 354.

(B) Elk may be taken during Period 1 within the Independence, Tinemaha and West Tinemaha zones using Archery Equipment only, as specified in Section 354.

(C) Elk may be taken during Period 1 within the Bishop and Lone Pine zones using Muzzleloader equipment only, as specified in Section 353.

(D) Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(h) Cache Creek Tule Elk Hunt:

(1) Area: Those portions of Lake, Colusa and Yolo counties within the following line: beginning at the junction of Highway 20 and Highway 16; south on Highway 16 to Reiff–Rayhouse Road; west on Reiff–Rayhouse Road to Morgan Valley Road; west on Morgan Valley Road to Highway 53; north on Highway 53 to Highway 20; east on Highway 20 to the fork of Cache Creek; north on the north fork of Cache Creek to Indian Valley Reservoir; east on the south shore of Indian Valley Reservoir to Walker Ridge–Indian Valley Reservoir Access Road; east on Walker Ridge–Indian Valley Reservoir Access Road to Walker Ridge Road; south on Walker Ridge Road to Highway 20; east on Highway 20 to the point of beginning.

(2) Season:

(A) The General and Apprentice Hunt season shall open on the second Saturday in October and continue for 16 consecutive days.

(B) The season for antlerless elk shall open on the third Saturday in October and continue for 16 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of Tags: 2 bull tags and 2 antlerless tags.

A. Period One Apprentice Hunt: 1 bull tag.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(i) Grizzly Island Tule Elk Hunt:

(1) Area: Those lands owned and managed by the department as the Grizzly Island Wildlife Area.

(2) Seasons:

(A) For Period One, the season for antlerless elk shall open on the Tuesday after the second Saturday in August and continue for 4 consecutive days, whereas the season for bulls and spike bulls shall open on the Thursday after the second Saturday in August and continue for 4 consecutive days.

(B) For Period Two, the season for antlerless elk shall open on the Tuesday after the third Saturday in August and continue for 4 consecutive

days, whereas season for bulls and spike bulls shall open on the Thursday after the third Saturday in August and continue for 4 consecutive days.

(C) For Period Three, the season for antlerless elk shall open on the Tuesday after the fourth Saturday in August and continue for 4 consecutive days, whereas the season for bulls and spike bulls shall open on the Thursday after the first Monday in September and continue for 4 consecutive days.

(D) The season for the Fund–raising Hunt shall open on the first Saturday in August and continue for 30 consecutive days, with advance reservations required by contacting the Grizzly Island Wildlife Area by telephone at (707) 425–3828.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of Tags:

(A) Period One: 3 antlerless tags.

1. Period One Apprentice Hunt: 1 spike bull tag.

(B) Period Two: 2 bull tags, and 2 antlerless tags.

(C) Fund–raising Hunt: 2 bull tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(j) La Panza Tule Elk Hunt:

(1) Area: In those portions of San Luis Obispo, Kern, Monterey, Kings, Fresno, San Benito, and Santa Barbara counties within a line beginning in San Benito County at the junction of Highway 25 and County Highway J1 near the town Pacines, south along Highway 25 to La Gloria road, west along La Gloria rd, La Gloria road becomes Gloria road, west along Gloria road to Highway 101 near Gonzales, south along Highway 101 to Highway 166 in San Luis Obispo County; east along Highway 166 to Highway 33 at Maricopa in Kern County; north and west along Highway 33 to Highway 198 at Coalinga in Fresno County, north along Highway 33 to Interstate 5 in Fresno County, north along Interstate 5 to Little Panoche road/County Highway J1, southwest along Little Panoche road/County Highway J1 to the intersection of Little Panoche road/County Highway J1 and Panoche road/County Highway J1 in San Benito County, northwest along Panoche road/County Highway J1 to the point of beginning.

(2) Seasons:

(A) For Period One the season shall open on the second Saturday in October and extend for 23 consecutive days.

(B) For Period Two the season shall open on the second Saturday in November and extend for 23 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of Tags:

(A) Period One: 5 bull tags and 6 antlerless tags.

1. Period One Apprentice Hunt: 1 bull tag.

(B) Period Two: 6 bull tags and 6 antlerless tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags. Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunter tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(k) Fort Hunter Liggett Tule Elk Hunt:

(1) Area: That portion of Monterey County lying within the exterior boundaries of Fort Hunter Liggett, except as restricted by the Commanding Officer.

(2) Seasons: Due to military operations, season dates for the following periods are subject to further restriction, or may be rescheduled between September 1 and December 31 by the Commanding Officer.

(A) For Period One, the season shall open on the second Thursday in October and continue for 5 consecutive days.

(B) For Period Two, the season shall open on the fourth Wednesday in November and continue for 5 consecutive days.

(C) For Period Three, the season shall open on the fourth Saturday in December and continue for 5 consecutive days.

(D) Archery Only Either–Sex Season shall be open the last Saturday in August and continue for 5 consecutive days.

(E) Archery Only Antlerless Season shall open on the second Thursday in October and continue for 5 consecutive days.

(3) Bag and Possession Limit: 1 elk per person.

(4) Number of Tags:

(A) Period One: 14 antlerless tags (7 military and 7 general public).

1. Period One Apprentice Hunt: 4 antlerless tags (2 military and 2 general public).

(B) Period Two: 16 antlerless tags (8 military and 8 general public).

(C) Period Three: 14 bull tags (7 military and 7 general public).

1. Period Three Apprentice Hunt: 2 bull tags (1 military and 1 general public).

(D) Archery Only Season: 6 either–sex tags and 10 antlerless tags (3 either–sex tags military, 3 either–sex tags general public, 5 antlerless tags military and 5 antlerless tags general public).

(5) Special Conditions:

(A) All tagholders will be required to attend a mandatory hunter orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(B) Tagholders shall be required to purchase an annual hunting pass available from Fort Hunter Liggett.

(C) Season dates and hunt areas are subject to restriction by the Commanding Officer of Fort Hunter Liggett based on military training.

(D) Elk may be taken during the Fort Hunter Liggett Tule Elk Hunt, Archery Only Season, with Archery Equipment only as specified in Section 354.

(E) Only persons possessing valid junior hunting licenses may apply for Apprentice Hunt license tags. Apprentice Hunt tagholders shall be accompanied by a nonhunting, licensed adult chaperon 18 years of age or older while hunting.

(*l*) East Park Reservoir Tule Elk Hunt:

(1) Area: in those portions of Glenn and Colusa counties within a line beginning in Glenn County at the junction of Interstate Highway 5 and Highway 162 at Willows; west along Highway 162 (Highway 162 becomes Alder Springs Road) to the Glenn–Mendocino County line; south along the Glenn–Mendocino County line to the Glenn–Lake County line; east and then south along the Glenn–Lake County line to the Colusa–Lake County line; west, and then southeast along the Colusa–Lake County line to Goat Mountain Road; north and east along Goat Mountain Road to the Lodoga–Stonyford Road; east along the Lodoga–Stonyford Road to the Sites–Lodoga Road at Lodoga; east along the Sites–Lodoga Road to the Maxwell–Sites Road at Sites; east along the Maxwell–Sites Road to Interstate Highway 5 at Maxwell; north along Interstate Highway 5 to the point of beginning.

(2) Seasons:

(A) For Period One, the season shall open the second Monday in September and continue for 4 consecutive days.

(B) For Period Three, the season shall open on the first Saturday in September and continue for 27 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of Tags:

(A) Period One: 2 bull tags.

(B) Period Three: 5 antlerless tags.

(5) Special Conditions:

(A) All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(B) Access to private land may be restricted or require payment of an access fee.

(C) A Colusa County ordinance prohibits firearms on land administered by the USDI Bureau of Reclamation in the vicinity of East Park

Reservoir. A variance has been requested to allow use of muzzleloaders (as defined in Section 353) on Bureau of Reclamation land within the hunt zone.

(m) Northwestern California Roosevelt Elk Hunt:

(1) Area: In those portions of Humboldt and Del Norte counties not owned or leased by the California Redwood Company and the Green Diamond Resource Company within existing elk hunt boundaries as described in subsections 364(c)(1), (e)(1) and (f)(1), within a line beginning at the intersection of Highway 299 and Highway 96, north along Highway 96 to the Del Norte–Siskiyou county line, north along the Del Norte–Siskiyou county line to the California–Oregon state line, west along the state line to the Pacific Coastline, south along the Pacific coastline to the Humboldt–Mendocino county line, east along the Humboldt–Mendocino county line to the Humboldt–Trinity county line, north along the Humboldt–Trinity county line to Highway 299, west along Highway 299 to the point of beginning.

(2) Season: The season shall open on the first Wednesday in September and continue for 12 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 20 either–sex tags.

(n) San Luis Reservoir Tule Elk Hunt:

(1) Area: In those portions of Merced, Fresno, San Benito, and Santa Clara counties within a line beginning in Merced County at the junction of Highway 152 and Interstate 5 near the town of Santa Nella, west along Highway 152 to Highway 156 in Santa Clara County, southwest along Highway 156 to Highway 25 near the town of Holister in San Benito County, south along Highway 25 to the town of Paicine, south and east along J1 to Little Panoche Road, North and east along Little Panoche Road to Interstate 5 in Fresno County, north along Interstate 5 to the point of beginning.

(2) Season: The season shall open on the first Saturday in October and continue for 23 consecutive days.

(3) Bag and Possession Limit: 1 elk per season.

(4) Number of License Tags: 3 either–sex tags.

(5) Special Conditions: All tagholders will be required to attend a mandatory orientation. Tagholders will be notified of the time and location of the orientation meeting upon receipt of their elk license tags.

(o) Definitions:

(1) Bull elk: Any elk having an antler or antlers at least four inches in length as measured from the top of the skull.

(2) Spike bull: A bull elk having no more than one point on each antler. An antler point is a projection of the antler at least one inch long and longer than the width of its base.

(3) Antlerless elk: Any elk, with the exception of spotted calves, with antlers less than four inches in length as measured from the top of the skull.

(4) Either–sex elk: For the purposes of these regulations, either–sex is defined as bull elk, as described in Section 364(o)(1), or antlerless elk as, described in Section 364(o)(3).

(p) Method of Take: Only methods for taking elk as defined in sections 353 and 354 may be used.

(q) Tagholder Responsibilities:

(1) No tagholder shall take or possess any elk or parts thereof governed by the regulations except herein provided.

(2) The department reserves the right to use any part of the tagholder's elk for biological analysis as long as the amount of edible meat is not appreciably decreased.

(3) Any person taking an elk which has a collar or other marking device attached to it shall provide the department with such marking device within 10 days of taking the elk.

(r) The use of dogs to take or attempt to take elk is prohibited.

NOTE: Authority cited: Sections 200, 202, 203, 332, 1050 and 1572, Fish and Game Code. Reference: Sections 203, 203.1, 332, 713, 1050, 1570–1572, and 3951, Fish and Game Code.

HISTORY

1. New section filed 7–1–86; effective upon filing (Register 86, No. 27). For history of former section, see Register 85, No. 44.
2. Amendment filed 6–22–87; operative 6–22–87 (Register 87, No. 27).
3. Amendment filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
4. Repealer of subsection (e) and relettering of former subsections (f)–(q) to subsections (e)–(p) filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
5. Amendment filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
6. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
7. Amendment filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
8. Amendment of subsections (a)(2) and (b), new subsections (c)–(c)(5) and subsection relettering, and amendment of newly designated subsection (g) filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
9. Amendment of subsections (b)(4)(A)–(B), (c)(2) and (4) and (d) and new subsection (t) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
10. Amendment of section and NOTE filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
11. Amendment of subsections (e)(4)(A)–(B), (g)(2)(A) and (j)(2), new (j)(3), designator and amendment of newly designated subsection (j)(3) and subsection (k)(2) filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
12. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
13. Amendment filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
14. Amendment filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
15. Change without regulatory effect amending subsections (*l*)(2)–(3) filed 3–7–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).
16. Amendment of subsections (g)(1)(E), (g)(3)(C) and (*l*)(3) filed 5–21–2001; operative 6–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).
17. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
18. Amendment filed 6–24–2003; operative 7–1–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 26).
19. Amendment filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
20. Amendment of subsections (b)(2)(A), (d)(2), (f)(4), (g)(4)(A), (g)(4)(D), (i)(4)(A), (j)(4)(A), (k)(4)(A) and (k)(4)(C) and new subsections (b)(4)(C), (d)(4)(A)–(B), (i)(4)(A)1., (i)(4)(B)1., (j)(4)(A)1., (k)(4)(A)1. and (k)(4)(C)1. filed 6–30–2006; operative 6–30–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 26).
21. Amendment filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
22. Amendment of subsections (b)(2)(A), (b)(4)(C), (b)(5), (c)(4), (d)(2) and (d)(4)(B), new subsection (d)(4)(C), amendment of subsections (f)(1), (f)(4), (g)(1)(J) and (g)(3)(B)–(E), new subsection (g)(5)(D), amendment of subsections (h)(2)(A), (h)(4)A., (h)(5), (i)(4)(A)–(B), repealer of subsection (i)(4)(C), subsection relettering, amendment of subsections (i)(5), (j)(1), (j)(4)(A)1., (j)(5), (k)(2)(A)–(E), (k)(4)(A)1., (k)(4)(C)1., new subsection (k)(5)(E), repealer of subsection (*l*)(2)(B), subsection relettering, amendment of subsection (*l*)(4)(A), repealer of subsection (*l*)(4)(B), subsection relettering and amendment of subsections (m)(1), (m)(4), (n)(4), (o)(1) and (o)(3) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 364.5. Tule Elk.

NOTE: Authority cited: Sections 219, 220 and 332, Fish and Game Code. Reference: Sections 332, 713 and 3951, Fish and Game Code.

HISTORY

1. New section filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
2. Repealer filed 6–19–89; operative 6–19–89 (Register 89, No. 27). The adoption of existing section 364.5 of Title 14 of the California Code of Regulations by the Fish and Game Commission was voided and set aside by a Peremptory Writ of Mandate issued by the Sacramento County Superior Court on 9–30–88 (Civil Action No. 358996).
3. New section filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
4. Amendment filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
5. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
6. Amendment filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
7. Amendment of subsections (a)(1)(B), (a)(1)(C), (a)(2)(C), (a)(4)(A)–(a)(4)(C), (b)(4), (c), (c)(2)(B), (c)(4)(A)–(c)(4)(D), new subsections (d)–(d)(4) and (i) and subsection relettering, and amendment of newly designated subsections (e)(1), (e)(2), (h), (k) and (q) filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).

8. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
9. Amendment of subsections (c)(4)(A)–(C), (e)(2), (k) and NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
10. Repealer filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).

§ 365. Bear.

Except as provided in Section 366, bear may be taken only as follows: (Note: See subsection 265(c)(1) for restrictions on the use of dogs.)

(a) Areas:

(1) Northern California: In the counties of Del Norte, Humboldt, Plumas, Shasta, Siskiyou, Tehama and Trinity; and those portions of Lassen and Modoc counties west of the following line: Beginning at Highway 395 and the Sierra–Lassen county line; north on Highway 395 to the junction of Highway 36; west on Highway 36 to the junction of Highway 139; north on Highway 139 to Highway 299; north on Highway 299 to County Road 87; west on County Road 87 to Lookout–Hackamore Road; north on Lookout–Hackamore Road to Highway 139; north on Highway 139 to the Modoc–Siskiyou county line; north on the Modoc–Siskiyou county line to the Oregon border.

(2) Central California: In the counties of Alpine, Amador, Butte, Calaveras, Colusa, El Dorado, Glenn, Lake, Mendocino, Nevada, Placer, Sacramento, Sierra, Sutter, Yolo and Yuba and those portions of Napa and Sonoma counties northeast of Highway 128.

(3) Southern Sierra: That portion of Kern County west of Highway 14 and east of the following line: Beginning at the intersection of Highway 99 and the Kern–Tulare county line; south on Highway 99 to Highway 166; west and south on Highway 166 to the Kern–Santa Barbara county line; and those portions of Fresno, Madera, Mariposa, Merced, Stanislaus, Tulare and Tuolumne counties east of Highway 99.

(4) Southern California: In the counties of Los Angeles, Santa Barbara and Ventura; that portion of Riverside County north of Interstate 10 and west of Highway 62; and that portion of San Bernardino County south and west of the following line: Beginning at the intersection of Highway 18 and the Los Angeles–San Bernardino county line; east along Highway 18 to Highway 247; southeast on Highway 247 to Highway 62; southwest along Highway 62 to the Riverside–San Bernardino county line.

(5) Southeastern Sierra: Those portions of Inyo and Mono counties west of Highway 395; and that portion of Madera County within the following line: Beginning at the junction of the Fresno–Madera–Mono county lines; north and west along the Madera–Mono county line to the boundary of the Inyo–Sierra National Forest; south along the Inyo–Sierra National Forest boundary to the Fresno–Madera county line; north and east on the Fresno–Madera county line to the point of beginning. Also, that portion of Inyo county west of Highway 395; and that portion of Mono county beginning at the intersection of Highway 6 and the Mono county line; north along Highway 6 to the Nevada state line; north along the Nevada state line to the Alpine county line; south along the Mono–Alpine county line to the Mono–Tuolumne county line and the Inyo National Forest Boundary; south along the Inyo National Forest Boundary to the Inyo–Sierra Forest boundary; south along the Inyo–Sierra Forest boundary to the Fresno–Madera county line; north and east along the Fresno–Madera county line to the junction of the Fresno–Madera–Mono county line; south along the Mono–Fresno county line to the Mono–Inyo County line; east along the Mono–Inyo county line to the point of beginning.

(b) Seasons: Except in the deer hunt areas designated as zones X–1 through X–7b in subsection 360(b), the bear season shall open on the opening day of the general deer season as described in subsections 360(a) and (b) and extend until the last Sunday in December in the areas described in subsections 365(a)(1), (2), (3) (4) and (5) above. In those areas designated as deer hunting zones X–1 through X–7b, the bear season shall open on the second Saturday in October and extend for 79 consecutive days. The bear season shall be closed when the department determines that 1,700 bears have been taken pursuant to the reporting requirement in section 708(e). The department shall notify the commission, the public via the news media and bear tag holders via the U.S. mail and the news media when implementing this closure.

(c) Bag and Possession Limit: One adult bear per season. Cubs and females accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) No open season for bear in the balance of the state not included in subsection (a) above.

(e) Bait: No feed, bait or other materials capable of attracting a bear shall be placed or used for the purpose of taking or pursuing a bear. No bear shall be taken over such bait. No person may take a bear within a 400–yard radius of a garbage dump or bait.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, and 207, Fish and Game Code.

HISTORY

1. Repealer of section 365 and renumbering and amendment of section 351 to section 365 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20). For history of former section 365, see Registers 79, No. 19; and 78, No. 24.
2. Repealer and new section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
3. Amendment of subsections (a)(1), (b), (e) and repealer of subsection (a)(5) filed 6–22–84 as an emergency; designated effective 7–1–84 (Register 84, No. 31). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–29–84.
4. Certificate of Compliance including amendment of NOTE transmitted to OAL 10–22–84 and filed 11–26–84 (Register 84, No. 48).
5. Amendment of subsections (a) and (b) filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 31).
6. Amendment of subsection (a)(5) filed 7–1–86; effective upon filing (Register 86, No. 27).
7. Amendment filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
8. Amendment to first line and subsection (b) and new subsection (f) filed 9–6–90; operative 9–6–90 (Register 90, No. 43).
9. Amendment of subsections (b) and (f) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
10. Editorial correction of first paragraph and subsection (a)(3) (Register 96, No. 26).
11. Amendment of first paragraph and subsection (b) filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
12. Amendment of subsection (f) filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
13. Repealer of subsection (f) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
14. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
15. Amendment of subsection (a)(5) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).

§ 365.5. Special Bear Hunt.

NOTE: Authority cited: Sections 200, 202, 203 and 4751, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 713, 4751 and 4756, Fish and Game Code.

HISTORY

1. New section filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
2. Amendment of subsection (f) filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
3. Repealer filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).

§ 366. Archery Bear Hunting.

Bear may be taken with bow and arrow during the bear season as specified in section 365 and as follows:

(a) Areas: Those portions of the state as described in subsection (a) of section 365.

(b) Season: The archery bear season shall open on the third Saturday in August and extend for 23 consecutive days. There is no open season for taking bear with bow and arrow in the balance of the state.

(c) Bag and Possession Limit: One adult bear per season. Cubs and female accompanied by cubs may not be taken. (Cubs are defined as bears less than one year of age or bears weighing less than 50 pounds.)

(d) The use of dogs is prohibited during the archery season for bear.

(e) Bait. No feed, bait or other materials capable of attracting a bear to a feeding area shall be placed or used for the purpose of taking or pursu-

ing a bear. No bear shall be taken over such bait. No person may take a bear within a 400 yard radius of a garbage dump or bait.

(f) No more than 15,000 bear tags shall be issued pursuant to section 367 (see subsection 365(b)).

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1 and 207, Fish and Game Code.

HISTORY

1. New section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Repealer and new section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
3. Repealer filed 10–15–90 as an emergency; operative 10–15–90 (Register 90, No. 46). A Certificate of Compliance must be transmitted to OAL by 2–12–91 or emergency language will be repealed by operation of law on the following day.
4. Reinstatement of section as it existed prior to emergency repeal filed 10–15–90 by operation of Government Code section 11346.1(f) (Register 91, No. 42).
5. Editorial correction restoring omitted HISTORY 4. (Register 92, No. 6).
6. Editorial correction deleting former HISTORY NOTE 5 and renumbering remaining HISTORY NOTES (Register 95, No. 14).

§ 367. Bear License Tags.

NOTE: Authority cited: Sections 200, 202, 203, 219 and 1050, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 1050 and 4750–4756, Fish and Game Code.

HISTORY

1. New section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
2. Relettering of former subsection (c) to (d) and new subsection (c) filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 31).
3. Relettering and amendment of former subsections (c) and (d) to subsections (d) and (e) and new subsection (c) filed 7–1–86; effective upon filing (Register 86, No. 27).
4. Amendment of subsections (a) and (e) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
5. Amendment of subsections (a), (d) and (e) filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
6. New subsection (a)(3) and redesignating of following subsections, amendment of subsections (b) and (f)(1)–(2) filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
7. Amendment of subsection (c) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of subsection (b) filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
9. Amendment of subsection (b) filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
10. Amendment of subsection (b) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
11. Change without regulatory effect amending subsections (a)(3) and (b) filed 3–7–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).
12. Repealer filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 367.5. Presentation of Bear Skull.

Any person who takes a bear shall present the skull (even if damaged) to a department office/officer within 10 days of taking the bear. The skull shall become property of the department. That portion of the skull not needed for scientific purposes shall be returned.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207 and 211–222, Fish and Game Code.

HISTORY

1. New section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
2. Repealer and new section filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 31).

§ 368. Wild Pig.

Wild pigs may be taken only as follows:

(a) General Season: Open all year.

(b) Bag and Possession Limit: There is no daily bag or possession limit for wild pigs.

NOTE: Authority cited: Sections 200, 202, and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 3950, 4652–4655 and 4657, Fish and Game Code.

[The next page is 144.3.]

HISTORY

1. New section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Amendment of subsection (b) filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
3. Amendment filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 31).
4. Amendment filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
5. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
6. New subsections (c)–(c)(4) and amendment of NOTE filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
7. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of subsection (a), repealer of subsections (a)(1)–(a)(2)(B), amendment of subsection (b) and repealer of subsections (b)(1)–(2) filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
9. Repealer of subsections (c)–(c)(4) filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 369. Mountain Lion.

NOTE: Authority cited: Sections 200, 202, 203, 219 and 1050, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 219, 1050, 1801 and 4800–4805, Fish and Game Code.

HISTORY

1. New section filed 6–29–87; operative 6–29–87 (Register 87, No. 27).
2. Amendment of subsection (d) filed 8–5–87; operative 8–5–87 (Register 87, No. 33).
3. New subsection (j) filed 8–10–87; operative 8–10–87 (Register 87, No. 33).
4. Repealer and new section filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
5. Repealer of section filed 6–28–91; operative 6–28–91 (Register 91, No. 42).

§ 370. Deer Tags.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207 and 4336, Fish and Game Code.

HISTORY

1. New section filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
2. Renumbering and amendment of Section 363 to Section 370 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Amendment filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
4. Editorial correction of Authority cite (Register 95, No. 32).
5. Amendment filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
6. Amendment filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
7. Repealer filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 371. Deer Tag Application and Distribution Procedures.

NOTE: Authority cited: Sections 200, 202, 203, 220 and 1050, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 1050 and 4330–4333, Fish and Game Code.

HISTORY

1. Amendment of subsections (d) and (e) filed 5–31–88; operative 5–31–88 (Register 88, No. 23). For prior history, see Register 87, No. 27.
2. Amendment filed 6–19–89; operative 6–19–89 (Register 89, No. 27).
3. Amendment filed 6–22–90; operative 6–22–90 pursuant to section 215, Fish and Game Code (Register 90, No. 34).
4. Amendment filed 6–28–91; operative 6–28–91 (Register 91, No. 42).
5. Amendment of subsections (a)(1), (d)(1)(A), (d)(2)(A)–(B) and new subsection (e) filed 7–8–92; operative 7–8–92 pursuant to Fish and Game Code section 215 (Register 92, No. 28).
6. Amendment of subsections (a)(1), (d)(1)(A), (d)(1)(B), (d)(2)(A) and (d)(2)(B) filed 6–23–93; operative 6–23–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 26).
7. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of section heading and subsections (a)(1)–(2), (d)(1)(A)–(B), and (d)(2)(A), new subsection (d)(2)(B), subsection relettering, amendment of newly designated subsections (d)(2)(C)–(D) and amendment of NOTE filed 6–9–95; operative 6–9–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 23).
9. Amendment of subsections (a)(1)–(3), (d)(1)(A)–(B), and (d)(2)(A)–(E) filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).
10. Amendment of subsections (a)(1) and (e) and amendment of NOTE filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
11. Repealer and new section filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
12. Amendmentof subsection (a)(1) filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
13. Amendment of subsection (b) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
14. Change without regulatory effect amending subsection (b) filed 3–7–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 10).
15. Repealer filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 372. Deer and Elk Tags, Persons Authorized to Validate.

NOTE: Authority cited: Sections 200, 202, 203, 213 and 215, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 206, 207, 211, 213 and 215, Fish and Game Code.

HISTORY

1. Amendment of section heading, first sentence and subsection (c) filed 6–24–85 as an emergency; effective upon filing (Register 85, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–22–85. For prior history, see Register 81, No. 20.
2. Notice of Erroneous Filing declaring 6–24–85 Certificate of Compliance null and void filed 7–2–85 by OAL (Register 85, No. 27).
3. Certificate of Compliance as to 6–24–85 order transmitted to OAL 9–30–85 and filed 11–1–85 (Register 85, No. 44).
4. Amendment of subsections (b)(24) and (b)(26) filed 6–22–87; operative 6–22–87 (Register 87, No. 27).
5. Amendment of section heading, section and NOTE filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
6. Repealer filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 373. Return of Deer Tags.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 1050 and 4330–4331, Fish and Game Code.

HISTORY

1. New section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Amendment filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
3. Amendment filed 6–22–84 as an emergency; designated effective 7–1–84 (Register 84, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–29–84.
4. Certificate of Compliance transmitted to OAL 10–22–84 and filed 11–26–84 (Register 84, No. 48).
5. Repealer filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 374. Standard Procedures for Distribution of Permits for Deer Hunts with a Limited Number of Permits.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 1050 and 4330–4331, Fish and Game Code.

HISTORY

1. New section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
2. Repealer and new section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
3. Repealer and new section filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
4. Repealer filed 6–22–84 as an emergency; designated effective 7–1–84 (Register 84, No. 29). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–29–84.
5. Certificate of Compliance transmitted to OAL 10–22–84 and filed 11–26–84 (Register 84, No. 48).

§ 375. Deer, Elk, Antelope and Bear Meat, Possession of After the Close of the Season.

NOTE: Authority cited: Sections 200, 202, 203, 3080, and 3081, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3080, and 3081, Fish and Game Code.

HISTORY

1. Renumbering and amendment of Section 360 to Section 375 filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20). For history for former Section 360, see Registers 71, No. 35; and 70, No. 23.

2. Repealer filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).

Chapter 4. Depredation

§ 400. Deer Depredation Hunts.

(a) A deer depredation hunt shall not be allowed where the number of deer involved numbers less than 25.

(b) Before applying for a depredation hunt the landowner or tenant shall consult with representatives of the department to determine the existence or threat of depredation. All applications shall be in writing, filed with the commission on forms supplied by the department, and shall recite on their face that the applicant grants to the holders of hunting permits free and unrestricted access to, and the use of his lands for the purpose of said hunt.

(c) Two or more landowners, or tenants, whose lands adjoin one another may apply jointly for a deer depredation hunt.

(d) Before a deer depredation hunt is allowed, the landowner or tenant concerned shall sign a statement holding the Department of Fish and Game, their agents, officers, and employees, free and harmless from all claims that may arise from permitees shooting over said area, and from all claims on account of any act or omission on the part of said state, department, or their agents, officers or employees when engaged solely in the discharge of their official duties and functions.

(e) Deer depredation hunts shall be confined to the lands owned or controlled by the applicant.

(f) Hunting permits shall be issued on a first–come, first–served basis by employees of the department only, at a time and place to be designated in the order authorizing the hunt.

(g) Applicants for hunting permits shall be 16 years of age or over.

(h) Hunting permits shall be valid only for the area and the period of time designated on the permit.

(i) Shooting time shall be one hour before sunrise to one hour after sunset.

(j) Permits shall not be transferable.

(k) Permittees shall check in at a designated checking station each day before hunting and shall check out at such station each day after hunting is finished.

(*l*) Permit tag shall be attached to the antlers of antlered deer or to the ear of antlerless deer immediately after killing.

(m) The commission shall designate the methods that may be used for each hunt. In addition to regular methods of take, these may also include 12 gauge shotguns shooting buck shot of size No. 2 or larger, and bows and arrows.

(n) Deer meat held more than 15 days after close of the hunt shall be stamped in accordance with Section 3081 of the Fish and Game Code.

(o) Employees of the department shall not be eligible to purchase hunting permits.

(p) The department may refuse to issue a permit to anyone, may revoke any permit, and may eject the holder from the area for any reason when it appears that the safety or welfare of the area, or that of other permittees, is endangered. Decision of the authorized employee of the department in this respect shall be final.

(q) Prior to the acceptance or issuance of a hunting permit all permittees shall consent in writing to the terms and conditions of these rules and regulations.

NOTE: Authority cited: Sections 4181, 4181.5, and 4188, Fish and Game Code. Reference: Sections 4181, 4181.5, and 4188, Fish and Game Code.

HISTORY

1. Repealer of Chapter 4 (Sections 403–455, not consecutive) and new Chapter 4 (Sections 400–402) filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20). For prior history, see Registers 80, No. 21; 80, No. 20; and 78, No. 24.

2. Change without regulatory effect amending subsection (m) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 400.5. Bass Hill Special Depredation Hunt.

NOTE: Authority cited: Sections 200, 203, 203.1 and 4188, Fish and Game Code. Reference: Sections 203, 203.1, 450–460, 1801, 4181.5 and 4188, Fish and Game Code.

HISTORY

1. New section filed 9–16–85 as an emergency; effective upon filing (Register 85, No. 38). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–14–86.

2. Repealed by operation of Government Code Section 11346.1(g) (Register 87, No. 2).

§ 401. Issuance of Permit to Take Animals Causing Damage.

(a) Application. A person who is a property owner or tenant may apply to the department for a permit to take elk, bear, beaver, wild pigs, deer, wild turkeys, or gray squirrels that are damaging or destroying, or immediately threatening to damage or destroy, land or property.

(b) Permit Period. Permits issued pursuant to this section shall be valid for a period not to exceed one year, except that permits for elk, bear, wild turkey, or deer shall not be valid for more than 60 days. Permits may be renewed if damage or threatened damage to land or property continues to exist.

(c) Form and Conditions of Permit. Applications shall be made on form entitled "PERMIT TO KILL DEER, BEAR, ELK, WILD PIG, GRAY SQUIRREL, BEAVER, WILD TURKEY, OR MOUNTAIN LION CAUSING CROP OR PROPERTY DAMAGE" (FG WPB 543 (new 5/05)). The department may add terms and conditions to the permit necessary to protect wildlife and ensure public safety. To be valid, the permit shall contain a statement signed by the applicant that he/she has read, understands, and agrees to be bound by all the terms of the permit.

(d) Methods of Take.

(1) Animals taken pursuant to a permit may be taken in any legal manner except as herein provided and in accordance with the provisions of Section 465.5 of these regulations. Permits to take deer shall include conditions that comply with Fish and Game Code section 4181.5. No iron–jawed or any type of metal–jawed traps may be used to take squirrels or bears. No poison may be used. The department may specify the caliber and type of firearm and ammunition, archery equipment or crossbow to be used based upon safety considerations. The department may require that a permittee take animals alive by the use of live traps.

(2) The permittee and/or agent shall ensure that all animals are killed in a humane manner instantly and prevent any injured animal from escaping.

(e) Government Employees and Designated Agents.

(1) An employee of a federal, State, or local government agency or local district with responsibilities including but not limited to animal control, animal damage control, irrigation, flood, or natural resource reclamation, while acting in his/her official capacity may take depredating animals on the property designated in a permit issued pursuant to this section.

(2) The permittee may designate up to three other persons as his/her agents to take animals under the terms of the permit. A designated agent shall be any person who is acting under the direction and control of the permittee and who is 21 years of age or older. The designated agent(s) shall be named on the permit. The permittee may substitute designated agents with prior written approval of the department.

(f) Persons Prohibited from Taking Animals. No person may take animals pursuant to the permit if he/she has been convicted of a violation related to the take or possession of game or furbearing mammals in the past 12 months or if he/she is on probation and may not hunt or possess a firearm as part of the terms of probation. A landowner who is on probation and may not hunt or possess a firearm as part of the terms of probation must designate a qualified agent to take animals under a permit.

(g) Written Report Required for Wild Pigs. The permittee shall provide a report listing the date and sex of each wild pig taken. A report shall be submitted whether or not any animals were taken. The reporting period shall be by calendar month. The permittee or designated agent shall

complete and mail the report to the department on or before the 15th day of the following month. Reports shall be mailed to the address provided by the department.

(h) Tagging Animals. All animals taken pursuant to a permit, except wild pigs, shall be immediately tagged with tags provided by the department. Wild pigs shall be tagged prior to being transported from the property designated in the permit. Tags for animals except wild pigs shall be completed at the time the animal is taken. Tags for wild pigs shall be completed before the wild pigs are removed from the property. Tags shall clearly show the permittee's name, address, date and location the animal was taken and shall include the signature of the person taking the animal. The report portion of each tag shall be mailed to the department without delay. No tags are required for squirrels and beavers.

(i) Utilization of Carcass. Animals taken pursuant to this permit must be disposed of as required in the permit. No animals, except wild pigs, may be utilized by the permittee or designated agent. The permittee or designated agent may leave the carcass of any wild pig where it was taken for reasons of high air temperatures, disease, parasites, or conditions which preclude use of the carcass. A person who makes every reasonable attempt to utilize the carcass of any wild pig as required in this subsection shall be deemed to be in compliance with Section 4304 of the Fish and Game Code.

(j) Suspension and Revocation of Permits.

(1) Permits may be suspended temporarily by the director for a breach or violation of the permit by the holders thereof, their agents, servants, employees or any person acting under their direction and control. The commission shall be notified of any such suspension and subsequently may revoke or reinstate the permit, or fix the period of its suspension, after written notice to the permittee and the permittee has been afforded an opportunity to be heard.

(2) Any person who has had his/her permit revoked or suspended by the commission shall be required, upon application for a new or subsequent permit, to appear before the commission and demonstrate to its satisfaction that the use of such a permit will be consistent with depredation control, with these regulations, and with the laws under which they are promulgated.

(k) It is unlawful for a permittee or agent to violate any of the terms or conditions of a permit issued pursuant to this section.

(*l*) The permit does not invalidate any city, county, or state firearm regulation.

NOTE: Authority cited: Sections 202, 3003.1 and 4181, Fish and Game Code. Reference: Sections 3003.1 and 4181, Fish and Game Code.

HISTORY

1. New subsection (p) filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
2. Amendment of subsections (a) and (f) filed 8–17–87; operative 8–17–87 (Register 87, No. 34).
3. Change without regulatory effect amending subsection (a) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).
4. Repealer of subsections (p)–(p)6. and new subsections (p)–(p)(5) and amendment of NOTE filed 5–1–97; operative 5–1–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 18).
5. Amendment of subsections (a), (f), (*l*) and (p)(1) and amendment of NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
6. Amendment of subsections (e)–(f) and (p)(1)(B)–(p)(4), new subsections (p)(5)–(6) and subsection renumbering filed 5–21–2001; operative 6–1–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 21).
7. Repealer and new section filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
8. Amendment of subsections (a)–(c) and (d)(1), repealer of subsection (d)(2), subsection renumbering and amendment of newly designated subsection (d)(2) and subsections (g) and (h) filed 5–23–2006; operative 5–23–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 21).
9. Editorial correction of subsection (d)(2) (Register 2006, No. 28).

§ 402. Issuance of Permits to Kill Mountain Lion Causing Damage.

(a) Revocable permits may be issued by the department after receiving a report, from any owner or tenant or agent for them, of property being damaged or destroyed by mountain lion. The department shall conduct and complete an investigation within 48 hours of receiving such a report. Any mountain lion that is encountered in the act of inflicting injury to, molesting or killing livestock or domestic animals may be taken immediately if the taking is reported within 72 hours to the department and the carcass is made available to the department. Whenever immediate action will assist in the pursuit of the particular mountain lion believed to be responsible for damage to livestock or domestic animals, the department may orally authorize the pursuit and take of a mountain lion. The department shall investigate such incidents and, upon a finding that the requirements of this regulation have been met, issue a free permit for depredation purposes, and carcass tag to the person taking such mountain lion.

(b) Permittee may take mountain lion in the manner specified in the permit, except that no mountain lion shall be taken by means of poison, leg–hold or metal–jawed traps and snares.

(c) Both males and females may be taken during the period of the permit irrespective of hours or seasons.

(d) The privilege granted in the permit may not be transferred, and only entitles the permittee or the employee or agent of the permittee to take mountain lion. Such person must be 21 years of age or over and eligible to purchase a California hunting license.

(e) Any person issued a permit pursuant to this section shall report by telephone within 24 hours the capturing, injuring or killing of any mountain lion to an office of the department or, if telephoning is not practical, in writing within five days after capturing, injuring or killing of the mountain lion. Any mountain lion killed under the permit must be tagged with the special tag furnished with the permit; both tags must be completely filled out and the duplicate mailed to the Department of Fish and Game, Sacramento, within 5 days after taking any mountain lion.

(f) The entire carcass shall be transported within 5 days to a location agreed upon between the issuing officer and the permittee, but in no case will a permittee be required to deliver a carcass beyond the limits of his property unless he is willing to do so. The carcasses of mountain lions taken pursuant to this regulation shall become the property of the state.

(g) Animals shall be taken in a humane manner so as to prevent any undue suffering to the animals.

(h) The permittee shall take every reasonable precaution to prevent the carcass from spoiling until disposed of in the manner agreed upon under subsection (f) of these regulations.

(i) The permit does not invalidate any city, county, or state firearm regulation.

(j) Permits shall be issued for a period of 10 days. Permits may be renewed only after a finding by the department that further damage has occurred or will occur unless such permits are renewed. The permittee may not begin pursuit of a lion more than one mile nor continue pursuit beyond a 10–mile radius from the location of the reported damage.

NOTE: Authority cited: Sections 4803 and 4804, Fish and Game Code. Reference: Sections 4800–4809, Fish and Game Code.

HISTORY

1. Amendment filed 5–7–86; effective upon filing (Register 86, No. 19).
2. Amendment filed 7–1–86; effective upon filing (Register 86, No. 27).
3. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
4. Amendment of subsections (a), (b), (d), (e), (f) and (j) filed 7–31–91; operative 8–30–91 (Register 91, No. 48).
5. Amendment of subsection (a) and NOTE filed 3–5–2001; operative 4–4–2001 (Register 2001, No. 10).

Chapter 5. Furbearing Mammals

§ 460. Fisher, Marten, River Otter, Desert Kit Fox and Red Fox.

Fisher, marten, river otter, desert kit fox and red fox may not be taken at any time.

NOTE: Authority cited: Sections 200, 202, 203, and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004, and 4009.5, Fish and Game Code.

HISTORY

1. New Chapter 5 (Sections 460 through 465) filed 6–9–59; designated effective 7–1–59 (Register 59, No. 9). (Ed. Note: Former Section 400 repealer filed

6–9–59, effective 7–1–59, related to subject matter of new Chapter 5. For history of former section, see Register 58, No. 15.)

2. Amendment filed 6–16–61; designated effective 7–1–61 (Register 61, No. 12).
3. Amendment filed 6–18–65; designated effective 7–1–65 (Register 65, No. 10).
4. Amendment filed 6–15–67; designated effective 7–1–67 (Register 67, No. 24).
5. Amendment filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23).
6. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
7. Amendment filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).

§ 461. Badger and Gray Fox.

(a) Badger may be taken as follows:

(1) Season and Area: November 16 through the last day of February, statewide.

(2) Bag and Possession Limit: No limit.

(b) Gray fox may be taken as follows:

(1) Season and Area: November 24 through the last day of February, statewide.

(2) Bag and Possession Limit: No limit.

(3) Dogs may be permitted to pursue gray fox in the course of breaking, training, or practicing dogs in accordance with the provisions of Section 265 of these regulations.

NOTE: Authority cited: Sections 200–202, 203 and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004 and 4009.5, Fish and Game Code.

HISTORY

1. Amendment filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23). For prior history, see Register 73, No. 22.
2. Amendment filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
3. Amendment filed 6–4–76; designated effective 7–1–76 (Register 76, No. 23).
4. Repealer and new section filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 462. Muskrat and Mink.

Except as noted in Section 4180, Fish and Game Code, muskrat and mink may be taken only as follows:

Season and Area: November 16 through March 31, statewide. (This regulation supersedes Section 4001 of the Fish and Game Code.)

Bag and Possession Limit: No limit.

NOTE: Authority cited: Sections 200, 202, 203, and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004, 4009.5, and 4180, Fish and Game Code.

HISTORY

1. Amendment filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23.) For prior history, see Register 73, No. 22.
2. Amendment filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
3. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 463. Beaver.

Beaver may be taken only as follows:

(a) Season and Area: November 1 through March 31 in the counties of Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Imperial, Inyo, Kern, Kings, Lake, Lassen, Madera, Mariposa, Merced, Modoc, Mono, Monterey, Nevada (except Sagehen Creek), Placer, Plumas, Sacramento, San Joaquin, San Luis Obispo, Shasta, Sierra, Siskiyou, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba; and those portions of Riverside and San Bernardino counties within 10 miles of the Arizona–California border. (This regulation supersedes Section 4001 of the Fish and Game Code.)

Bag and Possession Limit: There is no bag or possession limit in these areas for the taking of beaver.

(b) Beaver or any part thereof may not be taken in the balance of the state including the counties of Los Angeles, Marin, Mendocino, Napa, Orange, San Benito, San Diego, San Francisco, San Mateo, Santa Barbara, Santa Clara, Santa Cruz, Sonoma, and Ventura; and those portions of Riverside and San Bernardino counties further than 10 miles from the California–Arizona border. (This regulation supersedes Section 4001 of the Fish and Game Code.)

NOTE: Authority cited: Sections 200, 202, 203 and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004, 4009.5 and 4180, Fish and Game Code.

HISTORY

1. Amendment filed 6–1–73; designated effective 7–3–73 (Register 73, No. 22). For prior history, see Register 72, No. 39.
2. Amendment filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23).
3. Amendment of subsection (a) filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
4. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
5. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

6. Editorial correction repealing subsection (c) filed 5–19–82 (Register 82, No. 21).

§ 463.5. Hides of Beaver.

NOTE: Authority cited: Section 4182, Fish and Game Code.

HISTORY

1. New section filed 6–9–59 as an emergency; designated effective 7–1–59 (Register 59, No. 9). Certificate of Compliance—Section 11422.1, Gov. Code filed 8–5–59.
2. Amendment filed 6–13–63; effective thirtieth day thereafter (Register 63, No. 10).
3. Repealer filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).

§ 464. Raccoon.

(a) Seasons and Areas:

(1) Raccoon may be taken from July 1 through March 31 in the following area: All of Imperial County and those portions of Riverside and San Bernardino counties lying south and east of the following line: Beginning at the intersection of Highway 86 with the north boundary of Imperial County; north along Highway 86 to the intersection with Interstate 10; east along Interstate 10 to its intersection with the Cottonwood Springs Road in Section 9, T6S, R11E, S.B.B.M.; north along the Cottonwood Springs Road and the Mecca Dale Road to Amboy; east along Highway 66 to the intersection with Highway 95; north along Highway 95 to the California–Nevada state line.

(2) November 16 through March 31 in the balance of the state.

(b) Bag and Possession Limit: No limit.

(c) Method of Take: When taking raccoon after dark, pistols and rifles not larger than .22 caliber rimfire and shotguns using shot no larger than No. BB are the only firearms which may be used during this night period. (This regulation supersedes Sections 4001 and 4002 of the Fish and Game Code.) (See Sections 264 and 264.5 for light regulations.)

(d) Dogs may be permitted to pursue raccoons in the course of breaking, training or practicing dogs in accordance with the provisions of Section 265 of these regulations.

NOTE: Authority cited: Sections 200, 202, 203 and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004 and 4009.5, Fish and Game Code.

HISTORY

1. Amendment of subsection (c) filed 1–18–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 3). For prior history, see Register 77, No. 25.
2. Amendment of subsection (d) filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
3. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
4. Repealer and new section filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
5. Amendment of subsection (c) filed 6–28–91; operative 6–28–91 (Register 91, No. 42).

§ 465. Methods for Taking Furbearers.

Furbearing mammals may be taken only with a firearm, bow and arrow, or with the use of dogs, or traps in accordance with the provisions of Section 465.5 of these regulations and Section 3003.1 of the Fish and Game Code.

NOTE: Authority cited: Sections 200, 202, 203, 3003.1 and 4009.5, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–221, 3003.1, 4000–4004 and 4009.5, Fish and Game Code.

HISTORY

1. Amendment filed 5–29–69; designated effective 7–1–69 (Register 69, No. 22). For prior history, see Register 67, No. 24.
2. Amendment filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
3. Amendment filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
4. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
5. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
6. Amendment filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
7. Amendment filed 6–17–83; designated effective tenth day thereafter (Register 83, No. 25).
8. Amendment of undesignated first paragraph filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Amendment of first paragraph and NOTE filed 7–1–98; operative 7–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 27).
10. Amendment of section and NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).

§ 465.1. Use of Dogs in Taking Furbearers.

NOTE: Authority cited: Sections 200, 202, 203, 219, 3800, 4150 and 4853, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3800, 4150, 4756 and 4850–4854, Fish and Game Code.

HISTORY

1. New section filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
2. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 465.5. Use of Traps.

(a) Traps Defined. Traps are defined to include padded–jaw leg–hold, steel–jawed leg–hold, and conibear traps, snares, dead–falls, cage traps and other devices designed to confine, hold, grasp, grip, clamp or crush animals' bodies or body parts.

(b) Affected Mammals Defined. For purposes of this section, furbearing mammals, game mammals, nongame mammals, and protected mammals are those mammals so defined by statute on January 1, 1997, in sections 3950, 4000, 4150 and 4700 of the Fish and Game Code.

(c) Prohibition on Trapping for the Purposes of Recreation or Commerce in Fur. It is unlawful for any person to trap for the purposes of recreation or commerce in fur any furbearing mammal or nongame mammal with any body–gripping trap. A body–gripping trap is one that grips the mammal's body or body part, including, but not limited to, steel–jawed leg–hold traps, padded–jaw leg–hold traps, conibear traps, and snares. Cage and box traps, nets, suitcase–type live beaver traps, and common rat and mouse traps shall not be considered body–gripping traps and may be used to trap for the purposes of recreation or commerce in fur any furbearing or nongame mammal.

(d) Prohibition on Exchange of Raw Fur. It is unlawful for any person to buy, sell, barter, or otherwise exchange for profit, or to offer to buy, sell, barter, or otherwise exchange for profit, the raw fur, as defined by Section 4005 of the Fish and Game Code, of any furbearing mammal or nongame mammal that was trapped in this state, with a body–gripping trap as described in subsection (c) above.

(e) Prohibition on Use of Steel–jawed Leg–hold Traps by Individuals. It is unlawful for any person to use or authorize the use of any steel–jawed leg–hold trap, padded or otherwise, to capture any game mammal, furbearing mammal, nongame mammal, protected mammal, or any dog or cat.

(1) Exception for Extraordinary Case to Protect Human Health or Safety. The prohibition in subsection (e) does not apply to federal, state, county, or municipal government employees or their duly authorized agents in the extraordinary case where the otherwise prohibited padded–jaw leg–hold trap is the only method available to protect human health or safety.

(A) Leg–hold Trap Requirements. Leg–hold traps used to implement subsection (e)(1) must be padded, commercially manufactured, and equipped as provided in subsections (A)1. through (A)5. below.

1. Anchor Chains. Anchor chains must be attached to the center of the padded trap, rather than the side.

2. Chain Swivels. Anchor chains must have a double swivel mechanism attached as follows: One swivel is required where the chain attaches to the center of the trap. The second swivel may be located at any point along the chain, but it must be functional at all times.

3. Shock Absorbing Device. A shock absorbing device such as a spring must be in the anchor chain.

4. Tension Device. Padded leg–hold traps must be equipped with a commercially manufactured pan tension adjusting device.

5. Trap Pads. Trap pads must be replaced with new pads when worn and maintained in good condition.

(f) Use of Non–Body–Gripping Traps for Purposes of Recreation or Commerce in Fur. Any person who utilizes non–body–gripping traps for the take of furbearing mammals and nongame mammals for purposes of recreation or commerce in fur must comply with the provisions of subsections (g)(1) through (3) below.

(1) Trap Number Requirement. Any person who traps furbearing mammals or nongame mammals shall obtain a trap number issued by and registered with the department. All traps, before being put into use, shall bear only the current registered trap number or numbers of the person using, or in possession of those traps. This number shall be stamped clearly on the trap or on a metal tag attached to the chain of the trap or to any part of the trap.

(g) Use of Conibear Traps, Snares, Cage and Box Traps, Nets, Suitcase–type Live Beaver Traps and Common Rat and Mouse Traps for Purposes Unrelated to Recreation or Commerce in Fur. Conibear traps, snares, cage and box traps, nets, suitcase–type live beaver traps and common rat and mouse traps may be used by individuals to take authorized mammals for purposes unrelated to recreation or commerce in fur, including, but not limited to, the protection of property, in accordance with subsections (1) through (5) below. Except for common rat and mouse traps, all traps used pursuant to this subsection must be numbered as required by subsection (f)(1) above. The prohibitions of subsections (c) and (d) above shall apply to any furbearing or nongame mammal taken by a conibear trap or snare pursuant to this subsection (g).

(1) Immediate Dispatch or Release. All furbearing and nongame mammals that are legal to trap must be immediately killed or released. Unless released, trapped animals shall be killed by shooting where local ordinances, landowners, and safety permit. This regulation does not prohibit employees of federal, state, or local government from using chemical euthanasia to dispatch trapped animals.

(2) Trap Visitation Requirement. All traps shall be visited at least once daily by the owner of the traps or his/her designee. Such designee shall carry on his/her person written authorization, as owner's representative, to check traps. In the event that an unforeseen medical emergency prevents the owner of the traps from visiting traps another person may, with written authorization from the owner, check traps as required. The designee and the person who issues the authorization to check traps shall comply with all provisions of Section 465.5. Each time traps are checked all trapped animals shall be removed.

(3) Trap Placement Requirement. Traps may not be set within 150 yards of any structure used as a permanent or temporary residence, unless such traps are set by a person controlling such property or by a person who has and is carrying with him written consent of the landowner to so place the trap or traps.

(4) Placement of Conibear Traps. Traps of the conibear–type with a jaw opening larger than 8″ x 8″ may be used only in sets where the trap is wholly or partially submerged in water or is:

(A) Within 100 feet of permanent water.

(B) Within 100 feet of seasonally flooded marshes, pastures, agricultural lands or floodways when standing or running water is present.

(C) Within the riparian vegetation zone, characterized by, but not limited to, willow, cottonwood, sycamore, salt cedar, cattail, bulrush and rushes, when found within the area defined in section 463(a) where the take of beaver is permitted.

(5) Zones Prohibited to the Use of Conibear–type Traps and Snares. Conibear–type traps and snares, except those totally submerged, and deadfall traps are prohibited in the following zones.

(A) Zone 1: Beginning at Interstate 5 and Highway 89, east on Highway 89 to Harris Springs Road near Bartle, north on Harris Springs Road (primary U.S. Forest Service Road 15) to Powder Hill Road (primary U.S. Forest Service Road 49), northeast on Powder Hill Road to Road 42N56, east on Road 42N56 to the Siskiyou/Modoc county line, north on the Siskiyou/Modoc county line to the boundary of the Lava Beds National Monument, north along the eastern boundary of the Lava Beds National Monument, then west then south along the western boundary of the Lava Beds National Monument to Road 46N21, west along Road 46N21 over Gold Digger Pass to the western boundary of the Modoc National Forest, south along the western boundary of the Modoc National Forest to the boundary of the Shasta National Forest, west along the northern boundary of the Shasta National Forest to Highway 97, southwest on Highway 97 to Interstate 5, northwest on Interstate 5 to Old Highway 99, northwest on Old Highway 99 to Stewart Springs Road, southwest on Stewart Springs Road to the Yreka Ditch, west along the Yreka Ditch to the Gazelle/Callahan Road, southwest on the Gazelle/Callahan Road to Highway 3, south on Highway 3 to Ramshorn Road, northeast on Ramshorn Road to Castle Creek Road, east on Castle Creek Road to Interstate 5, north on Interstate 5 to the point of beginning.

(B) Zone 2: Beginning in Tehama County at the intersection of Highway 36 and the western boundary of the Lassen National Forest, south along the western boundary of the Lassen National Forest to the boundary of the Plumas National Forest, south along the western boundary of the Plumas National Forest to the boundary of the Tahoe National Forest, south along the western boundary of the Tahoe National Forest to the boundary of the El Dorado National Forest, south along the western boundary of the El Dorado National Forest to the boundary of the Stanislaus National Forest, south along the western boundary of the Stanislaus National Forest to the boundary of the Sierra National Forest, south along the western boundary of the Sierra National Forest to the boundary of the Sequoia National Forest, south along the western boundary of the Sequoia National Forest to Highway 245, southwest on Highway 245 to Road 168, southwest on Road 168 to County Road J40, west on County Road J40 to Henderson Road, northwest on Henderson Road to Lincoln Avenue, west on Lincoln Avenue to Highway 145, north on Highway 145 to Avenue 7, west on Avenue 7 to Road 21, north on Road 21 to Avenue 12, west on Avenue 12 to Road 16, north on Road 16 to Avenue 18 1/2, west on Avenue 18 1/2 to Road 9, north on Road 9 to Highway 152, west on Highway 152 to Highway 59, north on Highway 59 to Highway 99, northwest on Highway 99 to Highway 140, west on Highway 140 to Highway 33, north on Highway 33 to Interstate 5, north on Interstate 5 to County Road J4, west on County Road J4 to County Road J2, north on County Road J2 to Highway 4, west on Highway 4 to Lone Tree Way, west on Lone Tree Way to James Donlon Boulevard, west on James Donlon Boulevard to Somersville Road, south on Somersville Road to Nortonville Road, north on Nortonville Road to Kirker Pass Road, southwest on Kirker Pass Road to Clayton Road, southeast on Clayton Road to Mitchell Canyon Road, south on Mitchell Canyon Road to the boundary of Mount Diablo State Park, south along the western boundary of Mount Diablo State Park to Mt. Diablo Scenic Boulevard, south on Mt. Diablo Scenic Boulevard to Blackhawk Road, southeast on Blackhawk Road to Camino Tassajara, west on Camino Tassajara to Dougherty Road, south on Dougherty Road to Interstate 580, west on Interstate 580 to Interstate 680, south on Interstate 680 to Highway 84, northeast on Highway 84 to Holmes Street, south on Holmes Street to Wetmore Road, east on Wetmore Road to Arroyo Road, south on Arroyo Road to Del Valle Regional Park, southeast along the western boundary of Del Valle Regional Park to Arroyo Del Valle Creek, southeast on Arroyo Del Valle Creek to the Alameda/Santa Clara county line, east on the Alameda/Santa Clara county line to San Antonio Valley Road, south on San Antonio Valley Road to Del Puerto Canyon Road, east on Del Puerto Canyon Road to Santa Clara/Stanislaus county line, south along the Santa Clara/Stanislaus county line to the Santa Clara/Merced county line, south along the Santa Clara/Merced county line to the San Benito/Merced county line, south along the San Benito/Merced county line to Little Panoche Road, south on Little Panoche Road to Panoche Road, east on Panoche Road to New Idria Road, south along New Idria Road to Clear Creek Road, southwest on Clear Creek Road to Coalinga Road, southeast on Coalinga Road to Coalinga–Mineral Springs Road, south on Coalinga–Mineral Springs Road to Highway 198, east on Highway 198 to Parkfield Grade, south on Parkfield Grade to Vineyard Canyon Road, west on Vineyard Canyon Road to Highway 101, north on Highway 101 to Bradley Road, north on Bradley Road to Sargents Road, north on Sargents Road to Pancho Rico Road, west on Pancho Rico Road to Cattleman's Road, north on Cattleman's Road to Highway 198, west on Highway 198 to Highway 101,

north on Highway 101 to County Road G13, northeast on County Road G13 to Highway 25, north on Highway 25 to Browns Valley Road, north on Browns Valley Road to Santa Anita Road, northwest on Santa Anita Road to Santa Ana Valley Road, north on Santa Ana Valley Road to Fairview Road, north on Fairview Road to Highway 156, north on Highway 156 to Highway 152, southwest on Highway 152 to County Road G7, southwest on County Road G7 to Highway 25, west on Highway 25 to Highway 101, south on Highway 101 to the San Benito/Monterey county line, south on the San Benito/Monterey county line to Highway 146, west on Highway 146 to Highway 101, south on Highway 101 to Paraiso Springs Road, south on Paraiso Springs Road to County Road G17, south on County Road G17 to County Road 16, northeast on County Road 16 to Central Avenue, southeast on Central Avenue to Highway 101, south on Highway 101 to County Road G14, south on County Road G14 to Milpitas Road, west on Milpitas Road to the boundary of Fort Hunter Liggett, south along the western boundary of Fort Hunter Liggett to the Nacimiento River, southeast along the Nacimiento River to Nacimiento Reservoir, southeast along the western boundary of Nacimiento Reservoir to Chimney Rock Road, south on Chimney Rock Road to Klau Mine Road, south on Klau Mine Road to Adelaida Road, east on Adelaida Road to Vineyard Drive, southeast on Vineyard Drive to Highway 101, south on Highway 101 to Highway 41, east on Highway 41 to Highway 229, south on Highway 229 to Creston O'Donovan Road, southeast on Creston O'Donovan Road to Highway 58, east on Highway 58 to the boundary of the Los Padres National Forest, south and east along the eastern boundary of the Los Padres National Forest to Highway 33, south on Highway 33 to Quatal Canyon Road, east on Quatal Canyon Road to Cerro Noroeste Road, east on Cerro Noroeste Road to Cuddy Valley Road, east on Cuddy Valley Road to Interstate 5, north on Interstate 5 to Wheeler Ridge Road, east on Wheeler Ridge Road to Laval Road, east on Laval Road to Rancho Road, north on Rancho Road to Sycamore Road, east on Sycamore Road to Tejon Highway, north on Tejon Highway to Highway 223, northeast on Highway 223 to Highway 58, east on Highway 58 to Caliente Bodfish Road, north on Caliente Bodfish Road to Highway 155, northeast then west on Highway 155 to the eastern boundary of the Sequoia National Forest, north and east along the southern boundary of the Sequoia National Forest to the Dome Land Wilderness, north along the eastern boundary of the Dome Land Wilderness to the boundary of the Inyo National Forest, north along the eastern boundary of the Inyo National Forest west of Highway 395 to the intersection of Inyo National Forest and Highway 395 near Sherwin Summit in Mono County, north on Highway 395 to the California/Nevada state line, north on the California/Nevada state line to Highway 395 in Sierra County, north on Highway 395 to Long Valley Road, south on Long Valley Road to the boundary of the Toiyabe National Forest, west along the Toiyabe National Forest boundary to the Tahoe National Forest boundary, west then south then west then north along the Tahoe National Forest boundary to the Plumas National Forest boundary, north then east then north along the eastern boundary of the Plumas National Forest to the Lassen National Forest boundary, north along the eastern boundary of the Lassen National Forest to the northern boundary of the Lassen National Forest, west along the northern boundary of the Lassen National Forest to the western boundary of the Lassen National Forest, south along the western boundary of the Lassen National Forest to the point of beginning.

(h) Statutory Penalty for Violation of Provisions. Violation of Section 3003.1 or 3003.2 of the Fish and Game Code, or any rule or regulation, including this Section 465.5, adopted pursuant thereto, is punishable by a fine of not less than three hundred dollars ($300) or more than two thousand dollars ($2,000), or by imprisonment in the county jail for not more than one year, or by both that fine and imprisonment.

NOTE: Authority cited: Sections 200, 202, 203, 219, 240, 3003.1, 4005 and 4009.5, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 3003.1, 4004, 4005, 4009.5, 4152 and 4180, Fish and Game Code.

HISTORY

1. Amendment of subsections (d) and (e) filed 7–1–86; effective upon filing (Register 86, No. 27). For prior history, see Register 84, No. 48.
2. Amendment of subsection (c) filed 5–31–88; operative 5–31–88 (Register 88, No. 23).
3. New subsections (h) and (i) filed 11–29–90 as an emergency; operative 11–29–90 (Register 91, No. 6). A Certificate of Compliance must be transmitted to OAL by 3–29–91 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 11–29–90 order transmitted to OAL 3–28–91 and filed 4–29–91 (Register 91, No. 25).
5. Amendment filed 10–31–91; operative 10–31–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 7).
6. Amendment of subsections (a), (b), (b)(2), (f), (g), (j) and new subsection (b)(5) filed 9–4–92; operative 9–4–92 pursuant to Fish and Game sections 202 and 215 (Register 92, No. 36).
7. Amendment of section and NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
8. Amendment of subsection (g)(1) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).

§ 466. Hours for Taking Furbearers.

Furbearers may be hunted at any hour of the day or night except that they may not be taken between one–half hour after sunset and one–half hour before sunrise in the area described in Section 474(a) of these regulations.

NOTE: Authority cited: Sections 200, 202, 203, 300, 4009.5, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 3000, 4000–4004, and 4005–4012, Fish and Game Code.

HISTORY

1. New section filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
2. New NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Amendment filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).

§ 467. Trapping Reports.

All holders of trapping licenses must submit to the department a sworn statement or report by July 1 of his/her annual take of fur for the preceding trapping season. Statement or report shall show the number of each kind of furbearing mammals and nongame mammals taken, number sold, county in which furs were taken and the names and addresses of the persons to whom furs were shipped or sold. If the annual report is not received by July 1 following the most recent trapping year, or if it is not completely filled out, the trapper's license will be suspended. The commission shall be notified of any suspension and, subsequently, may revoke or reinstate applicant's license renewal application after written notice is given to the applicant and after he has been afforded an opportunity to be heard.

NOTE: Authority cited: Sections 200, 202, 203, 4009.5, and 4150, Fish and Game Code. Reference: Sections 200–203.1, 206, 207, 211–222, 4000–4004, and 4005–4012, Fish and Game Code.

HISTORY

1. New section filed 5–11–79; effective July 1, 1979 (Register 79, No. 19).
2. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
3. Amendment filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).

Chapter 6. Nongame Animals

§ 470. Nongame Animals Defined.

NOTE: Authority cited: Section 4150, Fish and Game Code. Reference: Section 4150, Fish and Game Code.

HISTORY

1. New section filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
2. Repealer filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 472. General Provisions.

Except as otherwise provided in Sections 478 and 485 and subsections (a) through (d) below, nongame birds and mammals may not be taken.

(a) The following nongame birds and mammals may be taken at any time of the year and in any number except as prohibited in Chapter 6: En-

glish sparrow, starling, coyote, weasels, skunks, opossum, moles and rodents (excluding tree and flying squirrels, and those listed as furbearers, endangered or threatened species).

(b) Fallow, sambar, sika, and axis deer may be taken only concurrently with the general deer season.

(c) Aoudad, mouflon, tahr, and feral goats may be taken all year.

(d) American crows (*Corvus brachyrhynchos*) may be taken only under the provisions of Section 485 and by landowners or tenants, or by persons authorized in writing by such landowners or tenants, when American crows are committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance. Persons authorized by landowners or tenants to take American crows shall keep such written authorization in their possession when taking, transporting or possessing American crows. American crows may be taken only on the lands where depredations are occurring or where they constitute a health hazard or nuisance. If required by Federal regulations, landowners or tenants shall obtain a Federal migratory bird depredation permit before taking any American crows or authorizing any other person to take them.

American crows may be taken under the provisions of this subsection only by firearm, bow and arrow, falconry or by toxicants by the Department of Food and Agriculture for the specific purpose of taking depredating crows. Toxicants can be used for taking crows only under the supervision of employees or officers of the Department of Food and Agriculture or federal or county pest control officers or employees acting in their official capacities and possessing a qualified applicator certificate issued pursuant to sections 14151–14155 of the Food and Agriculture Code. Such toxicants must be applied according to their label requirements developed pursuant to sections 6151–6301, Title 3, California Code of Regulations.

NOTE: Authority cited: Sections 200, 202, 203, 355 and 3800, Fish and Game Code. Reference: Sections 200, 202, 203, 355, 356, 3801 and 3801.5, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23). For prior history, see Register 73, No. 50.
2. New subsection (f) filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
3. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
4. Amendment of subsections (d) and (e) filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
5. Amendment of initial sentence, and subsections (a), (b), (d) and (e) filed 8–29–86; operative 8–29–86 (Register 86, No. 36).
6. Amendment of subsection (d) filed 2–10–88; operative 3–11–88 (Register 88, No. 8).
7. Amendment of NOTE filed 6–26–96; operative 7–1–96 pursuant to section 11343.4(d) (Register 96, No. 26).

§ 473. Possession of Nongame Animals.

Any nongame bird or mammal that has been legally taken pursuant to this chapter may be possessed.

NOTE: Authority cited: Section 4150, Fish and Game Code. Reference: Section 4150, Fish and Game Code.

HISTORY

1. New section filed 6–7–74; designated effective 7–1–74 (Register 74, No. 23).
2. Amendment filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
3. Amendment filed 6–4–76; designated effective 7–1–76 (Register 76, No. 23).
4. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
5. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
6. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).

§ 474. Hours for Taking.

Nongame mammals may be taken at any time except as provided in this section.

(a) Area Closed to Night Hunting. Nongame mammals may be taken only between one–half hour before sunrise and one–half hour after sunset in the following described area: Beginning at a point where Little Panoche Road crosses Interstate 5 near Mendota; south on Interstate 5 to Highway 198; east on Highway 198 to Highway 99; south on Highway 99 to Interstate 5; south on Interstate 5 to the Los Padres National Forest boundary in Section 8, T 9 N, R 19 W, S.B.B.M near Fort Tejon Historical Monument; west along the National Forest boundary to Cerro Noroeste Road; northwest on Cerro Noroeste Road to Highway 33–166; north on Highway 33–166 to the Soda Lake Road; northwest on the Soda Lake Road and on the Simmler Soda Lake San Diego Creek Road to Highway 58 at Simmler; west on Highway 58 to the Cammotti Shandon Road; north on the Cammotti Shandon Road to the Shandon San Juan Road; north on the Shandon San Juan Road to Highway 41; northeast on Highway 41 to the Cholame Valley Road; northwest on Cholame Valley Road and Cholame Road to the Parkfield Coalinga Road in Parkfield; north on Parkfield Coalinga Road and Parkfield Grade to Highway 198; northwest on Highway 198 to the Fresno–Monterey county line; north along the Fresno–Monterey county and Fresno–San Benito county lines to the Little Panoche Road; north and east on the Little Panoche Road to the point of beginning at Interstate 5.

This section does not pertain to the legal take of nongame mammals with traps as provided for by Sections 461–480 of these regulations, and by Sections 4000–4012, 4152 and 4180 of the Fish and Game Code. (This regulation supersedes Section 3000 of the Fish and Game Code.)

(b) On privately–owned property, not included in (a) above, nongame mammals may be taken from one–half hour after sunset to one–half hour before sunrise only by the landowner or his agents, or by persons who have in their immediate possession written permission issued by the landowner or tenant that states the permittee can trespass from one–half hour after sunset to one–half hour before sunrise on property under the ownership or control of such landowners or tenants.

(c) Fallow deer, axis deer, sambar deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only from one–half hour before sunrise to one–half hour after sunset.

NOTE: Authority cited: Sections 3000 and 4150, Fish and Game Code. Reference: Sections 3000 and 4150, Fish and Game Code.

HISTORY

1. New Chapter 6 (Section 474) filed 3–17–72; effective thirtieth day thereafter (Register 72, No. 12).
2. New subsection (c) filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
3. Amendment of subsection (a) filed 6–6–75; designated effective 7–1–75 (Register 75, No. 23).
4. Amendment of subsection (a) filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
5. Amendment of subsection (a) filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).

§ 475. Methods of Take for Nongame Birds and Nongame Mammals.

Nongame birds and nongame mammals may be taken in any manner except as follows:

(a) Poison may not be used.

(b) Recorded or electrically amplified bird or mammal calls or sounds or recorded or electrically amplified imitations of bird or mammal calls or sounds may not be used to take any nongame bird or nongame mammal except coyotes, bobcats, American crows and starlings.

(c) Fallow deer, sambar deer, axis deer, sika deer, aoudad, mouflon, tahr and feral goats may be taken only with the equipment and ammunition specified in Section 353 of these regulations.

(d) Traps may be used to take nongame birds and nongame mammal only in accordance with the provisions of Section 465.5 of these regulations and sections 3003.1 and 4004 of the Fish and Game Code.

(e) No feed, bait or other material capable of attracting a nongame mammal may be placed or used in conjunction with dogs for the purpose of taking any nongame mammals. Nothing in this section shall prohibit an individual operating in accordance with the provisions of Section 465.5 from using a dog to follow a trap drag and taking the nongame mammal caught in that trap.

(f) Methods of take within the California condor range. Except as otherwise provided, it is unlawful to use or possess projectiles containing

more than one percent lead by weight while taking or attempting to take any nongame birds or nongame mammals in those areas described in Section 3004.5, Fish and Game Code.

(1) For purposes of Section 475, a "projectile" is defined as any bullet, ball, sabot, slug, buckshot, shot, pellet or other device which is expelled from a firearm through a barrel by force.

(2) Except as otherwise provided, it is unlawful to possess any projectile containing lead in excess of the amount permitted in subsection 475(f) and a firearm capable of firing the projectile while taking or attempting to take any nongame bird or nongame mammal within the area described in subsection 475(f). The possession of a projectile containing lead in excess of the amount allowed in subsection 475(f) without possessing a firearm capable of firing the projectile is not a violation of this section.

NOTE: Authority cited: Sections 200, 202, 203, 355, 3003.1, 3800 and 4150, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 355, 356, 2055, 3003.1, 3004.5, 3800 and 4150, Fish and Game Code.

HISTORY

1. New section filed 6–5–72; effective thirtieth day thereafter (Register 72, No. 24).
2. New subsection (c) filed 7–6–72 as an emergency; effective upon filing (Register 72, No. 28).
3. Certificate of Compliance filed 8–23–72 (Register 72, No. 35).
4. Amendment filed 6–4–76; designated effective 7–1–76 (Register 76, No. 23).
5. Amendment of subsections (c) and (d) and new subsection (e) filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
6. Amendment of subsection (b) filed 7–1–86; effective upon filing (Register 86, No. 27).
7. Change without regulatory effect amending subsection (c) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).
8. Amendment of section heading, section and NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).
9. New subsections (f)–(f)(2) and amendment of NOTE filed 5–15–2008; operative 7–1–2008 (Register 2008, No. 20).

§ 478. Bobcat.

Except as provided in subsections (c) and (d) below no person shall pursue, take or possess any bobcat without first procuring a trapping license or a hunting license and bobcat hunting tags. The pursuit, take and/or possession of a bobcat under the authority of a hunting license and a bobcat hunting tag shall be in accordance with the provisions of this section and Sections 265 and 472–479 of these regulations.

Bobcats taken under the authority of a trapping license shall be taken with traps or other means in accordance with this section and Sections 265, 465, 465.5 and 475. Bobcats taken under a trapping license must be tagged in accordance with the provisions of Section 479.

(a) Trapping Season and Area: Bobcat may only be taken under the authority of a trapping license as follows:

(1) Area: Statewide.

(2) Season: November 24 through January 31.

(b) Hunting Season and Area: Bobcats may only be taken under the authority of a hunting license and bobcat hunting tags as follows:

(1) Area: Statewide.

(2) Season: October 15 through February 28.

(c) Bag and Possession Limit:

(1) Bobcats taken under a hunting license and bobcat hunting tags: Five bobcats per season.

(2) Bobcats taken under a trapping license: No limit.

(d) Dogs may be permitted to pursue bobcats in the course of breaking, training or practicing dogs in accordance with the provisions of Section 265 of these regulations.

(e) This section shall not apply to bobcats trapped under the provisions of Sections 4152 and 4180 of the Fish and Game Code (also see Section 480 of these regulations).

NOTE: Authority cited: Section 4150, Fish and Game Code. Reference: Section 4150, Fish and Game Code.

HISTORY

1. Amendment filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 29). For prior history, see Registers 84, No. 47; 82, No. 24; 81, No. 20; 80, No. 21; and 72, No. 24.
2. Amendment filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).

§ 478.1. Bobcat Hunting Tags.

(a) Any person who possesses a valid hunting license may, upon payment of the fee specified in Section 702, procure only five revocable, nontransferable bobcat hunting tags. Such tags shall be acquired at designated department offices. These tags do not act as shipping tags as required in Section 479 for pelts taken under a trapping license.

(b) Bobcat hunting tags are valid only during that portion of the current hunting license year in which bobcats may be legally harvested as provided in Section 478.

(c) The holder of a bobcat hunting tag shall fill in his/her name, address, and hunting license number prior to hunting, and carry the tag while hunting bobcats. Upon the harvesting of any bobcat, the hunter shall immediately fill out both parts of the tag and cut out and completely remove appropriate notches that clearly indicate the date of harvest. One part of the tag shall be immediately attached to the pelt and kept attached until it is tanned, dried or mounted. The other part of the tag shall be sent immediately to the department.

(d) Possession of any untagged bobcat taken under the authority of the hunting license shall be a violation of this section except that the provisions of this section shall not apply to the owner or tenant of land devoted to the agricultural industry nor to authorized county, state or federal predatory animal control agents operating under a written trapping agreement with the appropriate landowner while on such land and in connection with such agricultural industry. It is unlawful for any person to sell, offer for sale, barter, trade, purchase, transport from this state, or offer for out–of–state shipment by any common carrier any bobcat pelts, or parts thereof taken pursuant to this provision.

(e) Any person who is convicted of violating any provision of this chapter shall forfeit his bobcat hunting tags, and shall not apply for additional tags during the then current hunting license year.

NOTE: Authority cited: Sections 713 and 4150, Fish and Game Code. Reference: Sections 713 and 4150, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 7–15–85; designated effective tenth day thereafter (Register 85, No. 29). For prior history, see Registers 84, No. 47; 84, No. 29; 82, No. 24; 81, No. 20 and 80, No. 21.
2. Amendment of subsection (c) filed 7–1–86; effective upon filing (Register 86, No. 27).
3. Amendment of subsections (b) and (c) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
4. Amendment of subsection (a) filed 6–26–97; operative 6–26–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 26).
5. Amendment of subsection (a) and amendment of NOTE filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
6. Amendment of subsection (a) filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).

§ 479. Bobcat Pelts.

Bobcat pelts may be taken only pursuant to the provisions of sections 465.5 and 478 of these regulations.

(a) Any person who takes a bobcat shall, at any time during the trapping season or within 14 days after the end of the bobcat season, have the following appropriate department mark or tag affixed to the pelt.

(1) Pelts from bobcats taken under a hunting license shall be tagged as provided in Section 478.1. Pelts taken by a licensed trapper for only his personal use shall, at no cost, be marked by the department. Such pelts shall not be sold.

(2) Pelts from bobcats taken for commercial purposes under a trapping license shall be tagged with a department shipping tag.

(b) It is unlawful for any person to sell, offer for sale, barter, trade, purchase, transport from this state, or offer for out–of–state shipment by any common carrier any bobcat pelts, or parts thereof unless the department has affixed a shipping tag to the pelt or parts thereof.

(c) Shipping tags and marking are available from the department. All persons taking bobcat pelts under provisions established by the commission must personally present the pelt to a representative of the department for placement of the nontransferable tag or mark and shall furnish the following:

(1) Date of take;

(2) County of take and nearest major geographical landmark;

(3) Sex; and

(4) Method of take (trap, call or hounds).

The department shall mark bobcat pelts and issue bobcat shipping tags for export of pelts at designated department offices during the trapping season and for a 14–day period immediately following the trapping season.

An administrative fee of $3.00 shall be charged for the issuance of each shipping tag. There is no fee for marking bobcat pelts not for sale.

(d) It is unlawful for any person to import, receive from out–of–state, or receive for sale, any bobcat pelt, or parts thereof that is not:

(1) Marked with the current export or shipping tag from the state of origin.

(2) Accompanied by an import declaration in accordance with Section 2353 of the Fish and Game Code, and specifying the number and kind of raw pelts in the shipment, the state in which the bobcats were taken, the license number under which they were taken and attesting that they were legally taken. Demonstration of the declaration of entry, pelt ownership and proof of legal take and marking is required of anyone receiving bobcat pelts from out–of–state upon the request of the department. The provisions of subsections (a), (b) and (c) shall not apply to raw bobcat pelts, or parts thereof, which were not taken in California.

NOTE: Authority cited: Sections 3003.1 and 4150, Fish and Game Code. Reference: Sections 3003.1 and 4150, Fish and Game Code.

HISTORY

1. New section filed 11–9–77 as an emergency; effective upon filing (Register 77, No. 46).
2. Amendment filed 12–15–77 as an emergency; effective upon filing (Register 77, No. 51).
3. Certificate of Compliance filed 1–20–78 (Register 78, No. 3).
4. Amendment filed 5–11–79; designated effective 7–1–79 (Register 79, No. 19).
5. Amendment filed 5–19–80; designated effective 5–19–80 (Register 80, No. 21).
6. Amendment filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
7. Amendment of subsection (c) and new subsection (d) filed 6–7–82; designated effective tenth day thereafter (Register 82, No. 24).
8. Amendment of subsections (a)(1) and (c) filed 7–1–86; effective upon filing (Register 86, No. 27).
9. New first paragraph and amendment of NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).

§ 479.1. Bobcat Pelts.

NOTE: Authority cited: Section 4150, Fish and Game Code. Reference: Section 4150, Fish and Game Code.

HISTORY

1. New section filed 4–5–79 as an emergency; effective upon filing (Register 79, No. 14).
2. Expired by own terms 8–3–79 (Register 79, No. 31).

§ 480. Bobcat Depredation.

Any person taking a depredating bobcat pursuant to the provisions of Fish and Game Code Section 3003.1 and Section 465.5 of these regulations, shall notify the department within thirty days from the date any bobcat is taken.

NOTE: Authority cited: Sections 3003.1 and 4150, Fish and Game Code. Reference: Sections 3003.1 and 4150, Fish and Game Code.

HISTORY

1. New section filed 11–9–77 as an emergency; effective upon filing (Register 77, No. 46).
2. Certificate of Compliance filed 1–20–78 (Register 78, No. 3).
3. Amendment of NOTE filed 5–13–81; designated effective tenth day thereafter (Register 81, No. 20).
4. Amendment of section heading filed 6–22–84 as an emergency; designated effective 7–1–84 (Register 84, No. 29).
5. Order of Repeal of 6–22–84 emergency order filed 7–2–84 by OAL pursuant to Government Code Section 11349.6(b) (Register 84, No. 29).
6. Amendment of section heading filed 11–21–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 47).
7. Amendment of section and NOTE filed 6–2–99; operative 6–2–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 23).

§ 485. American Crow.

(a) Shotgun, Falconry, and Archery Seasons, and Bag and Possession Limits.

	(1) Seasons	*(2) Daily Bag and Possession Limits*
Season:	The first Saturday in December and extending for 124 consecutive days	Bag Limit: 24 crows per day Possession Limit: double the daily bag limit
(3) Area:	Statewide: see closure area (d) below	

(b) Crows may only be taken by shotguns 10 gauge or smaller using shot shells only and incapable of holding more than three shells in the magazine and chamber combined, bow and arrow, and falconry. Crows may not be hunted from aircraft.

(c) No person shall kill or cripple a crow pursuant to this section without making a reasonable effort to retrieve the bird, and retain it in their actual custody at the place where taken or between that place and either: (1) their automobile or principal means of land transportation; or (2) their personal abode or temporary or transient place of lodging; or (3) a migratory bird preservation facility; or (4) a post office; or (5) a common carrier facility.

(d) Crows may not be taken in the following areas:

(1) Within the boundaries of the Trinity and Mendocino National Forests south of Highway 36.

(2) North and east of a line beginning at the mouth of the Eel River; south along the Eel River to the town of Alton; east on Highway 36 from the town of Alton to Highway 89 west of Chester; south and east on Highways 89 and 395 to Interstate 15 near Hesperia; south on Interstate 15 to Interstate 10; and east on Interstate 10 to the California–Arizona border.

(e) See Section 472(d) for the take of American crows causing depredation.

NOTE: Authority cited: Sections 355, 356 and 3800, Fish and Game Code. Reference: Sections 355, 356 and 3800, Fish and Game Code.

HISTORY

1. New section filed 8–13–80; designated effective 8–15–80 (Register 80, No. 33).
2. Amendment of subsection (c) filed 1–15–81; effective thirtieth day thereafter (Register 81, No. 3).
3. Amendment filed 9–16–81; designated effective tenth day thereafter (Register 81, No. 38).
4. Editorial correction of subsections (b), (e)(2) and (f) filed 8–26–82 (Register 82, No. 35).
5. Amendment of subsections (a) and (f) filed 9–27–85; effective tenth day thereafter (Register 85, No. 39).
6. Amendment of subsection (a) filed 9–30–92; operative 9–30–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 40).
7. Repealer of first paragraph and subsections (a) and (b), new subsection (a) and subsection relettering filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

Chapter 7. Migratory Game Birds

§ 500. Pigeons, Band–Tailed.

NOTE: Authority cited: Section 355, Fish and Game Code. Reference: Section 355, Fish and Game Code.

HISTORY

1. Amendment of subsection (a) filed 8–2–76; designated effective upon filing (Register 76, No. 32). For prior history, see Register 75, No. 31.
2. Amendment of subsection (a) filed 7–28–77; designated effective upon filing (Register 77, No. 31).
3. Amendment of subsection (a) filed 8–1–78; designated effective upon filing (Register 78, No. 31).
4. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
5. Amendment of subsection (a) filed 8–13–80; designated effective 8–15–80 (Register 80, No. 33).

6. Amendment of NOTE filed 8–18–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 34).
7. Amendment of subsections (a) and (b) filed 9–16–87; operative 9–16–87 pursuant to Fish and Game Code section 202 (Register 87, No. 38).
8. Amendment of subsections (a) and (b) filed 9–30–92; operative 9–30–92 pursuant to Fish and Game Code sections 202 and 215 (Register 92, No. 40).
9. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 501. Doves.

NOTE: Authority cited: Section 355, Fish and Game Code. Reference: Sections 355 and 356, Fish and Game Code.

HISTORY

1. Amendment of subsections (a) and (b) filed 7–31–75; designated effective upon filing (Register 75, No. 31). For prior history, see Register 74, No. 31.
2. Amendment of subsections (a) and (b) filed 8–2–76; designated effective upon filing (Register 76, No. 32).
3. Amendment of subsections (a) and (b) filed 7–28–77; designated effective upon filing (Register 77, No. 31).
4. Amendment of subsections (a) and (b)(1) filed 8–1–78; designated effective upon filing (Register 78, No. 31).
5. Amendment filed 8–9–79; designated effective 9–1–79 (Register 79, No. 32).
6. Amendment filed 8–13–80; designated effective 8–15–80 (Register 80, No. 33).
7. Amendment of subsections (a)(1), (a)(2)(A), and (b) filed 8–18–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34).
8. Amendment of subsection (a) filed 8–29–83; effective upon filing (Register 83, No. 36).
9. Amendment of subsections (a)(1) and (b) filed 10–17–84; effective upon filing (Register 84, No. 42).
10. Amendment of subsection (b) filed 8–29–86, operative 8–29–86, deleting the words "to the bird prior to it being prepared for consumption" and adding the words "while being moved from the place where taken to a personal abode or commercial preservation facility" (Register 86, No. 36).
11. Amendment of subsections (a) and (b) filed 9–16–87; operative 9–16–87 pursuant to Fish and Game Code Section 202 (Register 87, No. 38).
12. Amendment of subsection (a) filed 9–8–88; operative 9–8–88 (Register 88, No. 38).
13. Repealer filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).

§ 502. Waterfowl, Migratory; American Coot and Common Moorhen (Common Gallinule).

(a) Definitions.

(1) Dark geese. Dark geese include Canada geese, cackling geese, Aleutian geese and white–fronted geese ("specklebelly").

(2) Large Canada geese. Large Canada geese include western Canada geese ("honker") and lesser Canada geese ("lessers").

(3) Small Canada geese. Small (about the size of a mallard) Canada geese include cackling geese and Aleutian geese. Both are white–cheeked geese nearly identical in appearance to Large Canada geese. Aleutian geese have a thin white neck ring and Cackling geese have dark breasts. Both species have a high–pitched cackle as opposed to the deeper "honking".

(4) White geese. White geese include Ross' geese and snow geese.

(b) Waterfowl Hunting Zones.

(1) Northeastern California Zone: In that portion of California lying east and north of a line beginning at the intersection of Interstate 5 with the California–Oregon line; south along Interstate 5 to its junction with Walters Lane south of the town of Yreka; west along Walters Lane to its junction with Easy Street; south along Easy Street to the junction with Old Highway 99; south along Old Highway 99 to the point of intersection with Interstate 5 north of the town of Weed; south along Interstate 5 to its junction with Highway 89; east and south along Highway 89 to Main Street in Greenville; north and east to its junction with North Valley Road; south to its junction of Diamond Mountain Road; north and east to its junction with North Arm Road; south and west to the junction of North Valley Road; south to the junction with Arlington Road (A22); west to the junction of Highway 89; south and west to the junction of Highway 70; east on Highway 70 to Highway 395; south and east on Highway 395 to the point of intersection with the California–Nevada state line; north along the California–Nevada state line to the junction of the California–Nevada–Oregon state lines west along the California–Oregon line state to the point of origin.

(2) Southern San Joaquin Valley Zone: All of Kings and Tulare counties and that portion of Kern County north of the Southern California Zone.

(3) Southern California Zone: In that portion of southern California (but excluding the Colorado River zone) lying south and east of a line beginning at the mouth of the Santa Maria River at the Pacific Ocean; east along the Santa Maria River to where it crosses Highway 166 near the City of Santa Maria; east on Highway 166 to the junction with Highway 99; south on Highway 99 to the crest of the Tehachapi Mountains at Tejon Pass; east and north along the crest of the Tehachapi Mountains to where it intersects Highway 178 at Walker Pass; east on Highway 178 to the junction of Highway 395 at the town of Inyokern; south on Highway 395 to the junction of Highway 58; east on Highway 58 to the junction of Interstate 15; east on Interstate 15 to the junction with Highway 127; north on Highway 127 to the point of intersection with the California–Nevada state line.

(4) Colorado River Zone: In those portions of San Bernardino, Riverside, and Imperial counties lying east of the following lines: Beginning at the intersection of Highway 95 with the California–Nevada state line; south along Highway 95 to Vidal Junction; south through the town of Rice to the San Bernardino–Riverside county line on a road known as "Aqueduct Road" in San Bernardino County; south from the San Bernardino–Riverside county line on road known in Riverside County as the "Desert Center to Rice Road" to the town of Desert Center; east 31 miles on Interstate 10 to its intersection with the Wiley Well Road; south on this road to Wiley Well; southeast along the Army–Milpitas Road to the Blythe, Brawley, Davis Lake intersections; south on the Blythe–Brawley paved road to its intersection with the Ogilby and Tumco Mine Road; south on this road to Highway 80; east seven miles on Highway 80 to its intersection with the Andrade–Algodones Road; south on this paved road to the intersection of the Mexican boundary line at Algodones, Mexico.

(5) Balance of State Zone: That portion of the state not included in Northeastern California, Southern California, Colorado River or the Southern San Joaquin Valley zones.

(A) Special Management Areas

1. North Coast. All of Del Norte and Humboldt counties.

2. Humboldt Bay South Spit. Beginning at the intersection of the north boundary of Table Bluff County Park and the South Jetty Road; north along the South Jetty Road to the South Jetty; west along the South Jetty to the mean low water line of the Pacific Ocean; south along the mean low water line to its intersection with the north boundary of the Table Bluff County Park; east along the north boundary of the Table Bluff County Park to the point of origin.

3. Sacramento Valley (West). Beginning at the town of Willows; south on Interstate 5 to the junction with Hahn Road; east on Hahn Road and the Grimes–Arbuckle Road to the town of Grimes; north on Highway 45 to its junction with Highway 162; north on Highway 45–162 to the town of Glenn; west on Highway 162 to the point of beginning.

4. Morro Bay. Beginning at a point where the high tide line intersects the State Park boundary west of Cuesta by the Sea; northeasterly to a point 200 yards offshore of the high tide line at the end of Mitchell Drive in Baywood Park; northeasterly to a point 200 yards offshore of the high tide line west of the Morro Bay State Park Boundary, adjacent to Baywood Park; north to a point 300 yards south of the high tide line at the end of White Point; north along a line 400 yards offshore of the south boundary of the Morro Bay City limit to a point adjacent to Fairbanks Point; northwesterly to the high tide line on the sand spit; southerly along the high tide line of the sand spit to the south end of Morro Bay; easterly along the Park boundary at the high tide line to the beginning point.

5. Martis Creek Lake. The waters and shoreline of Martis Creek Lake, Placer and Nevada counties.

6. Northern Brant. Del Norte, Humboldt and Mendocino Counties.

7. Balance of State Brant. That portion of the state not included in the Northern Brant Special Management Area.

(c) Statewide Seasons and Bag and Possession Limits for American Coots, and Common Moorhens.

(1) Species	*(2) Season*	*(3) Daily Bag and Possession Limits*
American Coot and Common Moorhen	Concurrent with duck season(s)	25 per day, 25 in possession, either all of one species or a mixture of these species.

(d) Seasons and Bag and Possession Limits for Ducks and Geese by Zone.

(1) Northeastern California Zone (NOTE: SEE SUBSECTION (5)(D) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers)	From the first Saturday in October extending for 105 days.	Daily bag limit: 7 Daily bag limit may include: • up to 7 mallards, but not more than 2 females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup. Possession limit: double the daily bag limit.
Geese	From the first Saturday in October extending for 100 days.	Daily bag limit: 6 Daily bag limit may include: • 4 white geese. • 4 white-fronted geese • 2 Large Canada geese (see definitions: 502(a)). • 1 Small Canada goose (see definitions: 502(a)). Possession limit: double the daily bag limit.

(2) Southern San Joaquin Valley Zone (NOTE: SEE SUBSECTION (5)(D) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers)	A split season from the first Saturday in October extending for a period of 23 days and from the second Saturday in November extending for a period of 79 days.	Daily bag limit: 7 Daily bag limit may include: • up to 7 mallards, but not more than 2 females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup. Possession limit: double the daily bag limit.
Geese	From the third Saturday in October extending for 100 days.	Daily bag limit: 6 Daily bag limit may include: • 4 white geese. • 4 white-fronted geese. • 4 Large Canada geese (see definitions: 502(a)). • 6 Small Canada geese (see definitions: 502(a)). Possession limit: double the daily bag limit.

(3) Southern California Zone (NOTE: SEE SUBSECTION (5)(D) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers)	From the third Saturday in October extending for 100 days.	Daily bag limit: 7 Daily bag limit may include: • up to 7 mallards, but not more than 2 females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup. Possession limit: double the daily bag limit.

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Geese	From the third Saturday in October extending for 100 days.	Daily bag limit: 5 Daily bag limit may include: • 4 white geese. • 3 dark geese (see definitions: 502(a)). Possession limit: double the daily bag limit.

(4) Colorado River Zone (NOTE: SEE SUBSECTION (5)(D) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers).	From the Friday after the second Sunday in October extending for 101 days.	Daily bag limit: 7 Daily bag limit may include: • up to 7 mallards, but not more than 2 females or Mexican-like ducks. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup Possession limit: double the daily bag limit.
Geese	From October 19 extending for 101 days.	Daily bag limit: 6 Daily bag limit may include: • 4 white geese. • 3 dark geese (see definitions: 502(a)). Possession limit: double the daily bag limit.

(5) Balance of State Zone (NOTE: SEE SUBSECTION (D) BELOW FOR SPECIAL SEASONS AND CLOSURES.)

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers).	From the third Saturday in October extending for 100 days.	Daily bag limit: 7 Daily bag limit may include: • up to 7 mallards, but not more than 2 females. • 1 pintail (either sex). • 2 canvasback (either sex). • 2 redheads (either sex). • 3 scaup. Possession limit: double the daily bag limit.

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Geese	From the third Saturday in October extending for 100 days EXCEPT in the Sacramento Valley (West) Special Management Area where the white-fronted goose season will be open from the last Saturday in October through December 14.	Daily bag limit: 6 Daily bag limit may include: • 4 white geese. • 4 white-fronted geese EXCEPT in the Sacramento Valley (West) Special Management Area where only 2 may be taken. • 4 Large Canada geese (see definitions: 502(a)). • 6 Small Canada geese (see definitions: 502(a)). Possession limit: double the daily bag limit.

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(D) Special Management Areas

Area	*Species*	*Season*
1. North Coast	All Canada Geese	From the first Thursday in November extending for a period of 88 days (Regular Season) and from the fourth Saturday in February extending for 17 days (Late Season). During the Late Season, hunting is not permitted on public areas. Daily bag limit: 6 Canada Geese of which only 1 may be a Large Canada goose (see definitions: 502(a)), EXCEPT during the Late Season the bag limit on Large Canada geese is zero. Possession limit: double the daily bag limit.
2. Humboldt Bay South Spit	All species	Closed during brant season.
3. Sacramento Valley (West)	White-Fronted Geese	Open from the last Saturday in October through December 14, and during Youth Hunting Days. Daily bag limit: 2 white-fronted geese. Possession limit: double the daily bag limit.
4. Morro Bay	All species	Open in designated area only.
5. Martis Creek Lake	All species	Closed until November 16.
6. Northern Brant	Black Brant	From the first Saturday in November extending for 30 days. Daily bag limit: 2 Possession limit: double the daily bag limit.
7. Balance of State Brant	Black Brant	From the second Saturday in November extending for 30 days. Daily bag limit: 2 Possession limit: double the daily bag limit.

(e) Youth Hunting Days Regulations (NOTE: Youth hunters must be 15 years of age or younger and must be accompanied by a non-hunting adult 18 years of age or older.)

(1) Statewide Provisions.

(A) Species	*(B) Season*	*(C) Daily Bag Limit*
Ducks (including Mergansers), American Coot, Common Moorhen, Black Brant, Geese	1. Northeastern California Zone: The Saturday fourteen days before the opening of waterfowl season extending for 2 days. 2. Southern San Joaquin Valley Zone: The Saturday following the closing of waterfowl season extending for 2 days. 3. Southern California Zone: The Saturday following the closing of waterfowl season extending for 2 days. 4. Colorado River Zone: The Saturday following the closing of waterfowl season extending for 2 days. 5. Balance of State Zone: The Saturday following the closing of waterfowl season extending for 2 days.	Same as regular season.

(f) Falconry Take of Ducks (including Mergansers), Geese, American Coots, and Common Moorhens.

(1) Statewide Provisions

(A) Species	*(B) Season*	*(C) Daily Bag and Possession Limits*
Ducks (including Mergansers), Geese, American Coot and Common Moorhen	1. Northeastern California Zone. Open concurrently with duck season extending for 105 days.	Daily bag limit: 3 Daily bag limit makeup: • Either all of 1 species or a mixture of species allowed for take.
	2. Balance of State Zone. Open concurrently with duck season extending for 107 days, except in the North Coast Special Management Area where the falconry season for geese runs concurrently with the season for Small Canada geese (see 502(d)(5)(D)1.)	Possession limit: 6
	3. Southern San Joaquin Valley Zone. Open concurrently with duck season and January 28–30, 2008. Goose hunting in this zone by means of falconry is not permitted.	
	4. Southern California Zone. Open concurrently with duck season extending for 107 days.	
	5. Colorado River Zone. Concurrent with duck season and from January 28–31, 2008. Goose hunting in this zone by means of falconry is not permitted. Federal regulations require that California's hunting regulations conform to those of Arizona, where goose hunting by means of falconry is not permitted.	

NOTE: Authority cited: Sections 202 and 355, Fish and Game Code. Reference: Sections 202, 355 and 356, Fish and Game Code.

HISTORY

1. Amendment filed 10–5–88; operative 10–5–88 (Register 88, No. 41). For prior history, see Register 87, No. 41.
2. Amendment filed 10–13–89; operative 10–13–89 pursuant to Fish and Game Code section 355 (Register 89, No. 42).
3. Amendment of subsections (a), (b) and (c) filed 11–15–90; operative 11–15–90 pursuant to Fish and Game Code section 355 (Register 91, No. 3).
4. Amendment filed 10–10–91; operative 10–10–91 pursuant to Fish and Game code section 215 (Register 92, No. 13).
5. Amendment filed 11–5–92; operative 11–5–92 pursuant to Fish and Game Code section 202 and 215 (Register 92, No. 45).
6. Amendment of subsections (b)(1), (b)(2)(A)1 and 3, (b)(3)(A)1 and 2, (b)(4)(A)1, (b)(5) and (b)(5)(A)1 and 3, (c)(1)(C), (c)(2)(A), (c)(3) and NOTE filed 11–4–93; operative 11–4–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 45).
7. Amendment filed 10–7–94; operative 10–7–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 40).
8. Repealer and new section filed 10–12–95; operative 10–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 41).

9. Amendment of subsections (c)–(e) filed 9–23–96; operative 9–23–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 39).
10. Amendment of subsections (c)(2), (d)(1)(B)–(d)(2)(C), (d)(3)(B)–(C), (d)(4)(B)–(C), (d)(5)(A)–(C) and (e)(1)(B) filed 10–29–97; operative 10–29–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 44).
11. Amendment of section heading and subsections (c)–(c)(1), (d)(3) and (e)(1), filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code section 202 and 215 (Register 98, No. 40).
12. Repealer and new subsection (b)(5)(A)5., amendment of subsections (c)(1), (d)(1), (d)(2), (d)(4), (d)(5) and (e) filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).
13. Amendment filed 9–27–99; operative 9–27–99 pursuant to Fish and Game Code sections 202 and 205 (Register 99, No. 40).
14. Amendment filed 9–25–2000; operative 9–29–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 39).
15. Amendment filed 10–3–2001; operative 10–6–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 40).
16. Amendment filed 10–9–2002; operative 10–12–2002 pursuant to Fish and Game Code section 355 (Register 2002, No. 41).
17. Amendment filed 9–26–2003; operative 9–27–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 39).
18. Amendment of subsections (d)(1)(B)–(C), (d)(2)(B)–(C), (d)(3)(B)–(C), (d)(4)(B), (d)(5)(B)–(D) and (f)(2)(B) filed 11–4–2004; operative 11–4–2004 pursuant to Fish and Game Code section 355 (Register 2004, No. 45).
19. Amendment filed 9–30–2005; operative 9–30–2005 pursuant to Fish and Game Code section 355 (Register 2005, No. 39).
20. Amendment filed 9–19–2006; operative 9–19–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 38).
21. Amendment of subsections (b)(5)(A)2., (d)(1)(C), (d)(2)(C), (d)(4)(B)–(C), (d)(5)(C), (d)(5)(D)1.–2., (d)(5)(D)4., (d)(5)(D)7., (e)(1)(B) and (f)(1)(B) filed 9–19–2007; operative 9–19–2007 pursuant to Fish and Game Code section 355 (Register 2007, No. 38).
22. Amendment of subsections (d)(1)(C), (d)(2)(C), (d)(3)(C), (d)(4)(C) and (d)(5)(C) filed 10–25–2007; operative 10–25–2007 pursuant to Fish and Game Code section 355 (Register 2007, No. 43).

§ 502.1. North Coast Canada Goose Hunt.

NOTE: Authority cited: Sections 200, 202, 203 and 355, Fish and Game Code. Reference: Sections 200, 355 and 356, Fish and Game Code.

HISTORY

1. New section filed 9–12–97; operative 9–12–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 37).
2. Amendment of subsection (d) filed 10–2–98; operative 10–2–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 40).
3. Amendment of subsection (d) and NOTE filed 9–1–2000; operative 9–1–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 35).
4. Repealer filed 9–18–2002; operative 9–18–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 38).

§ 503. Crop Damage.

In accordance with the provisions of Section 355 of the Fish and Game Code and pursuant to the Migratory Bird Treaty Act, the Fish and Game Commission does hereby approve all orders and permits by the federal government authorizing the herding or take of migratory game birds to alleviate crop depredation.

NOTE: Authority and reference cited: Migratory Bird Treaty Act and Section 355, Fish and Game Code.

HISTORY

1. Renumbered from former Section 310 (Register 59, No. 9). For history of former section, see Register 57, No. 4.
2. Repealer and new section filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).

§ 504. Possession, Transportation and Importation of Migratory Game Birds.

NOTE: Authority and reference cited: 16 U.S.C.A., Section 703 et seq. (Migratory Bird Treaty Act); and Section 355, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 8–24–71; designated effective upon filing (Register 71, No. 35). For prior history, see Register 68, No. 29.
2. Repealer and new section filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
3. Amendment of subsection (b) and Authority and Reference filed 8–29–86, operative 8–29–86, making the following changes:
   Subsection (b): deleting the words "doves and" adding the words "Doves must have a fully feathered wing attached";
   Authority and reference: adding the words "16 U.S.C.A., Section 703 et seq." (Register 86, No. 36).
4. Repealer filed 10–12–95; operative 10–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 41).

§ 505. Decoys.

The use of live birds as decoys is prohibited.

NOTE: Authority and reference cited: Migratory Bird Treaty Act and Section 355, Fish and Game Code.

HISTORY

1. Renumbered from former Section 332 (Register 59, No. 9). For history of former section, see Register 17, No. 4.
2. Amendment filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).

§ 506. Shooting Hours.

The shooting hours for migratory game birds, including mourning doves, white–winged doves, band–tailed pigeons, American coots, common moorhens, common snipe (jacksnipe), and waterfowl for all of California shall be from one–half hour before sunrise to sunset.

EXCEPTION: In areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County, the shooting time shall be from 7:00 a.m. to sunset.

NOTE: Authority cited: Sections 202, 355 and 3000, Fish and Game Code. Reference: Sections 202, 355, 356 and 3000, Fish and Game Code.

HISTORY

1. Amendment filed 8–30–62 as an emergency; effective upon filing (Register 62, No. 18). For prior history, see Register 61, No. 18.
2. Certificate of Compliance—Section 11422.1, Government Code, filed 10–10–62 (Register 62, No. 21).
3. Amendment filed 8–29–63 as an emergency; effective upon filing (Register 63, No. 14).
4. Amendment filed 9–11–64; effective upon filing (Register 64, No. 19).
5. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
6. Amendment filed 10–7–83; effective upon filing (Register 83, No. 41).
7. Amendment filed 10–11–85; effective upon filing) Register 85, No. 44).
8. Amendment filed 10–5–88; operative 10–5–88 (Register 88, No. 41).
9. Amendment filed 10–13–89; operative 10–13–89 pursuant to Fish and Game Code Section 355 (Register 89, No. 42).
10. Amendment filed 9–27–99; operative 9–27–99 pursuant to Fish and Game Code sections 202 and 205 (Register 99, No. 40).
11. Amendment of last paragraph and NOTE filed 9–30–2005; operative 9–30–2005 pursuant to Fish and Game Code section 355 (Register 2005, No. 39).

§ 507. Provisions Related to the Taking of Migratory Game Birds.

(a) Authorized Methods. Only the following methods may be used to take migratory game birds:

(1) Falconry.

(2) Bow and Arrows or Crossbows. Only arrows or crossbows bolts with flu– flu fletching may be used except that conventionally fletched arrows may be used to take waterfowl sitting on the water from scullboats or similar watercraft. Archers hunting during any archery season may not possess a firearm while in the field engaged in archery hunting.

(3) Muzzle–loading Shotguns.

(4) Shotguns 10 Gauge or Smaller. Shotguns 10 gauge or smaller using shot shells only and incapable of holding more than three shells in the magazine and chamber combined may be used. except no shotgun larger than 12 gauge shall be used in areas open to hunting on, over or adjacent to the waters of Morro Bay, San Luis Obispo County. If a plug is used to reduce the capacity of a magazine to fulfill the requirements of this section, the plug must be of one piece construction incapable of removal without disassembling the gun. Shotgun shells may not be used or possessed that contain shot size larger than No. BB in lead or T shot in steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service. All shot shall be loose in the shell.

(b) Use of Dogs. Dogs may be used to take and retrieve migratory game birds.

(c) Prohibition on Electronic or Mechanically–operated Devices. Electronic or mechanically–operated calling or sound–reproducing devices are prohibited when attempting to take migratory game birds. It is unlawful to use electronic or mechanically–operated spinning blade devices or spinning wing decoys when attempting to take waterfowl between the start of waterfowl season and November 30. For the purposes of this regulation, wind–powered spinning blade devices and kites are not prohibited.

(d) Live Decoy Prohibition. The use of live decoys is prohibited when attempting to take migratory game birds.

NOTE: Authority cited: Section 355, Fish and Game Code. Reference: Sections 355, 356 and 3005, Fish and Game Code.

HISTORY

1. Renumbered from former Section 334 (Register 59, No. 9).
2. Amendment filed 9–11–64; effective upon filing (Register 64, No. 19).
3. Amendment filed 10–11–78 as an emergency; effective upon filing (Register 78, No. 41).
4. Certificate of Compliance filed 12–22–78 (Register 79, No. 1).
5. Amendment filed 9–26–79; effective upon filing (Register 79, No. 39).
6. Amendment filed 9–23–80; designated effective 10–1–80 (Register 80, No. 39).
7. Repealer and new section filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
8. Amendment filed 10–7–83; effective upon filing (Register 83, No. 41).
9. Amendment filed 10–11–85; effective upon filing (Register 85, No. 44).
10. New subsection (h) filed 10–2–87; operative 10–2–87 (Register 87, No. 41).
11. Amendment of subsection (e) filed 12–23–94; operative 1–23–95 (Register 94, No. 51).
12. Repealer and new section filed 9–23–96; operative 9–23–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 39).
13. Amendment of subsection (c) filed 10–3–2001; operative 10–6–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 40).
14. Amendment of subsection (c) filed 10–9–2002; operative 10–12–2002 pursuant to Fish and Game Code section 355 (Register 2002, No. 41).

§ 507.1. Nontoxic Shot Requirement for Waterfowl, American Coot and Common Moorhen Hunting.

Only bismuth–tin, steel, copper–plated steel, nickel–plated steel, tin–plated steel, zinc–plated steel, zinc chloride–plated steel, zinc chromate–plated steel, iron–tungsten, iron–tungsten–nickel, tungsten–bronze, tungsten–iron–copper–nickel, tungsten–matrix, tungsten–polymer, tungsten–tin–iron, tungsten–tin–bismuth, and tungsten–tin–iron–nickel or other nontoxic shot approved by the U.S. Fish and Wildlife Service may be used or possessed for waterfowl, American coot and common moorhen hunting statewide.

NOTE: Authority cited: Section 355, Fish and Game Code. Reference: Sections 355 and 356, Fish and Game Code; and Part 20, Title 50, Code of Federal Regulations, as amended January 26, 2006 (FR Vol 71, No. 17, 4294–4297).

HISTORY

1. New section filed 10–10–86; effective upon filing (Register 86, No. 41). For history of former section, see Register 85, No. 40.
2. Amendment filed 10–9–87; operative 10–9–87 (Register 87, No. 42).
3. Amendment of subsections (a) and (b) filed 10–5–88; operative 10–5–88 (Register 88, No. 41).
4. Amendment of subsections (a) and (b) filed 10–13–89; operative 10–13–89 pursuant to Fish and Game Code Section 355 (Register 89, No. 42).
5. Amendment of subsections (a) and (b) filed 11–15–90; operative 11–15–90 pursuant to Fish and Game Code section 355 (Register 91, No. 3).
6. Amendment of section heading, and repealer and new text filed 11–4–93; operative 11–4–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 45).
7. Amendment of section heading and section filed 12–23–94; operative 1–23–95 (Register 94, No. 51).
8. Amendment filed 10–3–2001; operative 10–6–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 40).
9. Change without regulatory effect amending section filed 9–21–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 39).
10. Change without regulatory effect amending section and NOTE filed 7–12–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 28).

§ 507.5. Scull Boats.

Migratory game birds may not be taken by a scull boat or similar watercraft while under motorized power. The motor shall be removed from its mountings before any take or approach is attempted.

This section shall not prohibit shooting migratory game birds from scull boats or similar watercraft with motor attached if beached or anchored; nor shall it prohibit the use of a motor for the sole purpose of picking up dead or injured birds.

NOTE: Authority and reference cited: Migratory Bird Treaty Act and Section 355, Fish and Game Code.

HISTORY

1. New section filed 8–24–71, designated effective upon filing (Register 71, No. 35).

§ 508. Feeding of Migratory Waterfowl.

NOTE: Authority cited: Sections 240, 355 and 3806, Fish and Game Code. Reference: Sections 240, 355 and 3806, Fish and Game Code.

HISTORY

1. Amendment of subsections (b) and (c) filed 7–28–77; effective thirtieth day thereafter (Register 77, No. 31).
2. Amendment of NOTE filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
3. Amendment filed 7–28–88; operative 7–28–88 (Register 88, No. 33).
4. Amendment of subsection (b)(3) filed 7–11–89; operative 7–11–89 (Register 89, No. 28).
5. Repealer filed 9–23–96; operative 9–23–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 39).

§ 509. Concurrence with Federal Regulations.

(a) The regulations adopted by the United States through its Secretary of Interior under the Migratory Bird Treaty Act, as amended annually in Part 10, subparts A and B, and Part 20, Title 50, Code of Federal Regulations, are hereby adopted and made a part of this Title 14 except where said federal regulations are less restrictive than the provisions of Chapter 7 of this Title 14 (sections 500–509), the provisions of Chapter 7 prevail.

(b) Any violations of the regulations adopted pursuant to subsection (a) are violations of this section.

(c) It shall be unlawful for any person aged sixteen years or older to take any migratory waterfowl unless at the time of such taking the person carries in his or her immediate possession an unexpired Federal migratory–bird hunting and conservation stamp validated by his or her signature written by him or herself in ink across the face of the stamp prior to any taking of such birds.

NOTE: Authority cited: Section 355, Fish and Game Code. Reference: Part 10, subparts A and B, and Part 20, Title 50, CFR, amended Sept. 18, 1987, 52 Fed. Reg. 35248; 16 USC 718a; and Sections 355 and 356, Fish and Game Code.

HISTORY

1. Amendment filed 9–4–75; effective upon filing (Register 75, No. 36). For prior history, see Register 74, No. 35.
2. Amendment filed 8–31–76; effective upon filing (Register 76, No. 36).
3. Amendment filed 9–7–77; designated effective upon filing (Register 77, No. 37).
4. Amendment filed 8–31–78; designated effective upon filing (Register 78, No. 35).
5. Amendment filed 9–26–79; effective upon filing (Register 79, No. 39).
6. Amendment filed 9–23–80; designated effective 10–1–80 (Register 80, No. 39).
7. Amendment filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).
8. Amendment filed 10–14–82; effective upon filing (Register 82, No. 42).
9. Amendment filed 10–7–83; effective upon filing (Register 83, No. 41).
10. Amendment filed 10–12–84; effective upon filing (Register 84, No. 41).
11. Amendment filed 10–11–85; effective upon filing (Register 85, No. 44).
12. Amendment filed 10–10–86; effective upon filing (Register 86, No. 41).
13. Amendment filed 10–2–87; operative 10–2–87 (Register 87, No. 41).
14. Amendment filed 10–5–88; operative 10–5–88 (Register 88, No. 41).
15. Amendment filed 10–13–89; operative 10–13–89 pursuant to Fish and Game Code section 355 (Register 89, No. 42).
16. Amendment filed 11–15–90; operative 11–15–90 pursuant to Fish and Game Code section 355 (Register 91, No. 3).
17. Amendment filed 11–5–92; operative 11–5–92 pursuant to Fish and Game Code section 202 and 215 (Register 92, No. 45).
18. Amendment filed 11–4–93; operative 11–4–93 pursuant to Fish and Game Code section 202 and 215 (Register 93, No. 45).
19. Designation of existing regulation as subsection (a), new subsections (b)–(c) and amendment of NOTE filed 9–19–2007; operative 9–19–2007 pursuant to Fish and Game Code section 355 (Register 2007, No. 38).

§ 510. State Duck Stamp.

Any adult license holder taking ducks, geese, or brant must have a current state duck stamp affixed to their license.

NOTE: Authority cited: Migratory Bird Treaty Act and Section 355, Fish and Game Code. Reference: Migratory Bird Treaty Act and Sections 355 and 3700, Fish and Game Code.

HISTORY

1. New section filed 8–24–71; designated effective upon filing (Register 71, No. 35).
2. Repealer and new section filed 10–5–81; effective thirtieth day thereafter (Register 81, No. 41).

Chapter 8. Wildlife and Public Shooting Areas

§ 550. Regulations for General Public Use Activities on All State Wildlife Areas Listed Below.

(a) State Wildlife Areas:

(1) Antelope Valley Wildlife Area (Sierra County) (Type C);

(2) Ash Creek Wildlife Area (Lassen and Modoc counties) (Type B);

(3) Bass Hill Wildlife Area (Lassen County), including the Egan Management Unit (Type C);

(4) Battle Creek Wildlife Area (Shasta and Tehama counties);

(5) Big Lagoon Wildlife Area (Humboldt County) (Type C);

(6) Big Sandy Wildlife Area (Monterey and San Luis Obispo counties) (Type C);

(7) Biscar Wildlife Area (Lassen County) (Type C);

(8) Buttermilk Country Wildlife Area (Inyo County) (Type C);

(9) Butte Valley Wildlife Area (Siskiyou County) (Type B);

(10) Cache Creek Wildlife Area (Lake County), including the North Fork Cache Creek and Harley Gulch management units (Type C);

(11) Camp Cady Wildlife Area (San Bernardino County) (Type C);

(12) Cantara/Ney Springs Wildlife Area (Siskiyou County) (Type C);

(13) Cartago Wildlife Area, Inyo County (Type C);

(14) Cedar Roughs Wildlife Area (Napa County) (Type C);

(15) Cinder Flats Wildlife Area (Shasta County) (Type C);

(16) Clear Lake Wildlife Area (Lake County), including the Rodman Slough Unit (Type C);

(17) Collins Eddy Wildlife Area (Sutter and Yolo counties) (Type C);

(18) Colusa Bypass Wildlife Area (Colusa County) (Type C);

(19) Coon Hollow Wildlife Area (Butte County) (Type C);

(20) Cottonwood Creek Wildlife Area (Merced County), including the Upper Cottonwood and Lower Cottonwood management units (Type C);

(21) Crescent City Marsh Wildlife Area (Del Norte County);

(22) Crocker Meadow Wildlife Area (Plumas County) (Type C);

(23) Daugherty Hill Wildlife Area (Yuba County) (Type C);

(24) Decker Island Wildlife Area (Solano County) (Type C);

(25) Doyle Wildlife Area (Lassen County) (Type C);

(26) Dutch Flat Wildlife Area (Modoc County) (Type C);

(27) East Walker River Wildlife Area (Mono County) (Type C);

(28) Eel River Wildlife Area (Humboldt County) (Type C);

(29) Elk Creek Wetlands Wildlife Area (Del Norte County);

(30) Elk River Wildlife Area (Humboldt County) (Type C);

(31) Fay Canyon Wildlife Area (Alpine County) (Type C);

(32) Fay Slough Wildlife Area (Humboldt County) (Type C);

(33) Feather River Wildlife Area (Sutter and Yuba counties), including the Abbott Lake, Lake of the Woods, Marysville, Morse Road, Nelson Slough, O'Connor Lakes, Shanghai Bend, and Star Bend management units (Type C);

(34) Fitzhugh Creek Wildlife Area (Modoc County) (Type C);

(35) Fremont Weir Wildlife Area (Yolo County) (Type C);

(36) French Valley Wildlife Area (Riverside County) (Type C);

(37) Grass Lake Wildlife Area (Siskiyou County) (Type C);

(38) Gray Lodge Wildlife Area (Butte and Sutter counties) (Type A);

(39) Green Creek Wildlife Area (Mono County) (Type C);

(40) Grizzly Island Wildlife Area (Solano County), including the Garibaldi Crescent (Type A), Gold Hills (Type B), Goodyear Slough (Type B), Grey Goose (Type C), Grizzly Island (Type A), Island Slough (Type B), Joice Island (Type A), West Family (Type B) and Montezuma Slough management units;

(41) Hallelujah Junction Wildlife Area (Lassen and Sierra counties) (Type C);

(42) Heenan Lake Wildlife Area (Alpine County) (Type C);

(43) Hill Slough Wildlife Area (Solano County);

(44) Hollenbeck Canyon Wildlife Area (San Diego County) (Type C);

(45) Honey Lake Wildlife Area (Lassen County) (Type B);

(46) Hope Valley Wildlife Area (Alpine County) (Type C);

(47) Horseshoe Ranch Wildlife Area (Siskiyou County) (Type C);

(48) Imperial Wildlife Area (Imperial County), including the Wister Management Unit (Type A) and Finney Ramer Management Units (Type C);

(49) Indian Valley Wildlife Area (Lake County) (Type C);

(50) Kelso Peak and Old Dad Mountains Wildlife Area (San Bernardino County) (Type C);

(51) Kinsman Flat Wildlife Area (Madera County) (Type C);

(52) Knoxville Wildlife Area (Napa and Yolo counties) (Type C);

(53) Laguna Wildlife Area (Sonoma County) (Type C);

(54) Lake Berryessa Wildlife Area (Napa County) (Type C);

(55) Lake Earl Wildlife Area (Del Norte County) (Type C);

(56) Lake Sonoma Wildlife Area (Sonoma County) (Type C);

(57) Little Panoche Reservoir Wildlife Area (Fresno County) (Type C);

(58) Los Banos Wildlife Area (Merced County) (Type A);

(59) Lower Sherman Island Wildlife Area (Sacramento County) (Type C);

(60) Mad River Slough Wildlife Area (Humboldt County) (Type C);

(61) Marble Mountains Wildlife Area (San Bernardino County) (Type C);

(62) Mendota Wildlife Area (Fresno County) (Type A);

(63) Merrill's Landing Wildlife Area (Tehama County) (Type C);

(64) Miner Slough Wildlife Area (Solano County) (Type C);

(65) Monache Meadows Wildlife Area (Tulare County) (Type C);

(66) Morro Bay Wildlife Area (San Luis Obispo County) (Type C);

(67) Moss Landing Wildlife Area (Monterey County) (Type C);

(68) Mouth of Cottonwood Creek Wildlife Area (Shasta and Tehama counties) (Type C);

(69) Mud Lake Wildlife Area (Siskiyou County) (Type C);

(70) Napa–Sonoma Marshes Wildlife Area (Solano, Napa, and Sonoma counties), including the American Canyon, Coon Island, Dutchman Slough, Huichica Creek, Napa River, Ringstrom Bay, Sonoma Creek, Tolay Creek, and Wingo management units (Type C); and Green Island, Southern Crossing, and White Slough management units;

(71) North Grasslands Wildlife Area (Merced and Stanislaus counties), including the China Island, Gadwall, and Salt Slough management units (Type A);

(72) O'Neill Forebay Wildlife Area (Merced County) (Type C);

(73) Oroville Wildlife Area (Butte County), including the Thermalito Afterbay Management Unit (Type C);

(74) Petaluma Marsh Wildlife Area (Marin and Sonoma counties), including the Black John Slough, Burdell, and Petaluma River management units (Type C); and Bahia, Day Island, Green Point, Novato Creek, Point Sonoma, and Rush Creek management units;

(75) Pickel Meadow Wildlife Area (Mono County (Type C));

(76) Pine Creek Wildlife Area (Modoc County) (Type C);

(77) Point Edith Wildlife Area (Contra Costa County) (Type C);

(78) Putah Creek Wildlife Area (Solano County) (Type C);

(79) Rector Reservoir Wildlife Area (Napa County) (Type C);

(80) Red Lake Wildlife Area (Alpine County) (Type C);

(81) Rhode Island Wildlife Area Contra Costa County (Type C);

(82) Sacramento Bypass Wildlife Area (Yolo County) (Type C);

(83) Sacramento River Wildlife Area (Butte, Colusa, and Glenn counties) (Type C);

(84) San Felipe Valley Wildlife Area (San Diego County) (Type C);

(85) San Jacinto Wildlife Area (Riverside County) including the Davis Road Unit, and the Potrero Unit (Type A);

(86) San Luis Obispo Wildlife Area (San Luis Obispo County);

(87) San Luis Reservoir Wildlife Area (Merced County) (Type C);

(88) San Pablo Bay Wildlife Area (Marin and Sonoma counties) (Type C);

(89) Santa Rosa Wildlife Area (Riverside County) (Type C);

(90) Shasta Valley Wildlife Area (Siskiyou County) (Type B);

(91) Sheepy Ridge Wildlife Area (Siskiyou County) (Type C);

(92) Silver Creek Wildlife Area (Lassen County) (Type C);

(93) Slinkard–Little Antelope Wildlife Area (Mono County) (Type C);

(94) Smithneck Creek Wildlife Area (Sierra County) (Type C);

(95) South Fork Wildlife Area (Kern County) (Type C);

(96) South Spit Wildlife Area (Humboldt County) (Type C);

(97) Spenceville Wildlife Area (Yuba and Nevada counties) (Type C);

(98) Surprise Valley Wildlife Area (Modoc County) (Type C);

(99) Sutter Bypass Wildlife Area (Sutter County) (Type C);

(100) Tehama Wildlife Area (Tehama County) (Type C);

(101) Truckee River Wildlife Area (Placer and Nevada counties), including the Boca, Polaris, Union Ice, and West River management units (Type C);

(102) Upper Butte Basin Wildlife Area (Butte and Glenn counties), including the Howard Slough, Little Dry Creek, and Llano Seco management units (Type A);

(103) Volta Wildlife Area (Merced County) (Type A);

(104) Waukell Creek Wildlife Area (Del Norte County) (Type C);

(105) Warner Valley Wildlife Area (Plumas County) (Type C);

(106) West Hilmar Wildlife Area (Merced and Stanislaus counties) (Type C);

(107) West Walker River Wildlife Area (Mono County) (Type C);

(108) White Slough Wildlife Area (San Joaquin County) (Type C);

(109) Willow Creek Wildlife Area (Lassen County) (Type B);

(110) Yolo Bypass Wildlife Area (Yolo County).

(b) Area Regulations:

(1) Regional Manager's Authority: The regional manager shall have the authority to regulate public use of State wildlife areas where such use is not provided for in these regulations or in sections 551 and 552 of this title.

(2) Entry Restrictions. The department may limit the number of persons entering any area listed in section 550 or 551 of this title during any period for safety reasons, to reduce crowding, to provide for the limited take of a species, or may close portions of areas or close areas entirely to public entry or to specific activities. No person shall enter an area that has been closed to the public, except by written permission of the regional manager. On wildlife areas where entry and exit sites are designated by the department, no person shall enter or leave except at designated sites.

(3) Procedures for Issuing Entry Permits. In the event that the department elects to limit the number of hunters, trappers, or other users, entry permits will be issued on a first–come, first–served basis, or by a drawing to be held at a designated department office. The department shall inform the commission in writing and the public via the news media of any implementation of the provisions of this subsection, when limits imposed under this subsection differ substantially for a specific area from the prior year. Such notification shall include: the State wildlife area affected, the time period, the reason for the limitation or closure, the number of entry permits to be issued, and the method of issuance.

(4) Permit Requirements. No person shall enter any State wildlife area or portion thereof where the department has limited public entry without a valid entry permit in their immediate possession. [See subsections 551(f), (g), and (h) for regulations regarding general requirements and costs for individual entry permits. See subsection 551(q) for entry permit requirements for specific areas.] Upon leaving the State wildlife area, the permit must be completed and returned to the checking station, or drop box.

(5) Use Permits for Organized Events. Any person organizing an event or gathering to be conducted on a State wildlife area shall obtain a use permit from the appropriate regional manager. Such events or gatherings shall be compatible with wildlife area objectives.

(6) Motor Driven Vehicles.

(A) No person shall drive, operate, leave, place, or stop any motor driven vehicle or trailer on any State wildlife area except on public or established roads or on designated jeep trails and such other areas as designated by the department. No person shall park or leave any motor driven vehicle or trailer in any area where signs prohibiting parking are posted. Unless noted in subsections 551(q) or 552(a) the use of off highway vehicles (OHV's) and all terrain vehicles (ATV's) is prohibited on areas owned and/or managed by the department. The department may designate the parking lot where a person must park a vehicle while on the wildlife area.

(B) No person shall drive a vehicle carelessly in willful disregard of the rights or safety of others, or without due caution or at a speed or in a manner likely to endanger any person, property, or wildlife.

(7) Signs, Traffic and Road Closures.

(A) Drivers of motor driven vehicles operated within the wildlife areas shall comply with the directions of traffic signs posted in the area by the department.

(B) No person shall damage, remove, or destroy any barrier, sign, signpost, or signboard on any wildlife area.

(8) Boats.

(A) The department may restrict the use and operation of boats on State wildlife areas, department administered national wildlife refuges, and State recreation areas to protect natural resources or provide for the orderly operation of hunting and fishing programs on these areas. Boating restrictions may include, but not be limited to, limiting boat speeds, limiting motor size and type, or prohibiting the use of motors. During the times waterfowl are present, the provisions of Section 251 of this Title will also apply.

(B) Except as prohibited in subsection 551(q), boats may be used under the following regulations on State wildlife areas, department administered national wildlife refuges, and State recreation areas.

1. When launch sites are designated by the department, all boats must be launched and removed from those sites.

2. All persons shall remove their boats from the waters or beach when instructed to do so by an employee of the department. Any peace officer may remove the boat of any person who has been instructed to remove their boat from the waters or beach, and fails to comply with the instruction of the employee of the department.

3. The use of boats may be restricted to certain zones designated by the department.

4. Boat speed shall not exceed five miles per hour unless otherwise noted in subsection 551(q).

5. Any peace officer may remove any boat that is left unattended in the waters or on the beach in excess of 72 hours.

(9) Vandalism and Litter.

(A) No person shall tamper with, damage, or remove any property not his own when such property is located within a State wildlife area.

(B) No person shall leave, deposit, drop, bury, or scatter bottles, broken glass, feathers, hides, wastepaper, cans, sewage, or other rubbish in any State wildlife area except in a receptacle or area designated for that purpose, and no person shall import and deposit any rubbish or toxic substance into State wildlife areas from other places. Where no designated receptacles are provided, any refuse resulting from a person's use of the area must be removed from the area by such person.

(10) Trees and Minerals.

(A) No person shall dig up, cut, damage, or remove from a wildlife area any trees, shrubs, vines, plants or wood, except that vegetation may be cut and used for the purpose of building blinds, unless otherwise directed by the area manager.

(B) No person shall dig up or remove any humus, soil, sand, gravel, or rock.

(11) Bottles and Artifact Collecting. No person shall collect or remove bottles or artifacts, or dig or otherwise disturb the soil to locate or remove bottles or artifacts, from any Wildlife Area.

(12) Camping and Unattended Personal Property. No person shall camp, including on a boat, in any part of a State wildlife area except in areas designated by the department. (See subsection 551(q) for additional camping restrictions on specific areas). Camping on wildlife areas shall be limited to not more than seven consecutive days, and not more than 14 days total in any calendar year, except by written permission of the Regional Manager. Personal property may not be left on State wildlife areas for camping or other purposes, except at authorized locations. Decoys may not be left in the field overnight, except as provided in sub-

section 551(q). Any hunting blinds on wildlife areas shall be available on a first–come, first–served basis.

(13) Fires. From April 30 through October 30 on Type C areas, and during the entire year on Type A and B areas, no person shall build or maintain fires except in portable gas stoves, in charcoal briquette barbeques, or in fireplaces at sites developed by the department. No fire shall be left unattended and all fires shall be extinguished with water before leaving. (See subsection 551(q) for additional fire restrictions.)

(14) Use of Dogs and Field Trials. The department may prohibit or restrict the use of dogs on any State wildlife area (see subsection 551(q)). Except as further prohibited in subsection 551(q), dogs are allowed only for hunting or when under immediate control. Dogs must be leashed at designated campsites and checking station areas. Special permits are required for field trials. Dog training is allowed only in areas designated by the department.

(15) Pesticides Use. No person, other than authorized federal, state, or local employees conducting a pest control program approved by the department, shall apply any pesticide in any State wildlife area.

(16) Livestock. No person shall permit livestock, including but not limited to cattle, horses, sheep, goats, and hogs, to browse, graze, bed, cross, or otherwise trespass on any State wildlife area except under an authorized grazing permit issued by the department. The recreational use of horses is allowed, except as designated in subsection 551(q). Persons who fail to remove their livestock from any State wildlife area within 48 hours after receiving official notice of trespass by the regional manager through certified mail, shall be in violation of this section.

(17) Fish and Frogs. Fish and frogs may not be taken for commercial purposes (see subsection 551(q) for specific area regulations).

(18) Hunting and Trapping. Hunting and trapping shall be allowed on State wildlife areas during the regular open seasons subject to subsection 550(b)(19), 551(b), and 551(q), and such other area use regulations as specified by the regional manager.

(19) Areas where hunting and possession of firearms and archery equipment are prohibited. No person, except authorized personnel, shall possess or discharge a firearm, bow and arrow, air or gas gun, spear gun, or other propulsive device of any kind in the following areas: Battle Creek, Crescent City Marsh, Elk Creek Wetlands, Eureka Slough, and Hill Slough wildlife areas; Cordelia Slough and Montezuma Slough management units of Grizzly Island Wildlife Area; White Slough Unit of Napa–Sonoma Marshes Wildlife Area; and Bahia, Day Island, Green Point, Novato Creek, Point Sonoma, and Rush Creek units of the Petaluma Marsh Wildlife Area.

(20) Fireworks / Explosives — No person shall possess or light fireworks or other explosive or incendiary devices on any state owned or managed wildlife area, except by written permission of the area manager or as provided for in Sections 551(b) or 551(q).

(21) Possession and use of Alcohol or other Controlled Substances. No person shall possess or use alcohol or other controlled substances while in the field hunting or engaged in other authorized recreational activities on any State wildlife area or Federal wildlife refuge. For the purpose of this section, "in the field" is defined as all areas except checking stations and designated parking areas. The possession and/or use of controlled substances pursuant to 11550 of the Health and Safety Code are prohibited on all areas managed and/or controlled by the department.

(22) Ejection. The department may eject any person from a State wildlife area for violation of any of these rules or regulations or for disorderly conduct, intoxication, or when a department employee determines that the general safety or welfare of the area or persons thereon is endangered. The decision, in such respect, of any department employee assigned management or enforcement responsibilities for the area shall be final.

(23) User Responsibility for Knowing Regulations. All wildlife area users shall be responsible for area–specific regulations listed under subsection 551(q). Failure to comply with any of the area–specific regulations shall be a violation of this subsection.

NOTE: Authority cited: Sections 200, 202, 203, 355, 713, 1050, 1526, 1528, 1530, 1570–1572, 1765 and 10504, Fish and Game Code. Reference: Sections 355, 711, 713, 1050, 1055.3, 1526, 1528, 1530, 1570–1572, 1585, 1764, 1765, and 10504, Fish and Game Code.

HISTORY

1. Repealer and new section filed 10–8–93; operative 10–8–93 pursuant to section 202 and 215, Fish and Game Code (Register 93, No. 41). For prior history, see Register 93, No. 28.
2. New subsections (a)(8), (24), (60), (70), (83), (94) and (98) and subsection renumbering filed 9–20–94; operative 10–24–94 (Register 94, No. 38).
3. Editorial correction of subsections (b)(10), (13), (14) and (16) (Register 94, No. 38).
4. Amendment filed 10–5–94; operative 11–4–94 (Register 94, No. 40).
5. New subsection (a)(99), amendment of subsections (b)(8)–(10) and (b)(15), new subsection (b)(18), and amendment of NOTE filed 9–12–95; operative 9–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 37).
6. Amendment of section and NOTE filed 10–1–96; operative 10–1–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 40).
7. New subsections (a)(63) and (a)(73), subsection renumbering and amendment of subsection (b)(12) filed 10–3–97; operative 10–3–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 40).
8. New subsections (a)(52) and (a)(77), subsection renumbering and amendment of subsection (b)(2) filed 10–16–98; operative 10–16–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 42).
9. New subsection (a)(81), subsection renumbering, repealer of former subsection (a)(106) and amendment of subsections (b)(2), (b)(6)(A), (b)(7), (b)(7)(B) and (b)(19) filed 10–6–99; operative 10–6–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 41).
10. Repealer of subsection (a)(9), subsection renumbering and amendment of newly designated subsection (a)(96) and subsection (b)(13) filed 9–28–2000; operative 9–28–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 39).
11. Amendment of subsections (a)(29), (a)(32), (a)(49), (a)(67), (a)(103), (b)(17) and (b)(19) filed 10–23–2001; operative 10–23–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 43).
12. Amendment of subsection (a)(37), new subsections (a)(41), (a)(79) and (b)(20) and subsection renumbering filed 9–9–2002; operative 9–9–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 37).
13. Amendment of subsections (a)(10)–(11), new subsections (a)(15) and (a)(35), subsection renumbering, amendment of newly designated subsection (a)(85) and subsections (b)(4) and (b)(14) and amendment of NOTE filed 11–4–2004; operative 11–4–2004 pursuant to Fish and Game Code section 215 (Register 2004, No. 45).
14. New subsections (a)(13), (a)(34), (a)(36), (a)(96) and (a)(107), repealer of subsections (a)(30), (a)(35), (a)(48) and (a)(96), subsection renumbering, amendment of subsections (a)(70), (a)(74), (b)(6)(A), (b)(8)(B)2., new subsection (b)(2)(8)(B)5., amendment of subsection (b)(12), (b)(14) and (b)(19), new subsection (b)(20), subsection renumbering and amendment of newly designated subsection (b)(21) filed 11–7–2007; operative 12–7–2007 (Register 2007, No. 45).

§ 551. Hunting, Firearms, and Archery Equipment Use and Permit Requirements on State and Federal Areas.

(a) The following regulations apply to areas listed below:

(1) State wildlife areas listed in Section 550. (See subsection 550(b)(19) for areas where possession and use of firearms and archery equipment are completely prohibited.)

(2) Areas operated in cooperation with the U.S. Fish and Wildlife Service (for additional regulations for Federal areas, see Section 552):

(A) Colusa National Wildlife Refuge, Type A (Colusa County);

(B) Delevan National Wildlife Refuge, Type A (Colusa County);

(C) Kern National Wildlife Refuge, Type A (Kern County);

(D) Merced National Wildlife Refuge, Type A (Merced County);

(E) Sacramento National Wildlife Refuge, Type A (Glenn and Colusa counties);

(F) Sacramento River National Wildlife Refuge, including the La Barranca Unit, Blackberry Island Unit, Mooney Unit, Ohm Unit, Flynn Unit, Heron Island Unit, and Rio Vista Unit (Tehama Co.); Pine Creek Unit, Dead Man's Reach Unit, North Llano Seco Island 1 & 2 Units, and Llano Seco Riparian Sanctuary Unit (Butte Co.); and McIntosh Landing North and South Units, Capay Unit, Phelan Island Unit, Jacinto Unit, Ord Unit, Ord Bend Unit, South Ord Unit, Hartley Island Unit, Sul Norte Unit, Co-

dora Unit, Packer Unit, Head Lama Unit, North Drumheller Slough Unit, and Drumheller Slough Unit (Glenn Co.); Type C;

(G) San Luis National Wildlife Refuge, Type A (Merced County), including the San Luis, Kesterson, West Bear Creek, Freitas, and Blue Goose Units;

(H) Sonny Bono Salton Sea National Wildlife Refuge, Type A (Imperial County) (operated with the Imperial Wildlife Area);

(I) Stone Lakes National Wildlife Refuge, Type A (Sacramento County);

(J) Sutter National Wildlife Refuge, Type A (Sutter County).

(3) Areas operated in cooperation with other Federal agencies:

(A) Baldwin Lake, Type C (San Bernardino County);

(B) Volta Wildlife Area, Type A (Merced County);

(C) Lake Sonoma Wildlife Area, Type C (Sonoma County).

(4) Areas operated in cooperation with other State agencies:

(A) Lake Earl Project Area, Type C (Del Norte County) (Unclassified land administered by the Department of Parks and Recreation);

(B) O'Neill Forebay Wildlife Area, Type C (Merced County);

(C) San Luis Reservoir Wildlife Area, Type C (Merced and Santa Clara counties);

(D) Little Panoche Reservoir Wildlife Area, Type C (Fresno County);

(E) Perris Reservoir State Recreation Area, area day use fee (Riverside County).

(F) Clifton Court Forebay, Type C (Contra Costa County).

(b) Method of Take.

(1) Firearms and Archery Equipment, General: Except as otherwise provided, no person shall possess in the field or discharge a firearm, bow and arrow, air or gas gun, or other propulsive device of any kind on any wildlife area (see section 551(b)(9)).

(2) Except as otherwise provided, no shotguns larger than twelve gauge and no rifles, pellet guns, combination rifle–shotguns, pistols, archery equipment, or revolvers shall be possessed in the field or discharged on any Type A or Type B areas. All legal firearms and archery equipment may be used on Type C areas unless prohibited (see subsection 551(q)).

(3) Shotgun shells shall not contain shot size larger than size BB in lead and size T in steel. The use or possession of shot size larger than BB in non–toxic shot other than steel is prohibited on State and Federal Wildlife areas. On those areas where big game species may be hunted, shotguns with slugs may be used.

(4) Except as otherwise provided, on areas with ammunition restrictions, only those persons possessing a valid hunting permit for that day may possess ammunition in the field. (See subsection 551(q), 552(a)).

(5) At Grizzly Island Wildlife Area and on all national wildlife refuges listed in Section 552, only steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service may be used or possessed in the field.

(6) Archery equipment shall not be used during the waterfowl and pheasant seasons on Type A and B areas, unless provided for in subsection 551(q).

(7) Loaded firearms, as defined in Section 2006 of the Fish and Game Code, are prohibited in the parking lots on all wildlife areas and on national wildlife refuges listed in Section 552.

(8) On Type C areas, raptors may be used to take legal game in accordance with general hunting regulations.

(9) On Type A and B state wildlife areas, raptors may be used to take legal game only from the first Saturday following the end of the general waterfowl season through the end of the falconry pheasant season. Raptors may be used only on Saturdays, Sundays, and Wednesdays.

(10) Except as otherwise provided, an adult–supervised youth may possess and discharge a BB gun on any wildlife area. A BB gun is not an authorized method of take and may not be used to take wildlife on any wildlife area. A BB gun is defined as an air and/or spring–actuated rifle similar to Daisy BB gun models 95 (Timberwolf), 105 (Buck), or 1938 (Red Ryder), firing a spherical BB no longer than 0.177 inches in diameter (4.5mm) at a muzzle velocity no greater than 350 feet per second. For the purpose of this section a youth is defined as a person under the age of 16.

(c) Nonhunting Uses of Firearms and Archery Equipment:

(1) Except at designated shooting sites or with a special permit, possession in the field and use of firearms and archery equipment is permitted only for the purpose of hunting on all wildlife areas and on national wildlife refuges listed in Section 552.

(2) No glass or porcelain targets shall be used on any wildlife area. Clay targets shall be used only at designated sites where their use is permitted.

(d) Hunting Days:

(1) Except as provided for in subsection 551(q), waterfowl may be taken on Type A and Type B areas only on Saturdays, Sundays, and Wednesdays.

(2) All Type A and Type B areas shall be closed to hunting on Christmas Day, except for the following Type B areas: Island Slough and Gold Hills units of Grizzly Island Wildlife Area. These areas will be open to hunting on Christmas Day when Christmas occurs on a Wednesday, Saturday, or Sunday.

(3) On Type C areas, shooting days shall be daily except as noted in subsections 551(b) and 551(q).

(e) Shooting Hours: Waterfowl: Except as provided for in subsection 551(q), shooting hours on all Type A and Type B areas shall be the legal waterfowl shooting hours as designated by the U.S. Fish and Wildlife Service. Other Species: Except as noted in subsection 551(q), other species may be taken only during the hours designated for the taking of each species under the regulatory powers of the commission or U.S. Fish and Wildlife Service.

(f) Requirements for Entry Permits and Trespass: No person shall enter upon any area listed in sections 550 or 551 of this Title where the department requires a valid daily entry permit without the required entry permit in their immediate possession, or unless otherwise authorized by the department. Entry or exit must be made at locations designated by the department. Daily entry permits are required to hunt during the waterfowl and pheasant seasons on Type A and B areas. During this period daily entry permits must be returned to the checking stations where issued within one and one half hours after sunset unless otherwise designated in 551(g). Daily entry permits also may be required at other times on Type A and B areas or on Type C areas (see subsection 551(q)).

(g) Season Pass, Two–day Pass, and Entry Permits:

(1) To obtain a daily entry permit to hunt during the waterfowl and pheasant seasons on Type A areas, possession of a Type A season pass, a Type A two–day pass, or a one–day entry permit is required, except as provided in subsection 551(q). Season passes and two–day passes may be issued by department offices and license agents. The department may issue season passes, two–day passes and one–day entry permits at Type A checking stations. Persons hunting under the authority of a junior hunting license are exempt from these permit and pass requirements and shall be issued a no–fee entry permit.

(2) A Type A season pass shall be issued upon payment of the fee specified in Section 702. A Type B season pass shall be issued upon payment of the fee specified in Section 702.

(3) On Type B areas during the waterfowl and pheasant seasons, a Type B season pass or a Type A season pass is required to obtain a daily entry permit for all hunting, unless otherwise provided in subsections 551(q).

(4) A one–day entry permit shall be issued upon payment of the fee specified in Section 702. A two–day pass shall be issued upon payment of the fee specified in Section 702.

(5) At State recreation areas included in subsection 551(a)(4), the entry permit fee for hunting shall be the recreation area day–use fee.

(6) On Type C areas (all wildlife areas not listed as Type A, Type B, or State recreation areas in Section 551), no fees for hunting are required.

(7) On some areas (see subsection 551(q)), day use passes are required for all public access. Fees may be charged (see Fish and Game Code Section 1765).

(h) Issuance of One–day Entry Permits:

(1) Hunters with season passes shall not receive priority in the issuance of daily entry permits over hunters who do not have season passes.

(2) Holders of junior hunting licenses will be issued entry permits only when accompanied by an adult. An adult is defined as a person at least 18 years old. An adult may be accompanied by up to two junior hunters. On Type A and B areas, adults must accompany junior hunters in the field. On Type A and B areas when a non–shooter accompanies a junior hunter, the non–shooter will be considered a hunter possessing valid resident or nonresident hunting license in establishing his or her place in line. Persons 16 or 17 years of age in possession of a valid resident or nonresident hunting license will be issued entry permits and may hunt by themselves, but may not be accompanied by junior hunters.

(3) Entry permits must be returned, as required by the department, when departing the area. Hunters are required to report the number and species of all game taken, as required by the department, before departing the area. All game taken on a State or Federal wildlife area shall be shown to any department employee upon request before leaving the area.

(4) No person shall apply for, obtain, use, or have in his or her possession while hunting, any one–day entry permit which has not been issued to that person by the department or which is a duplicate, forgery, or alteration of an official department form; or which has been obtained by use of a non–validated or fraudulent application or advance reservation form. Any person who violates this section shall be barred from all State–operated areas for one calendar year following the date of discovery of the violation by the department.

(5) Any person who violates regulations governing drawing procedures for hunting opportunities on State–operated areas, other than reservation drawings described in subsection 551(j), shall not be issued a permit for that day, or shall be ejected for that day if a permit has been issued, and shall be denied entry for the remainder of the season.

(i) Daily Entry Permit Revocations, Refusals, and Ejections: On Type A and Type B areas the department is authorized to refuse to issue a one–day entry permit to anyone and to revoke this permit and eject the holder forthwith from the area for disorderly conduct, intoxication, or for any other reason when it appears that the general safety or welfare of the area, or persons thereon, is endangered. Decision of the department employee assigned management or enforcement responsibilities for the area in such respect shall be final. Any person whose entry permit has been revoked shall not be entitled to hunt or access any State operated hunt area or on any wildlife area for one calendar year from the date of discovery. Persons affected by this section may appeal such actions to the commission.

(j) Reservations:

(1) Advance reservations for waterfowl and pheasant hunting will be available for certain areas as specified under subsections 551(q) and 552(a).

(2) Reservations shall be issued by random drawing. The department shall make applications available to the public through license agents and department offices. Applicants must possess an annual or lifetime hunting license valid for the waterfowl hunting season for which they are applying. Two–day nonresident hunting licenses shall not be used to apply for reservation drawings. To be included in a reservation drawing, applications must be received by the department at the address specified on the application at least 17 days prior to the hunt date. Late, incomplete, or incorrect applications will not be included in the drawing. The fee to apply for a reservation is specified in Section 702. Hunters may apply for reservations using one or more of the following applications:

(A) One–Choice Reservation Application

(B) Five–Choice Reservation Application

(C) Season–Long Reservation Application — hunters may apply for every available hunt date for one or more areas by completing a season–long reservation application form and returning it with the appropriate payment to the department at the address specified on the application.

(D) Reservation application fees are not refundable.

(3) Multiple Applications:

(A) The applicant is limited to one application for each area for each authorized shoot date as specified under subsections 551(q) and 552(a), unless otherwise specified in subsection 551(q).

(B) The department may eliminate from any drawing all applications not in compliance with these regulations. Persons who submit more than one application for the same shoot date for the same area may be barred from hunting on State–operated areas for a period of one year following the date of discovery of the violation by the department. Any reservation issued to any person as a result of such improper submission, or to any person already barred from the State–operated areas, shall be void and of no force and effect.

(4) Priorities: Unless otherwise stated on the reservation or on information mailed with the reservation, upon paying the appropriate fee for a one–day entry permit or presenting a two–day pass or season pass, successful applicants shall be granted a one–day entry permit during the waterfowl or pheasant season, a one–day permit shall be granted, however, only if the applicant's reservation was issued by the department in the applicant's name and is for the area requested. Applicants must enter, at the appropriate checking station on the assigned or stated hunt date. Unless otherwise provided for, the reservation will expire one and one–half hours before waterfowl shoot time. For some areas, reservations will be numbered by the department in the order in which they are drawn. These reservations will be accepted at checking stations in that order, only if the reservation holder is present at the time the number is called.

(5) Except as provided for in subsections 551(j)(6) or 551(q), or Section 552, a reservation shall assure entry for up to six persons. No more than two may be adult (see subsection 551(h)(2)) hunters who have valid resident or nonresident licenses and no more than two may be persons 16 or 17 years of age in possession of a valid resident or nonresident hunting license (see subsection 551(h)(2)). Each adult may be accompanied by up to two hunters holding junior licenses or two non–shooters irrespective of age, or one of each. Non–shooters are defined as persons who wish to accompany a permittee in the field or remain at a designated parking space. Non–shooters shall not discharge or possess ammunition or a firearm on the area.

(6) If hunting a special blind area, a reservation will assure entry of no more persons (adult hunters, junior hunters, and/or nonshooters) than will fill the blind.

(7) Unless otherwise provided for in this section, the advance reservation system only serves to assure entry onto the area and does not necessarily constitute a method for prioritization over other users.

(k) Deferred Openings: When the department considers such deferment desirable to protect agricultural crops from waterfowl, it is hereby authorized and directed to defer opening to public access any area until in the opinion of the department the danger of crop damage in the immediate region is abated.

(*l*) Species Allowed:

(1) On Type A and Type B areas, only ducks, geese, coots, moorhens, and snipe which are then in season may be legally taken by permittees on designated shooting days during the open waterfowl hunting season; unless otherwise provided under this section or Section 552 of these regulations.

(2) Pheasant Hunting: Pheasant hunting shall be permitted as provided for in subsection 551(q) and Section 552. The regional manager may authorize junior pheasant hunts during or outside the general pheasant season.

(3) Hunting on Type C areas General: Except as provided for in subsection 551(q), hunting is permitted for each authorized species allowed to be hunted on each area, during the open season of that species.

(4) Turkey Hunting: Turkey hunting shall be permitted as provided for in subsection 551(q) and Section 552. The regional manager may authorize junior turkey hunts on state wildlife areas during the regular season.

(m) Assigned Hunting Zones: In order to assure proper hunter dispersal and to promote safety, the department may subdivide the open hunting

portion of any Type A or Type B area into zones and assign hunters to these zones or designate where hunters shall park.

(n) Posting Closed Areas: Any portion of any State wildlife area and any adjoining lands under control of the department, may be closed to hunting or public access by the department by posting such lands with signs at least five (5) to the mile.

(o) Penalties: Failure to comply with regulations contained in sections 550, 551, or 552 may result in any or all of the following:

(1) denial of permission to enter a State–operated area; and/or

(2) revocation of any permit already issued; and/or

(3) ejection from the area for one calendar year from the date of discovery; and/or

(4) citation under the provisions of the Fish and Game Code or Title 14 of the California Code of Regulations. A proceeding under (1), (2), (3) or (4) will not preclude the invocation of any other remedy.

(p) Enforcement of Regulations: These regulations shall be incorporated by reference into and become a part of all permits.

(q) ADDITIONAL REGULATIONS FOR SPECIFIC AREAS

In addition to the regulations in Section 550 and subsections 551(a) through 551(p), the following areas have special regulations which are listed below (see Section 552 for additional regulations on national wildlife refuges on which the department manages hunting programs):

Antelope Valley Wildlife Area, Type C (Sierra County);

Ash Creek Wildlife Area, Type B (Modoc and Lassen counties);

Baldwin Lake, Type C (San Bernardino County);

Bass Hill Wildlife Area, Type C (Lassen County);

Battle Creek Wildlife Area, (Shasta and Tehama counties);

Big Lagoon Wildlife Area, Type C (Humbolt County);

Big Sandy Wildlife Area, Type C (Monterey and San Luis Obispo counties);

Butte Valley Wildlife Area, Type B (Siskiyou County);

Cache Creek Wildlife Area, including the North Fork Cache Creek and Harley Gulch Management Units, Type C (Lake County);

Clifton Court Forebay, Type C (Contra Costa County);

Collins Eddy Wildlife Area, Type C (Sutter and Yolo counties);

Colusa Bypass Wildlife Area., Type C (Colusa County);

Cottonwood Creek Wildlife Area, Type C (Merced and Santa Clara counties);

Daugherty Hill Wildlife Area, Type C (Yuba County);

Decker Island Wildlife Area, Type C (Solano County);

Eel River Wildlife Area, Type C (Humboldt County);

Elk River Wildlife Area, Type C (Humboldt County);

Fay Slough Wildlife Area, Type C (Humboldt County);

Feather River Wildlife Area, including the Abbot Lake, Lake of the Woods, Marysville, Morse Road, Nelson Slough, O'Connor Lakes, Shanghai Bend, and Star Bend management units. Type C (Yuba and Sutter counties);

Fremont Weir Wildlife Area, Type C (Sutter and Yolo counties);

Gray Lodge Wildlife Area, including the west side and east side units, Type A (Butte County);

Grizzly Island Wildlife Area, including the Type A Crescent, Joice Island, and Grizzly Island management units, the Type B Gold Hills, Goodyear Slough, West Family, and Island Slough management units, the Type C Grey Goose Management Unit, and the Garibaldi, and Montezuma Slough management units (Solano County);

Hallelujah Junction Wildlife Area, Type C (Lassen and Sierra counties);

Heenan Lake Wildlife Area, Type C (Alpine County);

Hollenbeck Canyon Wildlife Area, Type C (San Diego County);

Honey Lake Wildlife Area, including the Dakin and Fleming units, Type B (Lassen County);

Hope Valley Wildlife Area, Type C (Alpine County);

Horseshoe Ranch Wildlife Area, Type C (Siskiyou County);

Imperial Wildlife Area, including the Type A Wister Unit and the Type C Finney Ramer Unit (Imperial County);

Indian Valley Wildlife Area, Type C (Lake County);

Kinsman Flat Wildlife Area, Type C (Madera County);

Knoxville Wildlife Area, Type C (Napa and Yolo counties)

Laguna Wildlife Area, Type C (Sonoma County);

Lake Berryessa Wildlife Area, Type C (Napa County);

Lake Earl Wildlife Area, Type C (Del Norte County);

Lake Earl Project Area, Type C (Del Norte County);

Lake Sonoma Wildlife Area, Type C (Sonoma County);

Little Panoche Reservoir Wildlife Area, Type C (Fresno County);

Los Banos Wildlife Area, Type A (Merced County);

Lower Sherman Island Wildlife Area, Type C (Sacramento County);

Mad River Slough Wildlife Area, Type C (Humboldt County);

Mendota Wildlife Area, Type A (Fresno County);

Miner Slough Wildlife Area, Type C (Solano County);

Morro Bay Wildlife Area, Type C (San Luis Obispo County);

Moss Landing Wildlife Area, Type C (Monterey County);

Mouth of Cottonwood Creek Wildlife Area, Type C (Shasta County);

Napa–Sonoma Marshes Wildlife Area, including the American Canyon, Coon Island, Dutchman Slough, Huichica Creek, Napa River, Ringstrom Bay, Sonoma Creek, Tolay Creek, and Wingo management units, Type C, and Green Island, Southern Crossing, and White Slough Management Units (Napa, Solano, and Sonoma counties);

North Grasslands Wildlife Area, including China Island, Gadwall, and Salt Slough units, Type A (Merced and Stanislaus counties);

O'Neill Forebay Wildlife Area, Type C (Merced County);

Oroville Wildlife Area, Type C (Butte County);

Petaluma Marshes Wildlife Area, including the Black John Slough, Burdell, and Petaluma River management units, Type C, and Bahia, Day Island, Green Point, Novato Creek, Point Sonoma, and Rush Creek management units (Marin and Sonoma counties);

Point Edith Wildlife Area, Type C (Contra Costa County);

Putah Creek Wildlife Area, Type C (Solano County);

Rector Reservoir Wildlife Area, Type C (Napa County);

Red Lake Wildlife Area (Alpine County) (Type C);

Rhode Island Wildlife Area, Type C (Contra Costa County);

Sacramento Bypass Wildlife Area, Type C (Yolo County);

Sacramento River National Wildlife Refuge, Type C (Tehama, Butte, and Glenn Counties);

Sacramento River Wildlife Area, Type C (Glenn, Butte, and Colusa counties);

San Felipe Valley Wildlife Area, Type C (San Diego County);

San Jacinto Wildlife Area, including the Davis Road Unit, and the Potrero Unit, Type A (Riverside County);

San Luis Obispo Wildlife Area, daily range fees are required (San Luis Obispo County);

San Luis Reservoir Wildlife Area, Type C (Merced and Santa Clara counties);

San Pablo Bay Wildlife Area, Type C (Marin and Sonoma counties);

Santa Rosa Wildlife Area, Type C (Riverside County);

Shasta Valley Wildlife Area, Type B (Siskiyou County);

South Spit Wildlife Area, Type C, Humboldt County;

Spenceville Wildlife Area, Type C (Nevada and Yuba counties);

Surprise Valley Wildlife Area, Type C (Modoc County);

Sutter Bypass Wildlife Area, Type C (Colusa and Sutter counties);

Tehama Wildlife Area, Type C (Tehama County);

Truckee River Wildlife Area, including the Boca, Polaris, Union Ice, and West River management units, Type C (Placer and Nevada counties);

Upper Butte Basin Wildlife Area, including the Howard Slough, Little Dry Creek, and Llano Seco units, Type A (Butte and Glenn counties);

Volta Wildlife Area, Type A (Merced County);

West Hilmar Wildlife Area, Type C (Merced County);

White Slough Wildlife Area, Type C (San Joaquin County);

Willow Creek Wildlife Area, Type B (Lassen County);

Yolo Bypass Wildlife Area, Type A (Yolo County).

REGION 1

(1) Ash Creek Wildlife Area

(A) Hunt Days: Waterfowl, coots, moorhens, pheasants, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Doves: Daily during the September dove season and on waterfowl hunt days during the late dove season.

(B) Authorized Species: Waterfowl, coots, moorhens, doves, pheasants, and snipe. Pronghorn antelope may be taken during apprentice hunts only.

(C) Camping and Trailers: Allowed.

(D) Special Restrictions: Designated portions may be closed to public entry from March 1 through August 15. No person shall enter or leave the wildlife area except at designated entry points. All dogs must be on a leash from March 1 to August 15.

(2) Bass Hill Wildlife Area

(A) Hunt Days: Daily during seasons for authorized species, except for Special Restrictions listed below.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: The Egan Management Unit of Bass Hill Wildlife Area shall be open to the use of shotguns, archery equipment, or muzzle-loading weapons, only, for all hunting seasons.

(3) Battle Creek Wildlife Area

(A) Special Restrictions: Public entry is allowed from 6:00 a.m. to 10:00 p.m. Dog field trials, dog training, horseback riding and bicycles are prohibited. Dogs must be on leash and under direct owner control.

(B) Hunting and possession of firearms and archery equipment is prohibited.

(4) Big Lagoon Wildlife Area

(A) Special Restrictions: Motorized boats are restricted to 5 mph or less.

(5) Butte Valley Wildlife Area

(A) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during the waterfowl season. Pheasants: Sundays only during the pheasant season. Doves: Daily during the September dove season and on waterfowl hunt days during the late dove season.

(B) Authorized Species: Waterfowl, coots, moorhens, snipe, pheasants, and doves. Pronghorn antelope may be taken during apprentice hunts only.

(C) Camping and Trailers: Allowed.

(D) Special Restrictions: Boats with motors are prohibited. Boating and other water-related sports are prohibited from March 1 to September 1. No person shall enter or leave the area except at designated entry points. The area is open to public use only from two hours before sunrise to one hour after sunset. Dogs must be on a leash from March 1 to August 15.

(6) Eel River Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily, during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coot, snipe, and pheasant.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Dogs must be on a leash from March 1 through August 15. Designated portions of the Eel River Wildlife Area may be closed to vehicle entry from March 1 through September 15. Use of all terrain vehicles is prohibited all year with the exception of commercial anglers who may utilize the wave-slope for fishing access. Cannibal Island Unit of Eel River Wildlife Area closed to all public use from the Monday following youth hunting days (Subsection 502(e)(1)(B)(5)) until April 1.

(7) Elk River Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coot, and snipe.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Dogs must be on a leash from March 1 through August 15. Closed to all public use from the Monday following youth hunting days (Subsection 502(e)(1)(B)(5)) until April 1.

(8) Fay Slough Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coot, and snipe.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Dogs must be on a leash from March 1 through August 15. Closed to all public use from the Monday following youth hunting days (Subsection 502(e)(1)(B)(5)) until April 1.

(9) Honey Lake Wildlife Area. (Fleming and Dakin Units)

(A) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasants: Waterfowl hunt days during the pheasant season. Quail and rabbits: Waterfowl hunt days that occur during the pheasant season. Doves: Daily during the September dove season and on waterfowl hunt days during the late dove season.

(B) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, quail, doves, and rabbits.

(C) Camping and Trailers: Allowed.

(D) Special Restrictions: Designated portions of the wildlife area may be closed to all public entry from March 1 through August 15. No person shall enter or leave the area except at designated entry points. Dogs must be on a leash from March 1 to August 15.

(10) Horseshoe Ranch Wildlife Area

(A) Method of Take Restrictions: All authorized methods of take except during the spring turkey season when only shotguns and archery equipment are permitted.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping: Camping allowed.

(11) Lake Earl Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, snipe, and moorhens.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Possession and use of authorized firearms and archery equipment is permitted only within the first 100 feet of land along the shoreline and on the water surface of Lake Earl and Lake Talawa during the regular open waterfowl season. Boats are allowed, but motors are prohibited during the waterfowl season. Dogs are allowed only for hunting during open season for authorized species. Bush Creek public access is closed to all public use from the Monday following youth hunting days (Subsection 502(e)(1)(B)(5)) until April 1.

(12) Lake Earl Project Area (Lands administered by the Department of Parks and Recreation)

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Entry for hunting purposes is allowed only from the public access sites on Kellogg Road and Pala Road.

(13) Mad River Slough Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coot, and snipe.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Dogs are allowed only for hunting during open season for authorized species. Closed to all public use from the Monday following youth hunting days (Subsection 502(e)(1)(B)(5)) until April 1.

(14) Mouth of Cottonwood Creek Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Public entry is allowed from one hour before sunrise to one hour after sunset. Dog field trials, dog training, horseback riding, and bicycles are prohibited. Dogs must be on a leash from March 1 through August 15.

(15) Shasta Valley Wildlife Area

(A) Hunt Days: Waterfowl, snipe, coots, and moorhens: Saturdays, Sundays, and Wednesdays during open seasons. Pheasants: Sundays only during the pheasant season. Quail: Waterfowl hunt days only during waterfowl season. Doves: Daily during the September dove season and on waterfowl hunt days during the late dove season. Snipe: waterfowl hunt days only during waterfowl season.

(B) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, quail, and doves.

(C) Camping and Trailers: Allowed.

(D) Special Restrictions: Only individuals possessing a "Type A" or Type "B" season pass and their guests (nonhunting guests and junior hunters) may enter Shasta Valley Wildlife Area on Wednesday, Saturdays, and Sundays during the waterfowl season. No person shall enter or leave the wildlife area except at designated entry points. Only electric boat motors are allowed. Dogs must be on a leash from February 1 to August 15. Pheasant hunters must have special permits obtained at the checking station.

(16) South Spit Wildlife Area

(A) Method of Take Restrictions: No rifles, pistols, or archery equipment may be used or possessed.

(B) Hunt Days: Daily, during open seasons for authorized species.

(C) Authorized species: Waterfowl, coot, and snipe.

(D) Camping: Not allowed.

(E) Day Use Only. Public entry from one hour before sunrise until one hour after sunset. Open hours will be extended during the waterfowl hunting season for black brant only.

(F) Special Restrictions: Dogs must be on a leash from March 1 to September 15 on the west side of South Jetty Road. Vehicle use on designated access roads, corridors, and waveslope only. Use of all- terrain vehicles is permitted on west side of South Jetty Road on designated access corridors and waveslope only. Firewood cutting is allowed by permit from September 16 to February 28. Equestrian use is permitted on the west side of South Jetty Road.

(17) Surprise Valley Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Allowed in south parking area, except during the period April 1 to August 15.

(18) Tehama Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species, except for Special Restrictions listed below.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Allowed.

(D) Special Restrictions:

1. No person shall enter that portion of Tehama Wildlife Area lying south of Antelope Creek during the period beginning on the first Monday in December through the last Friday in March except with the prior written permission of the regional manager.

2. During the Zone G-1 deer season only persons with department issued entry permits may enter the Tehama Wildlife Area.

3. Pig hunting is restricted to persons who have been issued a Tehama Wildlife Area Pig Hunt Permit.

4. Dogs may not be used to hunt wild pigs.

(19) Willow Creek Wildlife Area

(A) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species.

(B) Authorized Species: Waterfowl, snipe, coots, and moorhens.

(C) Camping and Trailers: Not allowed.

REGION 2

(20) Antelope Valley Wildlife Area

(A) Hunt Days: Daily from July 1 through January 31 during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Trailers are not allowed. Camping is allowed only from May 1 through October 31.

(D) Special Restrictions: Hunting is allowed only from July 1 through January 31.

(21) Cache Creek Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Trailers are not allowed. Primitive camping is allowed on all units of the Cache Creek Wildlife Area, except that no camping is allowed within one-quarter mile of designated parking areas.

(D) Special Restrictions: Use of dogs is restricted (see Section 265, Title 14, CCR). Dogs are not allowed for pig hunting at any time of year. Horses and bicycles are allowed within the Harley Gulch Unit of the wildlife area only from the third Saturday in April through the third Saturday in November.

(22) Clifton Court Forebay

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species.

(C) Entry Permit: Self-registration is required.

(D) Authorized Species: Waterfowl, coots, and moorhens.

(E) Camping and Trailers: Not allowed.

(23) Collins Eddy Wildlife Area

(A) Method of Take Restrictions: No rifles, pistols, or archery equipment may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots , moorhens, and all upland game.

(D) Camping and Trailers: Not allowed.

(24) Colusa Bypass Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(25) Daugherty Hill Wildlife Area

(A) Method of Take Restrictions: During the spring turkey season, only shotguns and archery equipment, and air rifles firing pellets and powered by compressed air or gas (0.20 caliber minimum for taking wild turkey), may be used in designated areas.

(B) Hunt Days: Daily from July 1 through January 31 during open seasons for authorized species and during the spring turkey season.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Camping not allowed. Overnight parking with trailers allowed in designated parking lots.

(E) Special Restrictions: Entry permit, issued by special drawing, is required for the first nine days of the spring turkey season. Hunting is allowed only from July 1 through January 31 and during the spring turkey season, when only turkeys may be hunted. Dogs are allowed with a licensed hunter only while hunting. Horses and bicycles are allowed only

from May 10 to September 15 on the Daugherty Hill Unit of the Daugherty Hill wildlife area only.

(26) Feather River Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily from July 1 though January 31 during open seasons for authorized species and during the spring turkey season.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: No person shall enter that portion of the O'Connor Lakes Management Unit marked as closed to entry from March 1 through June 30 without special authorization of the department. Hunting is allowed only from July 1 to January 31 and during the spring turkey season, when only turkeys may be hunted. The Shanghai Bend Unit is closed to hunting.

(27) Fremont Weir Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Hunting is allowed daily from July 1 through January 31 for authorized species, and during the spring turkey season, when only turkeys may be taken.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(28) Gray Lodge Wildlife Area

(A) Ammunition Restrictions: A hunter shall not possess more than 25 shotgun shells while in the field during the waterfowl season.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasant: Every day during the first nine days of the pheasant season. Thereafter, during the regular pheasant season, pheasant hunting will be allowed only on Saturdays, Sundays, and Wednesdays. Doves: Daily during the September dove season and only on waterfowl or pheasant hunt days during the late dove season. Quail and rabbits: Only on pheasant hunt days. Deer: Only during the Gray Lodge Deer Hunt under special permit issued by drawing.

(C) Day Use Pass Requirement for Public Access: In addition to a daily entry permit required for hunting during the waterfowl and pheasant seasons, a day use pass or valid annual pass is required of all users except for users that possess a valid California sport fishing license, hunting license, or trapping license, or users that are under 16 years of age, or users that are part of an organized youth or school group, having free permits issued by the appropriate regional office.

(D) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, doves, quail, rabbits, and deer (special hunt only).

(E) Camping and Trailers: Allowed only during the waterfowl season. Trailers may be placed no sooner than one week before the beginning of waterfowl season on the area and must be removed no later than one week after the close of waterfowl season on the area. All campers, defined as shell or shelter made to be mounted on a pickup truck, must remain attached to a registered vehicle when on the area. All trailers must be registered at the checking station within one week of placement.

(F) Special Restrictions: Closed to all non–hunting uses from two weeks before waterfowl season on the area to one week after waterfowl season on the area, except for the designated wildlife viewing area(s) which is (are) open on most days during the entire year. Dove hunting is allowed only in designated portions of the wildlife area. Public entry is allowed only from sunrise to sunset, except by written permission. Horses are restricted to roads only on the east side of the area and are allowed only during July and August. Hunting with falcons is restricted to the east side of this area.

(29) Hallelujah Junction Wildlife Area

(A) Hunt Days: Daily from July 1 through January 31 during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: Hunting is allowed only from July 1 through January 31 during open seasons for authorized species. Horses and bicycles are prohibited. Dogs are allowed for hunting only. The area is closed to public entry from February 1 through June 30. No person shall enter or leave the wildlife area between May 1 and January 31 except at the designated entry point adjacent to Highway 395.

(30) Heenan Lake Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: Boats are not allowed unless participating in the controlled entry fishing opportunity.

(31) Hope Valley Wildlife Area

(A) Hunt Days: Daily from the opening of archery deer season through January 31 during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Backpack camping east of Highway 89 only. No open fires allowed.

(D) Special Restrictions: Hunting is allowed only from the opening of archery deer season through January 31.

(32) Indian Valley Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Camping allowed, but trailers are prohibited.

(D) Special Restrictions: Use of dogs restricted (see Section 265).

(33) Oroville Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed, except at the designated target practice area.

(B) Hunt Days: Daily from September 1 through January 31 during open seasons for authorized species and during the spring turkey season.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Allowed in designated campsites. Erecting a shelter or parking a vehicle equipped with sleeping accommodations in a designated campsite is considered camping and shall be subject to camping restrictions provided in Subsection 550(b)(12).

(E) Special Restrictions: All legal firearms and archery equipment may be possessed and discharged at the target practice area, which is open all year. Only paper and clay targets may be used and must be removed by the user when leaving the area. Use of the target practice area is permitted only from sunrise to sunset. Entry permits issued by special drawing are required for turkey hunting, which is allowed only during the spring turkey season. Hunting is allowed only from September 1 through January 31 and during the spring turkey season, when only turkeys may be hunted. Fires are allowed only in portable gas stoves at sites designated for camping by the department. Dog training is allowed only in designated areas and only from July 1 through March 15. Horses are restricted to roads open to vehicles and within 25 feet of exterior boundary fences. Bicycles and horse drawn carriages are restricted to roads open to vehicles. No off–highway vehicles are allowed at any time. On the south portion of the Thermalito Afterbay Unit (those portions of the Afterbay water surface south of Highway 162), motorized boat speeds may exceed 5mph; all other portions of the wildlife area are subject to the 5mph speed limit for motorized boats. Public entry is allowed only from one hour before sunrise to one hour after sunset, except during the waterfowl season when entry is allowed from one and one half hours before sunrise to one hour after sunset. The area is closed to all public uses from one hour after sunset until the legal entry time the following morning, except for the designated camping area(s), which are open 24 hours.

(34) Putah Creek Wildlife Area

(A) Hunt Days: Daily from the opening of deer season through January 31 during open seasons for authorized species.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: Hunting is allowed only from the opening of the deer season through January 31.

(35) Red Lake Wildlife Area

(A) Hunt Days: During open seasons for authorized species from September 1 through January 31 and during archery deer season.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Not allowed.

(36) Sacramento Bypass Wildlife Area

(A) Method of Take Restrictions: No rifles, pistols, or archery equipment may be used or possessed. Shot shells only. No buckshot or slugs.

(B) Hunt Days: Daily from September 1 through January 31 during open seasons for authorized species.

(C) Authorized Species: All legal species, except big game species.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Hunting is allowed only from September 1 through January 31.

(37) Sacramento River National Wildlife Refuge, including the La Barranca Unit, Blackberry Island Unit, Mooney Unit, Ohm Unit, Flynn Unit, Heron Island Unit, and Rio Vista Unit (Tehama Co.); Pine Creek Unit, Dead Man's Reach Unit, North Llano Seco Island 1 & 2 Units, and Llano Seco Riparian Sanctuary Unit (Butte Co.); and McIntosh Landing North and South Units, Capay Unit, Phelan Island Unit, Jacinto Unit, Ord Unit, Ord Bend Unit, South Ord Unit, Hartley Island Unit, Sul Norte Unit, Codora Unit, Packer Unit, Head Lama Unit, North Drumheller Slough Unit, and Drumheller Slough Unit (Glenn Co.).

(A) Method of Take Restrictions: Shotgun and archery only. Ammunition is restricted to only Federally approved nontoxic shot while in the field (see § 32.2(k) of the CFR) except for shotgun slugs when hunting deer. No rifles, crossbows, air guns, or pistols may be used or possessed (see species specific restrictions below). Falconry is prohibited. Target shooting is prohibited.

(B) Hunt Days: Daily during open seasons for authorized species (see authorized species below).

(C) Units open to hunting of authorized species include: La Barranca, Mooney (no waterfowl hunting), Heron Island, Rio Vista, Pine Creek, Capay, Phelan Island, Jacinto, South Ord, Llano Seco Islands 1 & 2, and Sul Norte. Refer to Refuge maps and signs for areas open to hunting. All other areas and species are closed to hunting. Commercial guiding is prohibited.

(D) Migratory Game Bird Hunting. Hunting is allowed for goose, duck, coot, moorhen, dove, and snipe on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Shotgun hunting only.

2. On Sul Norte Unit, firearms must be unloaded (see § 27.42(b) of the CFR) before transporting them between parking areas and hunting areas. "Unloaded" means that no ammunition is in the chamber or magazine of the firearm.

3. Waterfowl hunting is not allowed on the Mooney Unit.

4. Ammunition is restricted to only Federally approved nontoxic shot while in the field (see § 32.2(k) of the CFR).

5. Hunting is prohibited within 50 feet (15 m) of any landward boundary adjacent to private property.

6. Hunting is prohibited within 150 yards (135 m) of any occupied dwelling, house, residence, or other building or any barn or other outbuilding used in connection therewith.

7. All units open to public hunting are boat accessible only, except on the Sul Norte Unit, access to the hunt area is by foot traffic or boat only. Bicycles or other conveyances are prohibited. Mobility impaired hunters should consult with the refuge manager for allowed conveyances.

8. Fires on the refuge are prohibited, except for portable gas stoves on gravel bars (see § 27.95(a) of the CFR).

9. Camping is allowed on gravel bars up to 7 days during any 30–day period. Camping on all other refuge lands is prohibited.

10. The refuge is open for day–use access from 1 1/2 hour before legal shoot time until 1 1/2 hour after legal sunset. Access during other hours is allowed on gravel bars only (see condition A8).

11. Dogs must be kept on a leash, except for hunting dogs engaged in authorized hunting activities, and under the immediate control of a licensed hunter or dog handler (see § 26.21(b) of the CFR).

12. Permanent blinds are prohibited. All personal property, including decoys and boats must be removed by 1 1/2 hour after legal sunset (see §§ 27.93 and 27.94 of the CFR).

13. Cutting or removal of vegetation for blind construction or for making trails is prohibited (see § 27.51 of the CFR).

(E) Upland Game Hunting. Hunting is allowed for pheasant, turkey, and quail on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Shotgun and archery hunting only.

2. Conditions D2 through D12 apply.

(F) Big Game Hunting. Hunting is allowed for black–tailed/mule deer on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions D2, D4 through D12, and E1 apply.

2. Construction or use of permanent blinds, platforms, ladders or screw–in foot pegs is prohibited.

3. All personal property, including stands, must be removed from the refuge by 1 1/2 hour after legal sunset (see §§ 27.93 and 27.94 of the CFR).

4. Shotgun, firing single shotgun slugs, and archery hunting only. No rifles, air guns, or pistols may be used or possessed on the Refuge.

(G) Sport Fishing. Sport fishing is allowed on designated areas of the refuge in accordance with State regulations subject to the following conditions:

1. Conditions D7, D8, D9, and D12 apply.

2. On Packer Lake, due to primitive access, only boats up to 14 feet (4.2 m) and canoes are allowed. Electric motors only.

(38) Sacramento River Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily from July 1 through January 31, and during the spring turkey season.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(E) Vehicles are prohibited.

(F) Horses and horseback riding are prohibited.

(G) Special Access Restrictions: Boat–in Only Access Units: Colusa South, Colusa North, Moulton South, Moulton North, Stegeman, Princeton South, Beehive Bend, Oxbow, Jacinto, Ord Bend, Shannon Slough, Pine Creek North, Wilson Landing, Dicus Slough, Merrills Landing. Walk–In or Boat–In Access Units: Princeton Southeast, Princeton East, Princeton North, Site 21, Pine Creek West, Pine Creek East.

(39) Spenceville Wildlife Area

(A) Hunt Days: Daily from September 1 through January 31 during open seasons for authorized species and during the spring turkey season.

(B) Authorized Species: All legal species.

(C) Camping and Trailers: Allowed in designated campsites during the period September 1 through the end of the spring turkey season.

(D) Special Restrictions: Pursuant to the provisions of subsection 550(b), an entry permit, issued by special drawing, is required for the first nine days of the spring turkey season. During the first nine days of the spring turkey season, the wildlife area is closed to all public entry, except those individuals possessing a special permit issued by the department. Hunting is allowed only from September 1 through January 31, and during the spring turkey season, when only turkeys may be hunted. Horseback riding and bicycle riding shall be restricted to designated trails and roads, and dog training shall be restricted to designated areas. During the period from March 16 through June 30, dog training shall be prohibited. Fires are allowed only in portable gas stoves at sites designated for camping by the department. All legal firearms and archery equipment may be possessed and discharged at the designated target practice area, which is open all year. Only paper and clay targets will be allowed at the designated target practice area and must be removed prior to leaving the desig-

nated area. Use of the target practice area is permitted only from sunrise to sunset. The posted area surrounding the Spenceville Mine will be closed to public entry all year. For additional information about the closure, call (916) 358–2900.

(40) Sutter Bypass Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Those portions of the east and west levees of the Sutter Bypass Wildlife Area, adjacent to the Sutter National Wildlife Refuge (SNWR), shall be closed to the pursuit and take of waterfowl (ducks, geese, coots, moorhens). The west levee of the Sutter Bypass Wildlife Area shall be closed from the northern boundary of the Sutter National Wildlife Refuge (SNWR) south to Oswald/Hughes road; the east levee shall be closed from the northern boundary of the SNWR south to the SNWR checking station parking lot. An additional closure to all hunting applies to the east levee from the SNWR parking lot south to the southern boundary of the SNWR, pursuant to Section 625, Title 14, CCR. All other portions of the Sutter Bypass Wildlife Area will continue to remain open for hunting, fishing and other recreation as outlined in Section 550, 551 and 625, Title 14, CCR.

(41) Truckee River Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(42) Upper Butte Basin Wildlife Area

(A) Ammunition Restrictions: A hunter shall not possess more than 25 shotgun shells while in the field during the waterfowl season.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open season during waterfowl season. Pheasant: Every day during the first five days of the season, and on waterfowl hunt days during the remainder of the pheasant season. Doves and rabbits: Daily during the September dove season, and on waterfowl or pheasant hunt days during the late dove season. Deer: Only during the Little Dry Creek Apprentice Deer Hunt under special permit issued by drawing.

(C) Authorized Species: Waterfowl, coots, moorhens, snipe, dove, pheasants, and rabbits.

(D) Camping: Overnight Camping, including trailers and motor homes, shall be permitted only in checking station parking lots.

(E) Special Restrictions: Closed to all non–hunting uses from two weeks before waterfowl season to one week after waterfowl season. Public entry is allowed only from sunrise to sunset, except by written permission. Horses are prohibited. Dogs are allowed for hunting only. Within the assigned blind areas at the Upper Butte Basin Wildlife Area units, hunters must hunt from assigned blinds, except to retrieve downed birds.

(F) Special Junior Waterfowl Hunts in Zone 7 of the Howard Slough Unit: Special junior waterfowl hunts will be conducted on Wednesdays and Saturdays of the waterfowl season in Zone 7 of the Howard Slough Unit commencing on the first Saturday after December 15. These hunts will commence at legal shooting time and close at 12:00 noon. A junior hunter must be accompanied by one adult hunter. Not more than one adult hunter and two junior hunters may occupy each blind. Hunters must remain in their blinds except to retrieve downed birds. All hunters must return to the Zone 7 parking lot by 1:00 p.m. Hunters will be selected from the Howard Slough reservation line. Hunters may be selected from the first–come first–served line after the Howard Slough reservation line is depleted.

(G) Bicycles: Not allowed during waterfowl season.

(H) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

REGION 3

(43) Decker Island Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(44) Grizzly Island Wildlife Area

(A) Ammunition Restrictions: Shotguns may only be used with steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service, and not more than 25 shot shells may be possessed while in the field during the waterfowl season.

(B) Hunt Days: Crescent and Grizzly Island Units: Waterfowl, coots, and moorhens: Saturdays, Sundays, and Wednesdays during open seasons. Snipe: Snipe may be taken on waterfowl and pheasant hunt days. Pheasants: Each day during the first 12 days of the general pheasant season, and only on Saturdays, Sundays, and Wednesdays during the remainder of the pheasant season. Rabbits and doves: Rabbit hunting is allowed daily in July and on pheasant hunt days. Dove hunting is allowed daily during the season in September after the close of the Grizzly Island tule elk hunt and on pheasant hunt days during the late dove season. Joice Island Unit: Waterfowl, coots, moorhens, and snipe: Sundays only when the department determines that the fall flight forecast and/or waterfowl numbers in the Suisun Marsh warrant its opening. Goodyear Slough, Gold Hills, and West Family units: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Island Slough and Grey Goose Units: Waterfowl, coots, moorhens, snipe, and pheasants: Saturdays, Sundays, and Wednesdays during open seasons. Garibaldi and Montezuma Slough units: No hunting allowed.

(C) Day Use Pass Requirement for Public Access: For the Grizzly Island Unit, in addition to a daily entry permit required for hunting during the waterfowl and pheasant seasons, a day use pass or annual pass is required of all users except for users that possess a valid California sport fishing license, hunting license, or trapping license, or users that are under 16 years of age, or users that are part of an organized youth or school group, having free permits issued by the appropriate regional office.

(D) Authorized Species: Grizzly Island Unit: Waterfowl, snipe, coots, moorhens, elk, rabbits, doves, and pheasants. Crescent, Grey Goose, and Island Slough units: Waterfowl, snipe, coots, moorhens, rabbits, and pheasants. Gold Hills, Goodyear Slough, Joice Island, and West Family units: Waterfowl, snipe, coots, and moorhens.

(E) Camping and Trailers: Not allowed except with prior written permission of the area manager during the tule elk hunting season.

(F) Special Restrictions: On all units of Grizzly Island Wildlife Area public entry is only allowed from sunrise to sunset except by written permission. Garibaldi Unit: Closed to public use except with prior written permission from the area manager. Grizzly Island Unit: Closed to uses other than hunting from the last Monday in July through the end of the Grizzly Island tule elk hunting season and from October 1 through the end of the waterfowl season. No dogs allowed from March 1 to June 30. Dogs allowed during July. No dogs allowed in August and during the tule elk hunt season in September. Dogs allowed in September after the tule elk hunting season to September 30. No dogs during October through the close of waterfowl season except as follows: hunters with daily permits issued at the hunter checking station may only use dogs during the waterfowl and pheasant hunting season; no sight–hounds or coursing dogs allowed. Dogs allowed in February after the close of waterfowl season. Gold Hills, Goodyear Slough, Gray Goose, Island Slough, Crescent and West Family units: Closed from October 1 through the end of the general waterfowl season to uses other than hunting. Gold Hills, Goodyear Slough, Grey Goose, Island Slough, and West Family Units: Closed to all public use except with prior written permission from the area manager from the end of the waterfowl season to September 30. Island Slough and Montezuma Slough Units: Fishing access along Montezuma Slough is open all year, no hour restrictions. Joice Island Unit: Closed to public use except when permits are issued for waterfowl hunting, or with prior writ-

ten permission of the area manager and during the special season open to fishing from mid–May to mid–August (contact area Headquarters for details). On all units, horses are allowed only under permit and only during organized dog field trials. On all units, fires are restricted to portable gas stoves throughout the year and are to be used only in parking areas and designated sites. The use of boats for access on all management units of the Grizzly Island Wildlife Area, except the Grey Goose Unit and Goodyear Slough Unit to the south of Lake Herman Road and east of the eastern most railroad tracks, is prohibited. Access to these two areas is by boat only. No foot access. This shall not prohibit launching of boats at the Montezuma Slough unit for access to Montezuma Slough. Boats less than eight feet in length may be used to transport decoys and/or blind materials. Use of all terrain vehicles (ATV's) is prohibited on all units of the Grizzly Island Wildlife Area.

(45) Knoxville Wildlife Area

(A) Special Restrictions: Camping allowed in designated areas. Primitive camping is allowed beyond one–quarter mile of designated parking areas.

(46) Laguna Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Camping and Trailers: Not allowed.

(C) Special Restrictions: Waterfowl hunting only. Horseback riding is not allowed. Dogs are not allowed from March 2 through June 30. Campfires are prohibited. Permanent blinds are prohibited.

(D) Areas Open to Hunting: Wetlands within the Laguna de Santa Rosa, lying between Guerneville Road on the north and Occidental Road on the south.

(47) Lake Berryessa Wildlife Area.

(A) Method of Take Restrictions: As authorized during special hunts.

(B) Hunt Days: As authorized for special hunts.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: Campfires are prohibited. Dogs are not allowed between February 15 and July 15.

(48) Lake Sonoma Wildlife Area

(A) Method of Take Restrictions: As authorized during special hunts.

(B) Hunt Days: As authorized for special hunts.

(C) Entry Permit: Entry permit, issued by special drawing, is required. (See subsection 360(c) for deer hunt information.)

(D) Daily Hunter Capacity: As authorized for special hunts.

(E) Authorized Species: Deer, wild pigs, and turkeys.

(F) Camping and Trailers: Allowed in Army Corps of Engineers designated campgrounds only.

(G) Special Restrictions: No person, except by special authorization of the department, shall enter that portion of the Lake Sonoma Wildlife Area marked by signs as "Critical Habitat" during the period of February 1 through August 1. Dogs are not allowed.

(49) Lower Sherman Island Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, moorhens, pheasants, doves, and rabbits.

(D) Camping: Not allowed.

(E) Special Restrictions: The Regional Manager may determine whether decoys may be left in the field.

(50) Miner Slough Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl.

(D) Camping and Trailers: Not allowed.

(51) Napa–Sonoma Marshes Wildlife Area

(A) *Method of Take Restrictions: No rifles or pistols* may be used or possessed.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species, except that doves and rabbits may be hunted daily during the September dove season.

(C) Authorized Species: Waterfowl, coots, moorhens, snipe, rabbits, quail, pheasants, and doves.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: White Slough Unit: Closed to all hunting and firearms and archery equipment use. American Canyon Unit: Closed to all hunting and firearms and archery equipment use south of the PG&E power lines. Green Island Unit and Southern Crossing Unit: Closed to the public until restoration activities are near completion. Tolay Creek Unit: Only steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service may be used or possessed south of Highway 37. All units: Dogs are not allowed from March 2 through June 30 and must be on a leash at all other times except as follows: holders of a valid hunting license may use dogs during hunting seasons. Campfires are prohibited. Permanent blinds are prohibited.

(52) Petaluma Marsh Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, moorhens, and rabbits.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Bahia, Day Island, Green Point, Novato Creek, Point Sonoma, and Rush Creek Units: Closed to hunting and firearms and archery equipment use. Dogs must be on a leash at all times. All units: Dogs are not allowed from March 2 through June 30.

(53) Point Edith Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Camping and Trailers: Not allowed.

(54) Rector Reservoir Wildlife Area

(A) Authorized Species: All legal species.

(B) Hunt Days: Daily during open seasons for authorized species from the opening of archery deer season through the last day of spring turkey season.

(C) Camping and Trailers: Not allowed.

(D) Special Restrictions: Campfires are prohibited.

(55) Rhode Island Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open season for authorized species.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Camping: Not allowed.

(56) San Pablo Bay Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Blinds: Shall be available on first–come, first–served basis.

(57) White Slough Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Waterfowl, pheasants, quail, and doves.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Possession and use of firearms or other propulsive device is prohibited in that portion of White Slough Wildlife Area designated as Pond 9. Horses are not allowed on the wildlife area. Hunting is allowed only from September 1 through January 31.

(58) Yolo Bypass Wildlife Area

(A) Ammunition Restrictions: A hunter shall not possess more than 25 shotgun shells while in the field during the waterfowl season.

(B) Hunt Days: Waterfowl, coots, moorhens and snipe: Saturdays, Sundays and Wednesday during waterfowl seasons. Pheasants: Each day during the first nine days of the general pheasant season, and only Saturdays, Sundays, and Wednesdays, during the remainder of the pheasant season. Doves: Daily during the September dove season and on waterfowl hunt days during the late dove season.

(C) Authorized Species: Waterfowl, coots, moorhens, snipe, mourning dove, and pheasant.

(D) Camping and Trailers: Overnight parking of trailers and motor homes is not allowed.

(E) Special Restrictions: Closed to all non–hunting uses from two weeks before waterfowl season to one week after waterfowl season, except areas designated for wildlife viewing purposes which are open on most days during the entire year. Public entry is allowed only from sunrise to sunset, except by written permission. Horses are not allowed. Bicycles are restricted to designated areas only. No boats or flotation devices allowed. The Yolo Bypass Wildlife Area is subject to immediate closure due to flooding in the Yolo Bypass. Within the assigned blind area, hunters must hunt from their assigned blinds, except to retrieve downed birds. Pheasant hunting is not permitted in the assigned blind areas. Hunters may not access the free–roam area north of the northeast unit from parking lot H. Hunters may enter or exit the area only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or equipment is prohibited. Falconry hunting is allowed in designated areas.

REGION 4

(59) Big Sandy Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(60) Cottonwood Creek Wildlife Area

(A) Lower Cottonwood Creek Unit.

1. Method of Take Restrictions: Limited to shotguns and archery equipment. No rifles or pistols may be used or possessed. Archery equipment only may be used from the start of the Zone A archery deer season until the start of Zone A general deer season.

2. Hunt Days: Daily from opening of Zone A archery deer season through the last Sunday in January during open seasons for authorized species.

3. Authorized Species: All legal species.

4. Camping and Trailers: Not allowed.

5. Special Restrictions: Dogs are not allowed for hunting wild pigs. Motor vehicles are not allowed beyond designated parking area. Horseback riding is not allowed. Hunting is permitted during daylight hours only. Special permit, obtained by special drawing, is required for all entry during the opening weekend of the Zone A general deer season.

(B) Upper Cottonwood Creek Unit.

1. Method of Take Restrictions: All legal firearms and archery equipment. Firearms may be used or possessed only from the opening of the general Zone A deer season through the last Sunday in January. Archery equipment only may be used from the start of the Zone A archery deer season until the start of the Zone A general deer season.

2. Hunt Days: Daily from opening of Zone A archery deer season through the last Sunday in January during open seasons for authorized species.

3. Entry Permit: Self registration required. Special permit, obtained by special drawing, is required for all entry during the opening weekend of Zone A general deer season.

4. Authorized Species: All legal species.

5. Camping and Trailers: Allowed in parking lot only.

6. Special Restrictions: Dogs are not allowed for hunting wild pigs. Motor vehicles are not allowed. Horseback riding is not allowed. Hunting is permitted during daylight hours only.

(61) Kinsman Flat Wildlife Area

(A) Method of Take Restrictions: Only shotguns and archery equipment are permitted during the spring turkey season.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(62) Little Panoche Reservoir Wildlife Area

(A) Method of Take Restrictions: Limited to shotguns and archery equipment. No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Allowed in parking lot only, except during authorized dog trials when participants may park trailers at designated locations inside the area.

(E) Boats: Boats permitted but only electric trolling motors allowed.

(F) Entry Permits: Self–registration is required at the parking area.

(G) Special Restrictions: Dogs are not allowed for hunting wild pigs. Dogs must be leashed from April 1 through June 30. Horseback riding is allowed during authorized dog trials only. Motor vehicles are allowed only in designated areas and only during authorized dog trials. Hunting is permitted during daylight hours only.

(63) Los Banos Wildlife Area

(A) Method of Take Restrictions: Limited to shotguns and archery equipment. A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season, except on days when only upland game may be taken, and on special "youth only" waterfowl hunt days when there shall be no restrictions on the number of shot shells taken into the field.

(B) Hunt Days: Waterfowl: Saturdays, Sundays, and Wednesdays during open seasons. Pheasants: Every day during the first nine days of the pheasant season and on Saturdays, Sundays, and Wednesdays during the remainder of the pheasant season and on the day following Thanksgiving. Other authorized species: Daily during open seasons during the periods July 1 through September 15, and from the beginning of waterfowl season through March 31, except that hunt days are limited to waterfowl and pheasant hunt days during the waterfowl and pheasant season. Raccoons may not be taken during the waterfowl or pheasant seasons. When the wildlife area is closed to general use, hunting will not be allowed.

(C) Entry Permits and Day Use Pass Requirement for Public Access: A daily entry permit is required to enter the area to hunt during the waterfowl and pheasant seasons. A day use pass or annual pass is required of all users except for users that possess a valid California sport fishing license, hunting license, or trapping license, or users that are under 16 years of age. Organized youth or school groups must have prior approval from the area manager before being issued free daily entry permits by the appropriate regional office. Permits may be purchased at the entrance registration booth.

(D) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, doves, raccoons, and rabbits.

(E) Camping and Trailers: Camping is allowed at the main office parking area only, and only during waterfowl and pheasant seasons and during organized events.

(F) Reservations: For Zone 6, each reservation assures entry of no more than two persons. For Zone 6J, and the Mud Slough Unit, each reservation assures entry of one adult and one junior hunter. Reservations for free roam hunting are good for up to all two adult hunters, who may be accompanied by up to two junior hunters or non–shooters. All person's entering on the same reservation will receive the same hunt assignment.

(G) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(H) Special Restrictions: Closed to all public uses from September 15 until the opening of waterfowl season. During the waterfowl and pheasant hunt seasons, the wildlife area will be closed to all public use, except for controlled hunting. However, wildlife observation may be allowed in authorized locations on Mondays, Tuesdays, Thursdays and Fridays dur-

ing waterfowl season. Dogs are not allowed in the interpretive viewing area at any time. The wildlife area may be closed to all public uses for seven days following the close of the waterfowl hunt season to allow for post season maintenance. Dogs must be on a leash from April 1 through June 30. Dog training and trials are allowed in designated areas only. Special permits are required to hunt Zone 6 and the Mud Slough Unit during the waterfowl season. When assigned blind sites, hunters shall shoot only from their assigned sites, except to retrieve downed birds. Horses are not allowed on the area. The cutting of woody stemmed plants is prohibited. Blinds may not be constructed or covered with plant material gathered from outside the wildlife area.

(64) Mendota Wildlife Area

(A) Ammunition Restrictions: A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season.

(B) Hunt Days: Waterfowl, coots, and moorhens: Saturdays, Sundays, and Wednesdays during waterfowl season. Pheasants: Every day during the first nine days of the pheasant season and only on Saturdays, Sundays, and Wednesdays during the remainder of the pheasant season and on the day following Thanksgiving. Other authorized species: Daily during open seasons from July 1 through September 15, and from the beginning of waterfowl season through March 31, except that hunt days are restricted to waterfowl and pheasant hunt days during the waterfowl and pheasant season. Raccoons may not be hunted during the waterfowl season.

(C) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, dove, rabbits, raccoons, and crows.

(D) Camping and Trailers: Allowed only at hunter checking station during waterfowl season.

(E) Special Restrictions: The wildlife area is closed to all public use from September 16, until the opening of waterfowl season, except the designated tour route and fishing site which are open all year. The wildlife area is closed to all public uses, except regulated hunting during the waterfowl and pheasant hunt seasons. The wildlife area will be closed to all public uses for several days following the close of the waterfowl hunt season to allow for post season maintenance. Dogs must be on a leash from April 1 through June 30. Horseback riding is allowed during the authorized dog trials only.

(65) Morro Bay Wildlife Area

(A) Ammunition Restrictions: Hunters shall not possess in the field more than 25 shot shells.

(B) Hunt Days: Waterfowl may be taken only from the opening day of brant season through the remainder of the waterfowl season.

(66) Moss Landing Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during open seasons for authorized species. Campfires are prohibited.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Closed to all hunting on New Years Day. The Salt Ponds are closed to hunting.

(67) North Grasslands Wildlife Area

(A) Ammunition Restrictions: A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season, except on days when only upland game may be taken, and on special "youth only" waterfowl hunt days when there shall be no restrictions on the number of shot shells taken into the field.

(B) Hunt Days: Waterfowl, coots, and moorhens: Saturdays, Sundays, and Wednesdays during waterfowl seasons. Snipe may be taken on waterfowl and pheasant hunt days. Pheasants: Every day during the first nine days of the pheasant season and thereafter on Saturdays, Sundays and Wednesdays during the remainder of the pheasant season and on the day following Thanksgiving. Dove: Opening day of the early dove season, and from the first Saturday of the early dove season through September 15, and on pheasant and waterfowl hunt days during the late dove season. Rabbits: Daily during the open season from July 1 through September 15, and from the day after waterfowl season through the end of rabbit season, and on waterfowl and pheasant hunt days. Other authorized species: Daily during open seasons from July 1 through September 15, and from the beginning of waterfowl season through March 31, except that hunt days are restricted to waterfowl and pheasant hunt days during the waterfowl and pheasant season. Raccoons may not be hunted during the waterfowl season.

(C) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, doves, raccoons, and rabbits.

(D) Camping and Trailers: Not allowed beyond checking station.

(E) Special Restrictions: Dogs must be on a leash from April 1 through June 30. Horseback riding is allowed for authorized dog trials only. Closed to all public use from September 15 to the opening of waterfowl season, and may be closed to all public uses for seven days following the close of waterfowl season to allow for post season maintenance.

(F) Reservations and Entry Permits: A type A permit is required for entry during waterfowl and pheasant seasons. All person's entering on the same reservation will receive the same hunt assignment.

(68) O'Neill Forebay Wildlife Area

(A) Method of Take Restrictions: Limited to shotguns and archery equipment. No shotgun slugs, rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Entry Permits: Self registration at the parking lot is required, except for junior pheasant hunts, and the day following the junior pheasant hunt, when capacity is controlled. Junior pheasant hunt permits shall be issued through a special drawing.

(D) Authorized Species: Waterfowl, pheasants, quail, doves, rabbits, and crows.

(E) Camping and Trailers: Allowed in parking lot only and in other designated locations inside the wildlife area during authorized trials.

(F) Special Restrictions: Dogs must be on a leash from April 1 through June 30. Horseback riding is allowed only during authorized dog trials. Motor vehicles are permitted only in designated areas and only during authorized dog trials. Hunting is permitted during daylight hours only.

(69) San Luis Obispo Wildlife Area

(A) Entry: No person shall enter the San Luis Obispo Wildlife Area except that portion of the area designated as a public shooting facility under supervision of the authorized rangemaster or with written permission from the regional manager.

(B) Period of Firearms and Archery Equipment Use: All year. No firearms or other propulsive devices of any kind may be possessed or discharged except at the designated shooting range at such time as the facility is open to the public and under the direction and control of the authorized rangemaster.

(C) Days of Operation: Wednesday through Monday, one–half hour before sunrise to one–half hour before sunset.

(D) Hours of Operation for Lighted Ranges: One–half hour before sunrise to 10:00 p.m.

(E) Fee: Daily range fees are required.

(F) Authorized Species: None.

(G) Camping and Trailers: Camping is restricted to the parking lot and not more than 30 vehicles may occupy the lot except under written permission of the regional manager.

(H) Special Restrictions: Alcoholic beverages may not be possessed or consumed on any part of the San Luis Obispo Wildlife Area by any person who officially acts as a rangemaster, or by any person who attempts to discharge a firearm or shoot an arrow.

(I) Ammunition restrictions: Full metal jacket bullets not allowed.

(70) San Luis Reservoir Wildlife Area

(A) Method of Take Restrictions: Limited to shotguns and archery equipment. No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: All legal species.

(D) Entry Permit: Self registration at the parking lot on Dinosaur Point Road is required. Special permit, obtained by special drawing, is required

for all entry during the opening weekend of the Zone A general deer season.

(E) Camping and Trailers: Allowed in parking lot only.

(F) Special Restrictions: Dogs are not allowed for wild pig hunting. Horseback riding is not allowed. Motor vehicles are prohibited. Hunting is permitted during daylight hours only.

(71) Volta Wildlife Area (U.S. Bureau of Reclamation Lands)

(A) Method of Take Restrictions: Limited to shotguns and archery equipment. A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season, except on days when only upland game may be taken, and on special "youth only" waterfowl hunt days when there shall be no restrictions on the number of shells taken into the field.

(B) Hunt Days: Waterfowl: Saturdays, Sundays, and Wednesdays during open seasons. Pheasants: Every Saturday, Sunday, and Wednesday during the pheasant season when the pheasant season occurs during the same period as waterfowl season. Other Authorized Species: Daily from July 1 through September 15, and from the beginning of waterfowl season through March 31 when in season, except that hunt days are restricted to waterfowl and pheasant hunt days during the waterfowl and pheasant season.

(C) Authorized Species: Waterfowl, snipe, coots, moorhens, pheasants, and rabbits. Rabbits may not be taken during the waterfowl season.

(D) Camping and Trailers: Allowed at checking station parking lot during waterfowl season only. Boat trailers are permitted beyond the checking station for the purpose of launching boats at designated areas. Permit holders may drive to designated parking areas during waterfowl and pheasant hunt seasons only. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited, except vehicles may be driven past parking lot 1 to launch boats.

(E) Special Restrictions: Closed to all public use from August 15 until the beginning of waterfowl season, except for fishing in the Volta Wasteway Channel. From September 15 through the Saturday following the end of waterfowl season, fishing is restricted to the Volta Wasteway Channel for a distance of one mile downstream of Ingomar Grade. The wildlife area is closed to all nonhunting uses during the waterfowl season. The cutting of woody stemmed plants is prohibited. Blinds may not be constructed or covered with plant material brought from outside the wildlife area.

(F) Reservation and Entry Permits: A type A permit is required for entry to hunt during the waterfowl and pheasant hunt seasons. All other users must self register at the fishing access booth. Persons entering together on a reservation will receive the same hunting assignment.

(G) Except during waterfowl and pheasant seasons, when hunting permittees are allowed to drive to designated parking areas, vehicle access is not allowed. Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(72) West Hilmar Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Daily during open seasons for authorized species.

(C) Authorized Species: Quail, doves, pheasants, rabbits, and waterfowl.

(D) Camping and Trailers: Not allowed.

REGION 5 AND REGION 6

(73) Baldwin Lake, San Bernardino National Forest

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Saturdays and Wednesdays during open seasons for authorized species.

(C) Reservations and Entry Permits: Waterfowl hunting reservations, which serve as entry permits, are required for the first seven hunt days (Saturdays and Wednesdays) of duck season. Beginning on the fourth Wednesday of the season, entry permits are not required.

(D) Authorized Species: Waterfowl, coots, and moorhens.

(E) Camping and Trailers: Not allowed.

(F) Special Restrictions: Shore hunting is not allowed. Hunting is permitted only from boats. All boats must be in and completely surrounded by water. All boats must be launched from the designated sites only. Hunting is permitted only in designated areas. A hunter shall not possess more than 25 shot shells while in the field.

(74) Hollenbeck Canyon Wildlife Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed. No shotgun with a live round in the chamber may be possessed outside of the designated hunting zone except in the designated dog training area during the course of authorized dog training.

(B) Hunts Days: Daily during general season from September 1 through January 31 in designated area(s).

(C) Authorized Species: Upland game birds, American crow, coyote, and resident small game.

(D) Camping and Trailers: Camping and overnight use is not allowed, horse trailers are permitted within the designated parking area, if space is available.

(E) Fires: Not allowed year round.

(F) Dog Training: Allowed only in designated areas from September 1 through February. Only male ring–neck pheasants, male bobwhite quail, either sex feral pigeons, and male mallard ducks may be used for dog training purposes. Release or possession of female ring–neck pheasant, female bobwhite quail, female mallard, or any bird species is prohibited. It is unlawful to release or possess a male mallard duck without at least one wing clipped.

(G) Special Restrictions: Upland game and resident small game species may be taken only in designated areas. Horse and bicycle use is limited to designated trails and/or routes. Paint ball guns may not be used or possessed.

(75) Imperial Wildlife Area

(A) Wister Unit.

1. Ammunition Restrictions: A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season.

2. Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Snipe may also be taken on pheasant hunt days. Doves: Daily during the September dove season and on pheasant hunt days. Pheasants: Mondays and Thursdays during the pheasant season. Rabbits: Daily during season, except during the waterfowl season. Rabbits may also be hunted on pheasant hunt days. Quail: Only on pheasant hunt days. Raccoons: Daily from August 1 through one week before the waterfowl season.

3. Day Use Pass Requirement for Public Access: In addition to a daily entry permit required for hunting during the waterfowl and pheasant seasons, a day use pass or valid annual wildlife pass is required of all users, except for users who possess a valid California sport fishing license, hunting license, or trapping license or users who are under 16 years of age, or users who are part of an organized youth or school group and having free permits issued by the appropriate regional office.

4. Hunting Party Size and Restrictions: Waterfowl hunting parties may not exceed 6 individuals nor 4 adults. At the Union Tract and Hazard Unit each blind site will be limited to 4 individuals. At the Wister Unit of the Imperial Wildlife Area on waterfowl hunt days, 6 individuals are allowed per reservation with no more than 4 adults.

5. Authorized Species: Waterfowl, snipe, coots, moorhens, doves, pheasants, quail, rabbits, and raccoons.

6. Camping and Trailers: Limited camping in designated area. Campers must obtain a use permit daily. No unattached trailers or tents allowed on the checking station parking lot.

7. Special Restrictions: Waterfowl hunters must hunt from within 100 yards of assigned blind sites. Closed to all nonhunting uses from one week before waterfowl season through the last day of waterfowl season, except for designated wildlife viewing sites and designated fishing areas. Only hand–portable boats and only electric boat motors may be used.

(B) Finney–Ramer Unit

1. Method of Take Restrictions: No rifles or pistols may be used or possessed.

2. Ammunition Restrictions: A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season.

3. Hunt Days: Daily during open seasons for authorized species during the period July 1 through January 31.

4. Day Use Pass Requirement for Public Access: Daily entry permits are required of all persons hunting or for other area uses. A day use pass or annual wildlife pass is required of all users except for users that possess a valid California sport fishing license, hunting license, or trapping license or users that are under 16 years of age, or users that are part of an organized youth or school group and having free permits issued by the appropriate regional office.

5. Checking Station: Entry permits are required and will be available at the self–service registration booths at both Finney and Ramer lakes on a first–come, first–served basis.

6. Authorized Species: Waterfowl, snipe, coots, moorhens, quail, doves, pheasants, rabbits, and raccoons.

7. Boats: Boats are required for waterfowl hunting; however, no motor–driven boats, except those with electric motors, shall be permitted.

8. Camping and Trailers: Allowed only in designated area at Finney Lake.

9. Special Restrictions: Waterfowl hunting is allowed only from boats and islands. Dog field trials are allowed only in designated areas.

(76) Perris Reservoir State Recreation Area

(A) Method of Take Restrictions: No rifles or pistols may be used or possessed.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays and Wednesdays during open seasons. Upland game: Daily during respective seasons that fall within the period from the first Saturday following Labor Day through January 31.

(C) Hunt Hours: Shooting times for migratory waterfowl, snipe, coots, and moorhens will be from one–half hour before sunrise until 12:00 noon. Upland game: as provided in the regulations.

(D) Entry Permit and Fee: Except for the recreation area day–use fees, there are no additional fees for waterfowl or upland game hunting.

(E) Authorized Species: Waterfowl, coots, moorhens, doves, pheasants, quail, and rabbits.

(F) Boats: Boat with motor required.

(G) Camping and Trailers: Not allowed on hunting area.

(H) Special Restrictions: Shore hunting for waterfowl, coots, and moorhens not allowed. Upland game may be taken only in designated areas. Fishing shall be permitted in the designated waterfowl hunting area only on non–shoot days.

(77) San Felipe Valley Wildlife Area

(A) Method of Take Restrictions: Use and possession of rifles and pistols may be prohibited in designated areas.

(B) Hunt Days: Daily from September 1 through January 31 and during the spring turkey season, when only turkeys may be hunted.

(C) Authorized Species: All legal species.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: D–16 General Deer Zone Tags may not be used west of Highway S–2. Horse and bicycle use is limited to designated routes. Dog training is allowed only in designated areas from September 1 through February.

(78) San Jacinto Wildlife Area

(A) Davis Road Unit

1. Ammunition Restrictions: A hunter shall not possess more than 25 shot shells while in the field during the waterfowl season.

2. Hunt Days: Waterfowl, coots, and moorhens: Saturdays and Wednesdays during the duck season. Upland game: Daily during respective seasons that fall within the period July 1 through January 31. Pheasant: Mondays during the pheasant season.

3. Reservations, Entry Permits and Day Use Pass Requirements for Public Access: Reservations are available for waterfowl and pheasant hunting. In addition to a daily entry permit required for hunting waterfowl and pheasants, a day use pass or annual wildlife pass is required of all users except for users that possess a valid California sport fishing license, hunting license, or trapping license, or users that are under 16 years of age, or users that are part of an organized youth or school group and having free permits issued by the appropriate regional office.

4. Reservations: Each reservation shall assure entry for up to two adults and two holders of junior hunting licenses.

5. Authorized Species: Waterfowl, coots, moorhens, doves, quail, pheasants, snipe, and rabbits.

6. Camping and Trailers: Not allowed.

7. Special Restrictions: Upland game (doves, pheasants, quail, snipe, and rabbits) may be taken only in designated areas. A self–issued permit is required to enter the upland game hunting area.

(B) Potrero Unit

1. Camping and Trailers: Camping and overnight use is not allowed.

2. Any person within the unit shall have in his or her immediate possession a current valid day use pass for the Potrero Unit. No person may be within the boundaries of the unit during hours or dates that the unit is closed to unrestricted public access.

3. No motorized vehicles allowed except by written permission of the regional manager.

4. Bicycle use is limited to designated trails and/or routes.

5. No person shall enter or leave the unit except at designated entry and exit points.

6. Alcoholic beverages may not be possessed or consumed on the premises.

7. Paintball guns, parts or supplies may be not used or possessed.

8. Fires: Not allowed year round.

9. Dogs must be kept on a leash and under the immediate control of the owner or owner's designee, unless actively involved in legal hunting or other authorized activity.

10. Authorized Species: Upland game birds and resident small game.

11. Special Restrictions: Upland game and resident small game species may be taken only in designated areas unless otherwise restricted or limited within the unit.

(79) Santa Rosa Wildlife Area

(A) Hunt Days: Daily during open seasons for authorized species.

(B) Authorized Species: Deer, rabbits, and quail.

(C) Special Restrictions: No person, except authorized personnel, shall possess or discharge a firearm, bow and arrow, air or gas gun, spear gun, or other propulsive device of any kind on that portion of the Santa Rosa Wildlife Area lying within Fish and Game refuge District 4D (see Section 10837, Fish and Game Code).

NOTE: Authority cited: Sections 200, 202, 203, 355, 713, 1050, 1526. 1528, 1530, 1570–72, 1765 and 10504, Fish and Game Code. Reference: Sections 355, 711, 713, 1050, 1055.3, 1526, 1528, 1530, 1570–1572, 1764, 1765, 2006 and 10504, Fish and Game Code.

HISTORY

1. Repealer and new section filed 10–8–93; operative 10–8–93 pursuant to section 202 and 215, Fish and Game Code (Register 93, No. 41). For prior history, see Register 92, No. 43.
2. Amendment of section and NOTE filed 10–5–94; operative 11–4–94 (Register 94, No. 40).
3. Amendment filed 9–12–95; operative 9–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 37).
4. Editorial correction adding inadvertently omitted subsection (q)(51)(B)5. (Register 96, No. 40).
5. Amendment of section and NOTE filed 10–1–96; operative 10–1–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 40).
6. Amendment filed 10–3–97; operative 10–3–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 40).
7. Amendment of subsection (q)(13)(D), subsection renumbering, and amendment of newly designated subsection (d)(2) filed 2–5–98; operative 3–1–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 6).
8. Amendment of subsections (j)(2), (j)(4)–(5) and multiple subparts of subsection (q) filed 10–16–98; operative 10–16–98 pursuant to Fish and Game Code sections 202 and 215 (Register 98, No. 42).
9. Amendment of subsections (g)(2), (g)(4), (h)(3), (j)(4), (m) and multiple parts of subsection (q) and amendment of NOTE filed 10–6–99; operative 10–6–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 41).

10. New subsection (*l*)(4), amendment of subsections (q), (q)(1)(A) and (q)(2)(D), repealer of subsections (q)(18)–(q)(18)(E), subsection renumbering, amendment of newly designated subsections (q)(25)(E) and (q)(35)(D) and new subsection (q)(38)(F) filed 9–28–2000; operative 9–28–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 39).
11. Amendment filed 10–23–2001; operative 10–23–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 43).
12. Amendment of subsections (a)(2)(F)–(G), (f), (q), (q)(17)(D)1. and (q)(33)(E), new subsections (q)(35)–(q)(35)(E), subsection renumbering, amendment of newly designated subsections (q)(38)(D), (q)(45)(D), (q)(46)(B) and (D)–(F), (q)(60)(A)1. and 5., (q)(60)(B)1. and 6., (q)(62)(A) and (q)(63)(A)–(B) and (F)–(H), new subsection (q)(65)(F), amendment of newly designated subsections (q)(66)(A), (q)(67)(A), (q)(68)(A) and (D)–(G), and new subsections (q)(71)(A)–(G) filed 9–9–2002; operative 9–9–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 37).
13. Amendment of subsections (h)(2), (i), (j)(5), (o)(3), (q) and (q)(10)(A), repealer of subsection (q)(10)(E), amendment of subsections (q)(11)(E), (q)(13)(E), (q)(15)(D), (q)(23)(A), (q)(23)(D)–(E) and (q)(26)(B)–(C), repealer of subsection (q)(26)(E), amendment of subsections (q)(27)(B), (q)(27)(E) and (q)(28)(D), new subsections (q)(35)–(q)(35)(C), subsection renumbering, amendment of newly designated subsections (q)(37)(C) and (q)(38)(B), repealer of newly designated subsection (q)(38)(E), amendment of newly designated subsections (q)(44)(B), (q)(44)(D)–(E), (q)(46)(D), (q)(47)(B), (q)(47)(F), (q)(61)(A)5., (q)(61)(B)6., (q)(63)(G), (q)(66)(E), (q)(67)(F), (q)(68)(F), (q)(75)(A) and (q)(75)(E), redesignation of former subsections (q)(75)(A)–(G) as new subsections (q)(76)(A)–(A)(7) and new subsections (q)(76)(B)–(B)11. and amendment of NOTE filed 11–4–2004; operative 11–4–2004 pursuant to Fish and Game Code section 215 (Register 2004, No. 45).
14. Change without regulatory effect amending subsections (g)(2), (g)(4) and (j)(2) filed 5–10–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
15. Amendment of subsection (e), repealer and new subsections (g)–(g)(4) and (j)(2), new subsections (j)(2)(A)–(D) and amendment of subsection (q) — San Luis Obispo Wildlife Area and (q)(59)(E) filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
16. Editorial correction removing duplicate subsections (g)(2)–(4) (Register 2006, No. 44).
17. New subsections (a)(2)(F) and (a)(2)(I), subsection relettering, amendment of subsection (b)(3), new subsection (b)(4), subsection renumbering, amendment of subsection (h)(3), and amendment of subsection (q) and its subsections filed 11–7–2007; operative 12–7–2007 (Register 2007, No. 45).
18. Amendment of subsection (j)(2) filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).
19. Amendment of subsections (q)(1)(B), (q)(5)(B) and (q)(42)(B) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 551.5. Merced National Wildlife Refuge Special Closure, Merced County.

NOTE: Authority and reference cited: Sections 1526, 1528, 1530 and 10504, Fish and Game Code, and the 1962 U.S. Statutes at Large, pg. 238, and existing agreements with the United States relating to the administration of federally owned or leased areas.

HISTORY

1. New section filed 8–18–82; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34).
2. Amendment filed 9–16–83; effective thirtieth day thereafter (Register 83, No. 38).
3. Repealer filed 10–17–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 42).

§ 552. Regulations for National Wildlife Refuges Where Hunting Programs are Administered by the Department of Fish and Game.

(a) The power to control entry on the federally owned areas listed in subsection 551(a)(2) is at the discretion of the Director of the U.S. Fish and Wildlife Service. The following lands owned by the U.S. Fish and Wildlife Service are open to hunting by the public under control of the California Department of Fish and Game.

(1) Colusa National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasant: Waterfowl hunt days during the pheasant season.

(C) Authorized Species: Waterfowl, coots, moorhens, snipe, and pheasants.

(D) Camping and tents not allowed. No person may build or maintain fires, except in portable gas stoves.

(E) Bicycles: Not allowed.

(F) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(G) Nonreservation Drawing: Nonreservation hunters may enter the drawing for either Colusa, Delevan, or Sacramento, but for not more than one location on any single hunt date.

(2) Delevan National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasant: First Monday of pheasant season and on waterfowl hunt days during the pheasant season.

(C) Authorized Species: Waterfowl, coot, moorhens, snipe, and pheasants.

(D) Nonreservation Drawing: Nonreservation hunters may enter the drawing for either Colusa, Delevan, or Sacramento, but for not more than one location on any single hunt date.

(E) Camping and tents not allowed. No person may build or maintain fires, except in portable gas stoves.

(F) Bicycles: Not allowed.

(G) Reservations: Each reservation assures entry of up to four individuals, whether adult hunters, junior hunters, or non–shooters.

(H) Special Restrictions: When assigned hunting sites, hunters shall hunt only within 100 feet of their assigned sites, except to retrieve downed birds. Pheasant hunting is not permitted in the assigned blind area except on the first Monday of the pheasant season.

(I) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(3) Kern National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Waterfowl, coots, and moorhens: Saturdays and Wednesdays during open seasons. Pheasant: Waterfowl hunt days during the regular pheasant season.

(C) Authorized Species: Waterfowl, coots, moorhens, and pheasants. There shall be no hunting of common snipe.

(D) Camping and Trailers: Not allowed.

(4) Merced National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells per day.

(B) Hunt Days: Saturdays and Wednesdays during waterfowl season.

(C) Shooting Hours: Waterfowl shooting hours will be from one–half hour before sunrise until 12:00 noon.

(D) Authorized Species: Waterfowl, coots, and moorhens. There shall be no hunting of common snipe.

(E) Camping and Trailers: Not allowed.

(F) Bicycles: Allowed.

(G) Reservations: Each reservation assures entry of no more than three persons if three–person blinds are available, or no more than two persons, if two–person blinds are available. All person's entering on the same reservation will receive the same hunt assignment.

(H) Special Restrictions: Hunters must hunt from assigned blinds, except to retrieve downed birds.

(5) Sacramento National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasants: The first Monday of pheasant season and on waterfowl hunt days during the pheasant season.

(C) Authorized Species: Waterfowl, coots, moorhens, snipe, and pheasants.

(D) Nonreservation Drawing: Nonreservation hunters may enter the drawing for either Colusa, Delevan, or Sacramento, but for not more than one location on any single hunt date.

(E) Camping and tents not allowed. No person may build or maintain fires, except in portable gas stoves.

(F) Bicycles: Not allowed.

(G) Reservations: Each reservation assures entry of up to four individuals, whether adult hunters, junior hunters, or non–shooters.

(H) Special Restrictions: When assigned hunting sites, hunters shall hunt only within 100 feet of their assigned sites, except to retrieve downed birds. Pheasant hunting is not permitted in the assigned blind area except on the first Monday of the pheasant season.

(I) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(6) San Luis National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Saturdays, Sundays, and Wednesdays during waterfowl season. Waterfowl hunting is prohibited on the West Bear Creek Unit prior to the third Saturday in November.

(C) Authorized Species: Waterfowl, coots, and moorhens. Hunting for pheasants will be allowed by permit only on designated days and areas at the Kesterson Unit on the first two days of pheasant season only, and at the San Luis Unit free roam area. Pheasant hunting is also allowed within the Kesterson Unit spaced blind area on the first Monday of the pheasant season only. Snipe hunting is allowed only within the San Luis Unit free roam area, and only on waterfowl shoot days when the area is open to hunting by adult license holders.

(D) Camping and Trailers: Not allowed on the San Luis, Blue Goose, and the west Bear Units of the San Luis National Wildlife Refuge.

(E) Bicycles: Allowed.

(F) Reservations: For the Kesterson and Blue Goose units, each reservation assures entry of no more than three persons if three–person blinds are available, or no more than two persons if two–person blinds are available. For the Freitas units (north and south), each reservation assures entry of one boat with up to four persons. All person's entering on the same reservation will receive the same hunt assignment.

(G) Special Restrictions: Hunters in the Kesterson and Blue Goose units must hunt from assigned blinds, except to retrieve downed birds. Hunters in free roam areas are not restricted to blinds. Freitas units are by boat only. Maximum boat speed may not exceed 5 mph. Inboard water thrust and air–thrust boats are prohibited. Construction of permanent blinds is prohibited. Cutting or breaking of woody vegetation is prohibited. All blinds and equipment must be removed following each day's hunt

(H) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(7) Sonny Bono Salton Sea National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field. Firearms must be unloaded when being transported between parking areas and blind sites.

(B) Hunt days: Saturdays, Sundays, and Wednesdays during open seasons.

(C) Authorized Species: Waterfowl, coots, and moorhens.

(D) Camping and Trailers: Not allowed.

(E) Special Restrictions: Hunters in the Hazard Unit shall hunt only from within 100 feet of their assigned blind sites or stakes, except to retrieve downed birds. Hunters in the Union Tract shall hunt only from within their blinds, except to retrieve downed birds.

(F) Blind Limitation: Not more than four individuals may occupy a blind site.

(8) Sutter National Wildlife Refuge.

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U.S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Waterfowl, coots, moorhens, and snipe: Saturdays, Sundays, and Wednesdays during open seasons. Pheasant: Waterfowl hunt days during the pheasant season.

(C) Authorized Species: Waterfowl, coot, moorhens, snipe, and pheasants.

(D) Camping and tents not allowed. No person may build or maintain fires, except in portable gas stoves.

(E) Bicycles: Not allowed.

(F) Hunters may enter or exit only at designated locations. Stopping vehicles between designated parking areas to drop off passengers or hunting equipment is prohibited.

(9) Stone Lakes National Wildlife Refuge

(A) Area Firearms Restrictions: Shotguns and steel or other nontoxic shot approved by the U. S. Fish and Wildlife Service only. A hunter shall not possess more than 25 shot shells while in the field.

(B) Hunt Days: Wednesdays and Saturdays from 1/2 hour before sunrise to 12 noon.

(C) Authorized Species: Waterfowl, coots, moorhens and snipe.

(D) Reservations only, no non–reservations accepted or backfill.

(E) Camping and tents: Not allowed. No person may build or maintain fires.

(F) Decoy carts: Allowed.

(G) Bicycles: Not allowed.

(H) Reservations: Each reservation assures entry of up to two individuals per blind, except for the youth draw blinds on Saturdays which may include two youth hunters accompanied by one adult (only youth may apply). The pontoon boat for persons with disabilities is for use by one disabled hunter and one able bodied companion.

(I) Special Restrictions: When assigned hunting sites, hunters shall remain in the assigned blind unless placing decoys, traveling to and from parking area, retrieving downed birds or when shooting and retrieving crippled waterfowl.

(J) Hunting dogs must remain under leash or voice control at all times.

NOTE: Authority cited: Sections 200, 202, 203, 355, 713, 1050, 1526, 1528, 1530, 1570–72, 1765 and 10504, Fish and Game Code. Reference: Sections 355, 711, 713, 1050, 1055.3, 1526, 1528, 1530, 1570–72, 1585, 1764, 1765, 2006 and 10504, Fish and Game Code.

HISTORY

1. Repealer and new section filed 10–8–93; operative 10–8–93 pursuant to section 202 and 215, Fish and Game Code (Register 93, No. 41). For prior history, see Register 92, No. 43.
2. Amendment of section heading and text filed 10–5–94; operative 11–4–94 (Register 94, No. 40).
3. Amendment filed 9–12–95; operative 9–12–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 37).
4. Repealer of subsections (a)(4)–(a)(4)(F), subsection renumbering, amendment of newly designated subsections (a)(4)(G), (a)(6)(E) and (a)(7)(C)–(D), new subsection (a)(7)(F) and amendment of NOTE filed 10–1–96; operative 10–1–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 40).
5. Amendment of subsection (a)(7)(C) filed 10–3–97; operative 10–3–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 40).
6. Amendment filed 10–6–99; operative 10–6–99 pursuant to Fish and Game Code sections 202 and 215 (Register 99, No. 41).
7. New subsections (a)(1)(F)–(G), amendment of subsection (a)(2)(D), new subsection (a)(2)(I), amendment of subsection (a)(5)(D) and new subsections (a)(5)(I), (a)(7)(H) and (a)(8)(F) filed 9–28–2000; operative 9–28–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 39).
8. Repealer of subsections (a)(6)–(a)(6)(F), subsection renumbering, amendment of newly designated subsections (a)(6)(B)–(D) and new subsections (a)(7)–(a)(7)(F) filed 10–23–2001; operative 10–23–2001 pursuant to Fish and Game Code sections 202 and 215 (Register 2001, No. 43).

9. Amendment of subsections (a)(1)(D), (a)(2)(E), (a)(4)(B), (a)(4)(G), (a)(5)(E), (a)(6)(C), (a)(6)(F) and (a)(8)(D) filed 9–9–2002; operative 9–9–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 37).
10. Amendment of subsection (a)(6)(G) and amendment of NOTE filed 11–4–2004; operative 11–4–2004 pursuant to Fish and Game Code section 215 (Register 2004, No. 45).
11. Amendment of subsections (a)(4)(A) and (a)(6)(G) and new subsections (a)(9)(A)–(J) filed 11–7–2007; operative 12–7–2007 (Register 2007, No. 45).

§ 553. Heenan Lake Wildlife Area.

For the purpose of controlling public use during the fishing season, permits are required as follows:

(a) Permits shall be issued only to holders of a valid California sport fishing license for persons 16 years of age and older. Persons under 16 years of age shall be accompanied by an adult legally responsible for him or her and said adult shall list each minor on the permit.

(b) Fishing permits shall be issued at offices of the Department of Fish and Game in Redding, Sacramento, Rancho Cordova, Bishop, Yountville, Fresno, Long Beach and at designated license agents in Markleeville.

(c) A fee of $3.00 shall be charged for each three–day weekend period for all persons 16 years of age or older.

(d) Only boats propelled by oars or electric motors may be used.

(e) Any portion of the Heenan Lake Wildlife Area may be closed to fishing or trespass by the Department by posting notice of the same.

NOTE: Authority cited: Sections 1526, 1528 and 1530, Fish and Game Code. Reference: Sections 1526, 1528 and 1530, Fish and Game Code.

HISTORY

1. New section filed 9–28–84; effective thirtieth day thereafter (Register 84, No. 39). For history of former section, see Registers 76, No. 35; 73, No. 34; 70, No. 35; and 68, No. 33.

§ 553.1. Clifton Court Forebay Waterfowl Public Shooting Area.

NOTE: Authority cited: Sections 1526–1530 and 10504, Fish and Game Code.

HISTORY

1. New section filed 8–24–71; effective thirtieth day thereafter (Register 71, No. 35).
2. Correctory amendment of subsection (f) filed 9–15–71 (Register 71, No. 41).
3. Amendment of subsection (i) filed 8–28–74; effective thirtieth day thereafter (Register 74, No. 35).
4. Repealer filed 8–27–76; effective thirtieth day thereafter (Register 76, No. 35).

§ 554. Cooperative Deer Hunting Areas.

To encourage the protection and enhancement of critical deer habitat, to provide added protection to landowners from depredations of trespassers and to provide greater access for the public to hunt on privately owned or controlled lands, the department may establish cooperative hunting areas and issue permits for the take of deer as specified subject to the following conditions:

(a) Definition and Scope. A cooperative deer hunting area is an area of private land located within critical deer habitat as determined by the department in deer quota zones (see Section 360) which require public drawings. The cooperative hunting area shall encompass not less than a total of 5,000 acres, except that such area may consist of neighboring lands not less than 640 acres in size under the control of one or more owners.

(b) Application Process. Application forms are available from the department's headquarters and regional offices. The applicant for a cooperative deer hunting area permit shall be an owner of said land. The completed application form and a completed one deer tag application for the appropriate deer zone shall be submitted to one of the following offices of the Department of Fish and Game:

Region 1, 601 Locust Street, Redding 96001 (530) 225–2300

Region 2, 1701 Nimbus Road, Rancho Cordova 95670 (916) 358–2900

Region 3, 7329 Silverado Trail, Box 47, Yountville 94599 (707) 944–5500

Region 4, 1234 East Shaw Avenue, Fresno 93710 (559) 243–4005

Region 5, 4949 View Ridge Avenue, San Diego 92123 (858) 467–4201

Region 6, 4775 Bird Farm Road, Chino Hills 91709 (909) 597–9823

The completed applications must be received prior to the first Friday in August. No individual may submit more than one cooperative deer hunting area application or deer tag application per deer season nor may there be more than two cooperative deer hunting area applicants for a given parcel of land. The department shall review the cooperative deer hunting application, verify the content thereof and certify that the lands consist of critical deer habitat prior to the issuance of a cooperative deer hunting area permit and deer tag.

Only those applications that are filled out completely will be accepted. Incomplete applications will be returned within 15 days of receipt by the department. There shall be no fee for a cooperative hunting area permit.

(c) A deer tag issued pursuant to the provisions of this section is valid only during the open deer season for the deer zone specified on the tag and may only be used on the lands specified in the landowner's application.

(d) All provisions of the Fish and Game Code relating to the take of birds and mammals shall be a condition of all permits and tags issued pursuant to this section.

(e) Any permit or tag issued pursuant to Section 554 may be cancelled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of this regulation by a court of competent jurisdiction.

NOTE: Authority cited: Section 1572, Fish and Game Code. Reference: Sections 1570–1572, Fish and Game Code.

HISTORY

1. New section filed 6–29–83 as an emergency; effective upon filing (Register 83, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–27–83. For prior history, see Register 81, No. 41.
2. Certificate of Compliance including amendments filed 9–30–83 (Register 83, No. 40).
3. Amendment of subsections (a) and (b) filed 8–9–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 32).
4. Editorial correction of subsection (b) filed 10–29–85; effective thirtieth day thereafter (Register 85, No. 44).
5. Amendment filed 7–17–87; operative 7–17–87 (Register 87, No. 29).
6. Amendment of subsection (b) filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).

§ 555. Cooperative Elk Hunting Areas.

To encourage protection and enhancement of elk habitat and provide eligible landowners an opportunity for limited elk hunting on their lands, the department may establish cooperative elk hunting areas and issue license tags to allow the take of elk as specified in Section 364, and subject to the following conditions:

(a) Definition and Scope. A cooperative elk hunting area is an area of private land located within the boundary of an area open to public elk hunting (as identified in Section 364). Minimum size of a cooperative elk hunting area shall be 5,000 acres, except that contiguous parcels of at least 640 acres in size may be combined to comprise a cooperative elk hunting area. Within an area open to public elk hunting, the number of cooperative elk hunting license tags issued shall not exceed 20 percent of the number of public license tags for the corresponding public hunt and shall be of the same designation (i.e., antlerless, spike bull, bull or either–sex) as the public license tags. If the number of applicants exceeds the number of cooperative elk hunting license tags available, the department will issue license tags by random drawing from the pool of qualified applicants.

(b) Application Process. Application forms are available from the department's headquarters and regional offices. A person (as defined by Fish and Game Code Section 67) owning at least 640 acres within a cooperative elk hunting area shall be eligible to apply for a cooperative elk hunting area permit. Applicants shall designate one individual eligible to receive one elk license tag by the date indicated under subsection (3) below. Such individuals shall be California residents at least 12 years of age and possess a valid California hunting license. A person may annually submit a cooperative elk hunting area application where they own suffi-

cient habitat as described in subsection (a) above, for each public hunt area in which their property occurs.

(1) Applications shall be submitted to the department's regional office nearest the proposed cooperative elk hunting area. Department of Fish and Game regional offices are located as follows:

Northern California and North Coast Region, 601 Locust Street, Redding 96001 (530) 225–2300

Sacramento Valley and Central Sierra Region, 1701 Nimbus Road, Rancho Cordova 95670 (916) 358–2900

Central Coast Region, 7329 Silverado Trail, Box 47, Yountville 94599 (707) 944–5500

San Joaquin Valley and Southern Sierra Region, 1234 East Shaw Avenue, Fresno 93710 (559) 243–4005

South Coast Region, 4949 View Crest Avenue, San Diego 92123 (858) 467–4201

Eastern Sierra and Inland Deserts Region, 4775 Bird Farm Road, Chino Hills 91709 (909) 597–9823

(2) Completed applications must be received by the first business day following July 1. Only those applications that are filled out completely will be accepted. The Department will evaluate applications to determine if the specified parcels are of sufficient size within the boundary of a public elk hunt area, and contain important elk habitat. Rejected applications and those that are incomplete will be returned within 15 days of receipt by the department. If the number of accepted applications exceeds the license tags available, the department will determine successful applicants and a list of alternates by conducting a random drawing from the pool of qualified applicants as soon as possible after the application deadline.

(3) Successful applicants will be notified by the department as soon as possible after the application deadline. Applicants shall submit the name, address, and valid California hunting license number of designated elk license tag recipients and payment of elk license tag fees by check, money order, or credit card authorization in the amount specified by subsection 708(d), to the department's regional office nearest the proposed cooperative elk hunting area, by the first business day following August 1.

(c) An elk license tag issued pursuant to the provisions of this section is valid only during the general elk season in which the cooperative elk hunting area occurs and shall only be used on land specified in the landowner's application. License tags are not transferable.

(d) All provisions of the Fish and Game Code and Title 14, CCR, relating to the take of birds and mammals shall be conditions of all license tags issued pursuant to this section.

(e) Any permit issued pursuant to Section 555 may be canceled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of this regulation by a court of competent jurisdiction.

NOTE: Authority cited: Section 1572, Fish and Game Code. Reference: Sections 67 and 1570–1572.

HISTORY

1. New section filed 6–27–2000; operative 6–27–2000 pursuant to Fish and Game Code sections 202 and 205 (Register 2000, No. 26).
2. Amendment filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

Chapter 9. Shooting Clubs

§ 600. Licensed Game Bird Clubs.

No licensed game bird club utilizing domestically reared game birds may be operated in this state except under a license issued by the department and under the provisions of this section. Domestically reared game birds include only the following: Pheasants of the species *Phasianus colchicus*, including all ring–necked pheasant races, Indian chukar, domestically reared wild turkey, Hungarian partridge, bobwhite quail, Coturnix quail, and other such species as may be designated by the Fish and Game Commission.

(a) General Provisions for All Licensed Game Bird Clubs, Including Zone A and B Clubs.

(1) Licensed Provisions.

(A) Application Form. Application for a game bird club license shall be made on LICENSED GAME BIRD CLUB APPLICATION, Form LGBC 600 (5/95), which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, License and Revenue Branch. The application form shall be completed in its entirety and submitted to the License and Revenue Branch. The approved application form (LGBC 600) shall be kept with the shooting permit records for the licensed area and shall be open to inspection.

(B) Signing of Application. Applications shall be signed by the applicant. If the applicant is a corporation, the application shall be signed by any one or more duly authorized officers of the corporation. If the applicant is a partnership, the application shall be signed in behalf of the partnership by any one or more of the general partners. If the applicant is a person, doing business under a business name, the application shall be signed by such person accompanied by a statement of the name under which business is being done.

(C) Inspection Requirement. The department may inspect each tract proposed for licensing to determine if it is suitable for a licensed game bird club.

(D) Licensed Area. A licensed game bird club shall include the total area within the exterior boundary.

(E) Map Requirement for New Areas or Boundary Changes. Applications for new areas and those involving a boundary change must include a current 7.5 minute U.S. Geological Survey topographic map denoting the boundaries of the proposed area or areas.

(F) Transfer of License. The department may transfer a license to other land owned or controlled by a licensee if the land is located in the same county as the land specified in the original application, if the new land is suitable for the purposes of the license. A transfer of license may not require an additional fee but may require a department inspection to determine if the above provisions are satisfied.

(G) Proof of Hunting Rights. Applications involving lands not owned by the applicant must include written verification that the applicant has acquired exclusive hunting rights on the land in question for the total period of the license.

(H) Term of License. A game bird club license shall be issued for a period of one year from August 1 to July 31, or for the remainder of the period if issued after August 1.

(I) License Fees. The base license fee shall be $280 for game bird clubs over 500 acres in size and $210 for game bird clubs of 500 acres or less. These fees shall be annually adjusted pursuant to Section 713 of the Fish and Game Code.

(J) Request for Cancellation of License. A licensee shall request that his/her license be cancelled. This request must be made in writing to the department's License and Revenue Branch (see subsection (a)(1)(A)). The license fee shall not be refunded for a cancelled license.

(K) License Revocation or Suspension. The department may revoke, suspend or decline to renew a license for failure to comply with the provisions of a license or failure to comply with these regulations. Any person whose license is revoked or suspended may request a hearing before the commission to show cause why his/her permit should not be revoked or suspended.

(2) Posting of Area. Every game bird club shall be posted on the exterior boundary with signs of a size not less than 8 1/2 by 11 inches at intervals of at least three (3) to the mile and at all corners and entrances. The signs shall include the name of the club and the words: "private licensed game bird club or private licensed pheasant club—authorized under regulations of the Fish and Game Commission—no trespassing." These signs shall be visible at least twenty–five (25) feet from the boundaries of such club. The department shall not furnish such signs. Signs shall be removed prior to September 15 of the succeeding year if no license is granted for that year.

(3) Compliance Requirement. It is unlawful to shoot, attempt to shoot, or otherwise take any game bird on the premises of any licensed game bird club unless the provisions of this Section 600 have been complied with. The department may inspect the premises of each licensed area to determine whether or not the licensee has complied with these regulations.

(4) Shooting Permit Requirement. No person may hunt domestically reared game birds on a licensed game bird club without having in possession a valid hunting license, a valid upland game bird stamp and a valid game bird club shooting permit issued by the licensee or an agent authorized by the licensee (see subsection (a)(9)). The shooting permit shall include the following information: name, hunting license number, and date(s) permit is valid.

(5) Daily Log Sheets. Every hunter on a licensed game bird club shall sign in on a daily log sheet at the location designated on the license application prior to going afield in pursuit of domestically reared game birds.

(6) Shooting Records. Licensees shall maintain a record for each shooting day on forms supplied by the department. LICENSED GAME BIRD CLUB MONTHLY REPORT, Form LGBC 600B (5/97), which is incorporated by reference herein, and shall make entries on the record for each shooting day.

(7) Shooting Records Maintenance. Shooting permit records and other records required by these regulations shall be open to inspection by the department on shooting days at a designated site identified in the license application. During the balance of the shooting season, these records shall be available for inspection by the department from the licensee or authorized agent. Records must be retained for inspection for a period of one year after the close of the shooting season. The licensee shall submit all of the LGBC 600B forms provided by the department showing the daily and monthly numbers of each species released and taken. The report shall be sent to the Department of Fish and Game, at an address to be determined by the Department, within thirty (30) days after shooting has ceased, and the licensee shall maintain a legible copy of such record.

(8) Seal Requirement.

(A) Seals shall be affixed by the licensee, or an authorized agent, to all pheasants, chukars, and turkeys taken on a licensed game bird club area. Seals shall be applied immediately upon the hunter's return to club headquarters. Seals shall remain attached to the birds until they are finally prepared for consumption. Seals shall be supplied by the department at a fee of five cents ($0.05) each. These seals shall be purchased and located on the club area prior to the taking of any released birds. Seals may be obtained from the department's License and Revenue Branch (see subsection (a)(1)(A)).

(B) Seals shall be affixed to bagged pheasants, chukars, and turkeys only. Seals shall be affixed only by the licensee or an authorized agent.

(C) The licensee must account for all used and unused seals upon request by the department. The licensee is required to destroy all unused seals at the end of each season.

(D) There shall be no refund of money for unused seals.

(E) Seals are not transferable and shall be used only on the licensed club to which they are issued.

(F) Seals are not required for domestically reared game birds other than pheasant, chukar, and turkey.

(9) Authorized Agents. The licensee may appoint authorized agents to serve in his/her capacity. An authorized agent must be 16 years of age or older. The applicant shall declare the intended authorized agents on LICENSED GAME BIRD CLUBS – AUTHORIZED AGENTS, (Form LGBC 600A), which is incorporated by reference herein, and post the form at the club headquarters for the duration of the season.

(10) Liberation of Birds.

(A) The department may require the licensee to deliver birds to the licensed area for inspection and/or banding. If banding is required the licensee or authorized agent shall remove all leg bands from birds killed on the licensed game bird club and return them to the department's Wildlife Management Division (see subsection (a)(7) for address).

(B) At time of release, all birds shall be full-winged and otherwise in condition to go wild. Birds that are altered in any manner which would, in the opinion of the department, render them incapable of surviving in the wild, or which are diseased, or show evidence of malnutrition, shall be rejected for release.

(C) Approval for the release and take of domestically reared wild turkeys will not be granted in areas where wild turkeys have been released by the department or where a population of wild turkeys exists.

(11) Shooting Hours.

(A) The shooting hours for taking domestically reared game birds on licensed game bird clubs shall be from one-half hour before sunrise to one-half hour after sunset.

(12) Conduct of Hunters. The licensee or authorized agent, of a licensed game bird club, may refuse to issue a permit to any person who in his/her opinion is intoxicated or handles firearms in a careless and dangerous manner. The licensee, or authorized agent, may also revoke forthwith the permit of any hunter who endangers the safety of other hunters, destroys or endangers property on the club or fails to attempt to recover crippled or dead birds which he/she has shot or violates any fish and game regulations.

(13) Laws and Regulations For Game Other Than Domestically Reared Game Birds. Game other than domestically reared game birds may be taken on a licensed game bird club under the laws and regulations applying to the state at large, including daily bag limits.

(14) Prohibition on Removal of Domesticated Game Birds Taken By Means Other Than Hunting. No game birds killed in any manner other than by hunting by legal methods shall be removed from the premises of any licensed game bird club. It shall be unlawful to sell or buy or attempt to sell or buy any domestic game birds taken from such club.

(15) Disease Prevention. Birds being reared for release by the licensee on a licensed game bird club or at an off-site location shall be maintained under conditions which are not conducive to the spread of diseases. Rearing facilities shall be subject to inspection by the department.

(16) Game Bird Purchase Records. The licensee shall retain copies of all game bird purchase invoices. A copy of these records shall be available for inspection during the license year. Information concerning the date and number of birds delivered shall be recorded on all invoices. All pens and birds may be inspected by the department at any time. A department employee may witness all releases.

(17) Use of Dogs. Hunters are encouraged to utilize retrieving dogs while in the field to assist in the recovery of downed birds. Hunters shall make a reasonable effort to locate all downed birds consistent with sections 203.1 and 4304 of the Fish and Game Code. For hunters without retrieving dogs, the licensee may provide dogs and accompanying handlers. No dog handler may serve as a guide and the use of dogs on licensed game bird clubs does not constitute guiding, as defined in Section 2535 of the Code.

(b) Zones for Licensed Game Bird Clubs. For the purpose of hunting domestically reared game birds, the state is divided into Zone A and Zone B. Clubs licensed in these areas shall be known as Zone A and Zone B licensees, respectively.

(1) Zone A Licensed Game Bird Clubs.

(A) Zone A Defined. Zone A consists of the following area: San Joaquin-Sacramento Valleys; within a line beginning at the junction of State Highway 41 and Interstate Highway 5 northerly on Interstate Highway 5 to the junction of Washoe Avenue; northerly along Washoe Avenue to California Avenue (Panoche Road); westerly along California Avenue (Panoche Road) to Interstate Highway 5; northerly along Interstate Highway 5 to the Delta-Mendota Canal crossing; northerly and westerly along said canal to the crossing of the Southern Pacific Railroad tracks (about five (5) miles south of Byron); northwesterly along said railroad to its intersection with State Highway 4 at Brentwood; north and west along said State Highway 4 to its intersection with State Highway 84; along said State Highway 84 to the Sacramento-Contra Costa county line on the Antioch Bridge; westerly along the Sacramento-Contra Costa county line to its intersection with the Solano County boundary; northeasterly along the Sacramento County-Solano County line to Cache Slough; northwesterly along the South bank of Cache Slough to Haas Slough; northerly along the south bank of Haas Slough to its intersection with the Sacramento Northern Railroad tracks; northeasterly along the Sacramento Northern Railroad tracks to Bunker Station; westerly along the Bunker Station-Binghampton Road to State Highway 113; northerly along State Highway 113 to Hawkins Road; westerly along Hawkins

[The next page is 164.3.]

Road to Leisure Town Road; southerly along Leisure Town Road to Cooper School Road; westerly along Cooper School Road to Nut Tree Road; northwesterly along Nut Tree Road to Interstate Highway 80; southwesterly along Interstate Highway 80 to the range line between R1W and R2W; northerly along said range line to the Pacific Gas and Electric Pit Vaca Dixon electrical transmission lines approximately six (6) miles north and east of the town of Capay; northwesterly along west right-of-way boundary of the said Pacific Gas and Electric transmission lines to the township line between T15N and T16N; northerly along the west right-of-way boundary of said transmission line to the Tehama County line; easterly along the Tehama-Glenn county line to the Sacramento River; northerly along the Sacramento River to the Tehama-Butte county Line; easterly along the Tehama-Butte county line to U.S. Highway 99; southeasterly along 99E through Chico to the junction of State Sign Route 162; southeasterly along State Sign Route 162 to the junction of State Highway 70; southeasterly on State Highway 70 to the township line between T18N and T19N; easterly on said township line to the Oroville-Bangor Highway; southeasterly on the Oroville-Bangor Highway to Bangor on the section line between Section 27 and Section 28, T18N, R5E; south on said section line to the township line between T18N and T17N; east on said township line to the range line between R5E and R6E; south on said range line to State Highway 20; easterly along said Highway 20 through Smartville to the common boundary between Nevada an Yuba counties; south along this boundary to Placer County; east along the common boundary of Nevada and Placer counties to the range line between R6E and R7E; south along said range line to the township line between T11N and T10N; east along this township line to the common boundary between Placer and El Dorado counties; south along said boundary to the common boundary between Sacramento and El Dorado counties; southeasterly along said boundary between Sacramento and El Dorado counties, Sacramento and Amador counties, San Joaquin and Amador counties, San Joaquin and Calaveras counties; southerly along the San Joaquin-Stanislaus county line to State Highway 4; easterly on State Highway 4 to Milton Road; southerly on Milton Road to its junction with Sonora Road; southeasterly along Sonora Road to Knights Ferry; southerly along the Knights Ferry-LaGrange Road to Warnerville; southerly along Crabtree Road to Turlock Lake State Park; southerly on Roberts Ferry Road to its intersection with Lake Road; westerly on Lake Road to Hawkins Road; southerly on Hawkins Road to Keyes Road; easterly on Keyes Road to its intersection with Cox Ferry Road; southerly along Cox Ferry Road and State Highway 59 to the Santa Fe Railroad tracks; southerly along the Santa Fe Railroad tracks through Planada and LeGrand to its intersection with State Highway 145; southwesterly along State Highway 145 to U.S. Highway 99; southerly along U.S. Highway 99 to State Highway 41; then southwesterly along State Highway 41 to the point of beginning.

(B) Shooting Season. The Zone A shooting season for pheasants shall commence on the Saturday nearest the 15th day of October and extend for 114 consecutive days. For all other domestically reared game birds, the Zone A shooting season shall be from September 1 to March 31 of the following year.

(C) Limitation on Pheasants Taken. At no time shall the number of pheasants taken on a Zone A licensed game bird club exceed 80% of the total number of pheasants previously released on the licensed area during the license year and up to 12 days prior to the season. Such birds must be released under the provisions of a current game bird club license.

(D) Daily Bag Limit. There is no daily bag limit for domestically reared game birds on a Zone A licensed game bird club.

(E) Unused Seals. Unused seals shall not be given to hunters.

(F) Headquarters and Travel Route. A headquarters building, housetrailer, or site for record inspection shall be maintained for each licensed game bird club during the shooting season. The location of the building, housetrailer, or site must be designated on the license application. No shooting permits shall be issued or birds taken until such headquarters has been established. When hunters, in order to travel between headquarters and the licensed hunting area, must travel off the licensed hunting area, the applicant must include in his application a request for an authorized travel route. Such route shall not exceed 10 miles. Firearms must be unloaded in conformance with state law while hunters are using such authorized travel route. The travel route must be included in the application and indicated on the map to scale required in the application. The headquarters and authorized travel routes shall be considered part of the licensed premises for the requirements of sealing birds, but shall not affect the gross area of the club.

(2) Zone B Licensed Game Bird Clubs.

(A) Zone B Defined. Zone B consists of the remainder of the state not included in the area described in subsection (b)(1)(A) above (Zone A).

(B) Shooting Season. The Zone B shooting season shall commence on September 1 and close on May 31.

(C) Release of Pheasants Required. Pheasants may not be taken on a Zone B licensed pheasant club unless domestically reared pheasants have previously been released on the licensed area during the current license year. The take of pheasants shall at no time exceed the number previously released during the current license year.

(D) Limitation on Birds Taken. The total number of pheasants which may be taken on a Zone B licensed game bird club shall not exceed the number of pheasants released on the licensed area during the license year.

(E) Daily Bag Limit. There is no daily bag limit for domestically reared game birds on a Zone B licensed game bird club.

(F) Unused Seals. Unused Zone B seals may be possessed only by the licensee or a duly authorized agent.

(G) Headquarters and Travel Route. A headquarters building, housetrailer, or site for record inspection shall be maintained for each licensed game bird club during the shooting season. The location of the building, housetrailer, or site must be designated on the license application. No shooting permits shall be issued or birds taken until such headquarters has been established. When hunters, in order to travel between headquarters and the licensed hunting area, must travel off the licensed hunting area, the applicant must include in his application a request for an authorized travel route. Such route shall not exceed 10 miles. Firearms must be unloaded in conformance with state law while hunters are using such authorized travel route. The travel route must be included in the application and indicated on the map to scale required in the application. The headquarters and authorized travel routes shall be considered part of the licensed premises for the requirements of sealing birds, but shall not affect the gross area of the club.

NOTE: Authority cited: Sections 203, 203.1, 3000 and 3270, Fish and Game Code. Reference: Sections 203, 203.1, 3000, 3270, 3500 and 4304, Fish and Game Code.

HISTORY

1. Amendment of subsection (c)(1) and addition of subsection (c)(4) filed 6-11-68; effective thirtieth day thereafter (Register 68, No. 22). For prior history, see Register 68, No. 6.
2. Amendment of subsection (a) filed 6-30-69; effective thirtieth day thereafter (Register 69, No. 27).
3. Renumbering from Chapter 8 filed 3-17-72; effective thirtieth day thereafter (Register 72, No. 12).
4. Amendment of subsection (j)(2) filed 8-2-72; effective thirtieth day thereafter (Register 72, No. 32).
5. Amendment of NOTE filed 7-16-81; effective thirtieth day thereafter (Register 81, No. 29).
6. Order of Repeal of subsections (c)(3) and (k)(2) filed 6-3-85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
7. Editorial correction of NOTE filed 9-20-85; effective thirtieth day thereafter (Register 85, No. 38).
8. Repealer and new section and amendment of NOTE filed 6-30-95; operative 7-1-95 pursuant to Fish and Game Code section 3270 (Register 95, No. 26).
9. Amendment of opening paragraph and subsections (a)(2), (a)(6), (a)(7), (a)(8)(C) and (a)(9), repealer of subsection (a)(11) and subsection renumbering, and amendment of newly designated subsections (a)(11)(A) and (a)(16) filed 7-10-96; operative 8-9-96 (Register 96, No. 28).
10. Amendment of subsection (b)(1)(B) and NOTE filed 2-6-97 as an emergency; operative 2-6-97 (Register 97, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-6-97 or emergency language will be repealed by operation of law on the following day.

11. Amendment of subsection (a)(6), repealer of subsections (a)(10)(A)–(B) and subsection relettering filed 10–7–97; operative 10–7–97 pursuant to Fish and Game Code sections 202 and 215 (Register 97, No. 41).
12. Reinstatement of subsection (b)(1)(B) and NOTE as they existed prior to 2–6–97 emergency amendment filed 4–22–98 by operation of Government Code section 11346.1(f) (Register 98, No. 17).
13. New subsection (a)(17) and amendment of NOTE filed 2–3–2000; operative 2–3–2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 5).
14. Amendment of subsections (a)(1)(A) and (a)(7) filed 10–21–2004; operative 10–21–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 43).
15. Amendment of subsection (a)(11)(A) filed 8–29–2007; operative 9–1–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 35).

§ 600.1. Licensed Pheasant Clubs, Zone A.

NOTE: Authority cited: Sections 3270, 3273, 3280 and 3282, Fish and Game Code. Reference: Sections 3270–3291, Fish and Game Code.

HISTORY

1. Amendment of subsections (b)(4), (c)(4), (g)(1), and (h)(1) filed 8–2–72; effective thirtieth day thereafter (Register 72, No. 32). For prior history, see Register 69, No. 3.
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Repealer filed 6–30–95; operative 7–1–95 pursuant to Fish and Game Code section 3270 (Register 95, No. 26).

§ 600.2. Licensed Pheasant Clubs, Zone B.

NOTE: Authority cited: Section 3270, Fish and Game Code. Reference: Sections 3270–3291, Fish and Game Code.

HISTORY

1. Amendment filed 11–15–67 as an emergency; effective upon filing (Register 67, No. 46). For prior history, see Register 65, No. 2.
2. Certificate of Compliance—Section 11422, Gov. Code, filed 2–9–68 (Register 68, No. 6).
3. Amendment filed 6–11–68; effective thirtieth day thereafter (Register 68, No. 22).
4. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
5. Repealer filed 6–30–95; operative 7–1–95 pursuant to Fish and Game Code section 3270 (Register 95, No. 26).

§ 600.3. Indian Chukars, Wild Turkeys, and Exotic Non–Resident Game Birds on Licensed Pheasant Clubs.

NOTE: Authority cited: Sections 3270, 3270.5, 3287, 3302 and 3516, Fish and Game Code. Reference: Sections 3000 and 3270–3311, Fish and Game Code.

HISTORY

1. Amendment filed 11–15–67 as an emergency; effective upon filing (Register 67, No. 46). For prior history, see Register 65, No. 2.
2. Certificate of Compliance—Section 11422.1, Gov. Code, filed 2–9–68 (Register 68, No. 6).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. Repealer filed 6–30–95; operative 7–1–95 pursuant to Fish and Game Code section 3270 (Register 95, No. 26).

§ 600.4. Licensed Domesticated Migratory Game Bird Shooting Areas.

Pursuant to the provisions of Section 3300 of the Fish and Game Code, licenses to operate licensed domesticated migratory game bird shooting areas may be issued by the Department of Fish and Game on the following terms:

(a) Application Requirements.

(1) If the application indicates that the property upon which a licensed domesticated migratory game bird shooting area is to be operated does not belong to the applicant, he shall declare in the application that he has acquired from the landowner exclusive hunting rights on the said property during the license period. The department may at its discretion require the applicant to provide written verification that he has acquired such hunting rights.

(2) Application shall be made on forms supplied by the department.

(3) Applications shall be signed by the applicant. If the applicant is a corporation the application shall be signed by any one or more duly authorized officers of the corporation. If the applicant is a partnership, the application shall be signed in behalf of the partnership by any one or more of the general partners. If the applicant is a natural person, doing business under a fictitious name, the application shall be signed by such natural person accompanied by a statement of the fictitious name under which he is doing business.

(4) Appearance of Representative of Applicant. Whenever it appears to the commission, on information furnished by the department, that a licensee has not complied with all of the terms and conditions of his permit, no license shall be issued to such licensee for the following year unless he supports his application for renewal of his license by an appearance before the commission in person or by an authorized representative and presents evidence which, in the opinion of the commission, constitutes a justifiable excuse for his failure to satisfy the conditions of his permit during the preceding license year. Unless the commission is thus satisfied, no license shall be issued to the applicant for the period covered by the application.

(5) License Withdrawal. The department may, in its discretion upon written application by the licensee, allow the licensee to withdraw from his license. In the application the licensee shall state the reasons for his request. The license fee shall not be refunded once the license has been issued.

(b) Suitability of Area for Use as Licensed Domesticated Migratory Game Bird Shooting Area. No license for a licensed domesticated migratory game bird shooting area shall be issued until an investigation has been completed by the department and the department has determined that the property is suitable for the purpose of a licensed domesticated migratory game bird shooting area. The department shall base its determinations on whether or not the proposed shooting area will cause conflicts with wild migratory game bird hunting, that the establishment of the shooting area will be in the public interest, and that the operation of a licensed domesticated migratory game bird shooting area at the location specified in the application will not have a detrimental effect upon wild migratory game birds. In the event the license is refused by the department the applicant shall have the right of appeal to the Fish and Game Commission.

(c) Signs. Licensed domesticated migratory game bird shooting area signs shall be posted by the licensee as required by Section 3301 of the Fish and Game Code. Such signs shall be removed prior to September 15 of the succeeding year if no license is granted for that year.

(d) Inspection of Licensed Premises and Domesticated Migratory Game Birds.

(1) The premises where domesticated migratory game birds are held for the purpose of shooting shall be inspected by the Department of Fish and Game for health of birds and sanitation of facilities. Licensees shall pay the department an inspection fee of two cents ($0.02) for each migratory game bird raised or imported for shooting purposes.

(2) Every person who brings or causes to be brought into this state live domestically reared migratory game birds for shooting purposes shall have such birds inspected for disease and health conditions at the point of origin by a licensed veterinarian. A certificate stating that the birds are disease free and signed by a licensed veterinarian, and endorsed by a federal veterinarian, will be forwarded to the Department of Fish and Game for each shipment of birds. Any shipment of birds not accompanied by a certificate of inspection shall be destroyed or returned to the place of origin by the importer at his sole cost and responsibility.

(e) Shooting Season. The season during which shooting shall be permitted shall be for the period September 1 through May 31.

(f) Shooting Hours. Shooting hours for taking domesticated migratory game birds on licensed areas shall be from one–half hour before sunrise to sunset.

(g) Methods of Take. Domesticated migratory game birds may be taken on licensed areas only by the following equipment or methods:

(1) Shotguns 10 gauge or smaller using shotshells only and incapable of holding more than three shells in the magazine and chamber combined;

(2) Muzzle–loading shotguns;

(3) Falconry;

(4) Long bow and arrow;

(h) Reports and Records. Licensees shall maintain on forms supplied by the department an up–to–date record of the number of domesticated migratory game birds taken and the number of hunters using the area. Such original record shall be submitted to the Department of Fish and Game, Wildlife Protection Branch, 1416 Ninth Street, Sacramento, California 95814, within ten (10) days after the close of each month during the shooting season, and the licensee shall retain a legible copy of such records. Such records shall be open to inspection at the area headquarters on shooting days, at the club headquarters or in the possession of the licensee or his agent during the balance of the shooting season, and at a location specified by the licensee for one year thereafter. Such records shall be open to the inspection at any time during these periods by authorized representatives of the department.

(i) Seals on Birds Killed.

(1) Seals, as required by Section 3309 of the Fish and Game Code, shall be affixed by the licensee or his agent to all domesticated migratory game birds taken on the licensed area before such birds are removed from the licensed area. Unused seals shall not be given to shooters. These seals shall be of a type approved by the Fish and Game Commission and shall be purchased at a cost of five cents ($0.05) each prior to the taking of any domesticated migratory game birds on the license area.

(2) All seals must be accounted for by the licensee whenever requested by the department, and at the end of the domesticated migratory game bird shooting area season unused seals shall be returned to the department with the final report. There shall be a refund of money for all returned unused seals.

(3) Seals are not transferable and shall be used only on the licensed domesticated migratory game bird shooting area for which issued.

(j) Posting of Laws and Regulations. Each licensee shall post a complete copy of the licensed migratory game bird shooting area laws and regulations in the area headquarters where they may be read by any person using the facilities of the area. An appropriate copy of the laws and regulations will be furnished to each licensee by the department.

NOTE: Authority cited: Sections 200, 202, 219, 355, 356, 3000, 3302 and 3303, Fish and Game Code. Reference: Sections 200, 202, 219, 355, 356, 3000, 3300–3311 and 3500, Fish and Game Code.

HISTORY

1. New section filed 11–4–70 as an emergency; effective upon filing (Register 70, No. 45).
2. Certificate of Compliance—sec. 11422.1, Gov. Code, filed 1–26–70 (Register 71, No. 5).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. New subsection (k) filed 10–19–87; operative 10–19–87 (Register 87, No. 43).
6. Amendment of subsection (b) filed 11–4–93; operative 11–4–93 pursuant to Fish and Game Code sections 202 and 215 (Register 93, No. 45).
7. Change without regulatory effect amending subsections (g) and (k) (5) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).
8. Repealer of subsections (k)–(k)(7) filed 9–23–96; operative 9–23–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 39).

§ 601. Enhancement and Management of Fish and Wildlife and their Habitat on Private Lands.

(a) Definition and Scope: A Private Lands Wildlife Habitat Enhancement and Management Area, (Herein after referred to as a Private Wildlife Management Area) is an area of private lands for which the landowner or their designee has completed and implemented a wildlife habitat enhancement and management plan that actively encourages the propagation, conservation and wise use of the fish and wildlife populations on their land. Such areas shall be licensed annually by the commission.

(b) Application Process:

(1) Application Form and Management Plan: The applicant for a license to operate a Private Wildlife Management Area shall submit the appropriate completed application, as specified in Section 702, and any accompanying additional documentation to the department, at the appropriate regional office as listed on the application. An initial applicant shall include three copies of a general management plan containing at least the following information:

(A) A legal description of the land to be included in the Private Wildlife Management Area. Four original USGS quadrangle maps or equivalent maps showing the boundaries of the Private Wildlife Management Area, access roads, any public lands within and/or adjacent to the Private Wildlife Management Area and all structures and facilities, shall be submitted with the original application;

(B) An estimate of the wildlife and habitats present within the Private Wildlife Management Area, including an indication of animal distribution and habitat condition based on the California Wildlife Habitat Relationships Database System;

(C) A statement of management objectives;

(D) A detailed description of proposed management actions that are intended to achieve the management objectives;

(E) The county General Plan land use designation for the Private Wildlife Management Area.

(2) Applicants shall be individuals or corporate landowners or their designee.

(3) Applications submitted by person(s) other than the landowner shall be approved and signed by the landowner(s).

(4) License Fees: A nonrefundable fee for the purposes of management plan review by the department shall be submitted with the application for a revocable Private Wildlife Management Area license. The fee as specified in Section 702 will be based on the size of the Area as follows:

(A) less than 5000 acres

(B) 5,001 to 10,000 acres

(C) 10,001 to 15,000 acres

(D) greater than 15,001 acres

This application fee is established pursuant to Section 3402(b) of the Fish and Game Code. Payment of the application fee does not constitute acceptance into the program. The Private Wildlife Management Area license shall be valid for five years during the period from July 1 through June 30, and subject to annual review and renewal by the commission. The application fee covers the initial five–year license period. A fee shall be submitted, based on the size of the area, with the license renewal application at the beginning of each subsequent five year period. This license shall be in place of any other license that may be required of private landowners by the Fish and Game Code or regulations made pursuant thereto. This section shall not, however, be construed to exempt anyone from any requirement pertaining to hunting and sport fishing licenses and stamps.

The department will screen each application for compliance with these regulations. Applications that do not provide the information required, will be rejected and returned to the applicant. Any individual whose application has been rejected by the department may appeal that decision to the commission. Applications accepted by the department will be forwarded for commission review and approval.

(5) Issuance of Area License: Upon approval of the general management plan, the department, with approval of the commission, shall issue a license for the taking of any fish, game bird or mammal in said Private Wildlife Management Area pursuant to the regulations of the commission and the terms and conditions of the permit, which may supersede Fish and Game Code Section 331(a) and (b) as it pertains to resident hunters and license tag fees for antelope, Section 332(b) and (c) as it pertains to resident hunters and license tag fees for elk, and sections 457–459, related to antlerless and either sex deer.

(A) During the initial license year, the take of antelope or elk, will not be authorized, nor shall deer be taken except during the general open season, consistent with the bag and possession limits for the deer hunting zone in which the Area is located, unless otherwise stipulated by the com-

mission. This provision does not apply to renewed licenses provided that the Private Wildlife Management Area has been continuously licensed in the Private Lands Wildlife Habitat Enhancement and Management Program. Upon satisfactory completion of the first year management actions identified in the plan for the Private Wildlife Management Area, the commission may authorize seasons and bag limits which differ from those established for the general seasons. Hunting must be consistent with the management plans prepared for that area or herd and should not result in an overall negative effect on the species population or herd being hunted as determined by the department.

(6) Annual Review: Annual renewal applications must be submitted to the department no later than March 1. The annual renewal application shall contain a summary of habitat enhancement and management activities, harvest, and full payment of fees for the preceding year. The department shall review each plan to determine that the licensee has fulfilled the obligations as prescribed in the management plan. The annual review shall evaluate the following:

(A) Results of activities carried out during the preceding year, including habitat improvement, wildlife production and population levels, hunter use and harvest of wildlife, including an accurate account of all hunting permits, seals and big game tags;

(B) Recommended changes in the general management plan.

(c) Tags and Seals:

(1) Possession of Tags and Seals: Every person hunting on a Private Wildlife Management Area shall have in their immediate possession a valid California hunting license and the appropriate tag or seal issued by a licensee or their authorized agent. Tags shall be filled out by hunters before hunting. The tags or seals shall permit hunting for the period specified, or until revoked by the licensee or the department. Hunting permittees shall only take or possess those species and number of each species as specified by their hunting tags or seals as approved in the management plan. This does not apply to species not included in the management plan which may only be taken in accordance with the provisions of Part 2, Chapters 1–7, and 9 of these regulations and sections 4331 and 4332 of the Fish and Game Code. Hunting permittees while on the Private Wildlife Management Area shall be subject to all terms and conditions of the license.

(2) Tag and Seal Procedures:

(A) The department shall furnish each licensee with the appropriate tags or seals required by each management plan. With landowner approval and payment of the additional tag or seal fees, tags or seals issued by the licensee may be exchanged for a tag or seal for the same species for use on any other licensed Private Wildlife Management Area for the take of the same species.

(B) Any deer hunter who has been issued a deer tag or deer tag application by the department and wishes to hunt on a Private Wildlife Management Area shall exchange an unfilled public tag(s) or tag application(s) of the current license year for a Private Wildlife Management Area deer tag(s). These tags can only be used on a Private Wildlife Management Area. In no event shall any hunting permittee take more than two deer each year anywhere in California on either public or private lands. No person shall take more than one buck deer in the X–zones, as defined in Section 360(b), Title 14, CCR.

(C) Any pronghorn antelope hunter who has been issued a buck pronghorn antelope tag by the department and wishes to hunt on a Private Wildlife Management Area within the zone specified on the tag shall exchange an unfilled public buck pronghorn antelope tag of the current license year for a Private Wildlife Management Area buck pronghorn antelope tag. Any pronghorn antelope hunter who has been issued a doe pronghorn antelope tag by the department and wishes to hunt on a Private Wildlife Management Area within the zone specified on the tag shall exchange an unfilled public doe pronghorn antelope tag of the current license year for a Private Wildlife Management Area doe pronghorn antelope tag. In no case shall an exchange occur to allow pronghorn antelope hunting outside the geographic zone or prescribed dates of the original tag, as contained in Section 363, Title 14. No hunter shall exchange a Private Wildlife Management Area pronghorn antelope tag for a public tag.

(D) Immediately upon killing any animal under the authority of the tag issued to them by the licensee, the hunter shall completely fill out the tag and attach it to the antler or horn of the male animal or to the ear of the female animal. Prior to transporting the carcass from the Private Wildlife Management Area, the hunter shall surrender the report card portion of the tag to the licensee or their designee. The hunter shall have the license tag validated pursuant to the provisions of Section 4341 of the Fish and Game Code and Section 708(a)(8), Title 14, CCR. The completed report card portion of the deer tag or any other species tag shall be returned to the department by the licensee on or before January 1. The license tag shall remain with the animal pursuant to sections 708(a)(3), 708(c)(4), 708(d)(4), Title 14, CCR.

(3) Tag and Seal Fees: The licensee shall pay the department the fees specified in Section 702 for each tag and seal authorized annually.

(d) Operation of a Private Lands Wildlife Habitat Enhancement and Management Area:

(1) Posting: Private Wildlife Management Areas shall be posted by the licensee by placing signs which have been approved by the department and that forbid trespass. Signs shall be placed at intervals not less than three to the mile along exterior boundaries and at all roads and trails entering such lands. Where the area is bounded by land open to public hunting, posting shall be required with signs posted at intervals not less than eight to the mile. These signs shall identify both ingress to the Area and egress from the Area. Posting shall be completed no later than fourteen days prior to hunting within either the Area or adjacent public deer hunting zone, and maintained for the life of the license. Posting shall ensure that all boundaries are clearly marked and that no public access roads or areas appear to be closed.

(2) Records: The licensee shall maintain accurate records of all tags and seals and make such records available to the department upon request. The licensee shall provide the department with the location of where records will be kept and available for inspection. An accurate accounting of all hunting tags and seals authorized shall be submitted to the Licenses and Revenue Branch, 3211 S Street in Sacramento, CA 95816, by March 1 of each year. Such accounting shall include the actual exchanged tags or applications provided by the individual hunters on each area. Each licensee shall pay for all the previous year's authorized tags and seals by March 1. In the event a licensee fails to remit all fees by March 1, the department may require full payment of all tags and seals prior to the next license year. Tag and seal fees which have not been paid in full by March 1 will be subject to a 10% late payment fee. All fees must be paid in full before the department forwards any renewal application to the commission for consideration and approval.

(e) Revocation of Licenses, Tags, and Seals:

(1) License: A Private Lands Wildlife Habitat Enhancement and Management Area license may be suspended temporarily by the Director, upon their verification of the facts, for a breach or violation of the terms of the license by the holder thereof, or by any person acting under their direction or control or in cooperation with them. The commission shall be notified of any such suspension and subsequently may revoke or reinstate the license or fix the period of suspension after written notice and a hearing at the next scheduled commission meeting has been provided to the licensee by the commission. Any licensee convicted of a violation of the Fish and Game Code or regulations made pursuant thereto or a violation of the terms and conditions of their license must appear before the commission prior to the issuance of a new license.

(2) Tags and Seals: The licensee, their designee, or any employee of the department may revoke a Private Wildlife Management Area hunting tag or tags, seal or seals for a violation of any Fish and Game law or regulation or the terms and conditions of the Private Lands Wildlife Habitat Enhancement and Management Area license.

(f) Termination of License: a licensee may elect to terminate involvement with the Private Lands Wildlife Habitat Enhancement and Management Program only after giving the commission and the department ten

days notice of their intent to withdraw. The licensee must submit a certified letter of intent to the commission and the nearest regional office of the department along with a full accounting of all tags and seals used, exchange tags received, and all fees due the department. Prior to the department receiving this notice and full accounting with fees due, the licensee must abide by the terms and conditions of the license issued pursuant to Section 3402 of the Fish and Game Code.

(g) No person shall violate any of the provisions of this section or any license issued pursuant thereto. Failure to comply therewith may result in:

(1) denial of application

(2) revocation of license and/or tags and seals

(3) citation under the provisions of the Fish and Game Code.

NOTE: Authority cited: Sections 200, 202, 203, 713, 3402, 3404 and 3406, Fish and Game Code. Reference: Sections 3400–3404, 3406–3409, 4331–4332 and 4341, Fish and Game Code.

HISTORY

1. New section filed 9–16–81; effective thirtieth day thereafter (Register 81, No. 38).
2. New section refiled 9–17–81 as an emergency; effective upon filing (Register 81, No. 38).
3. Certificate of Compliance filed 9–23–81 (Register 81, No. 38).
4. Repealer and new section filed 6–7–82; effective thirtieth day thereafter (Register 82, No. 24).
5. Amendment of subsection (d)(2) filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).
6. Repealer and new section filed 8–16–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 33).
7. Amendment filed 4–8–87, operative 4–8–87 (Register 87, No. 15).
8. Amendment filed 2–10–89; operative 2–10–89 (Register 89, No. 8).
9. Editorial correction of subsection (b)(3) printing error (Register 89, No. 39). Ed. Note: The amendment filed 2–10–89 increasing a non–refundable license fee from $400 to $800 was inadvertently omitted during the production of Register 89, No. 8.
10. Editorial correction of printing error in subsection (b)(1) (Register 91, No. 31).
11. Amendment of section heading, subsections (a)–(f) and NOTE, and new subsection (g) filed 4–7–93; operative 4–7–93 (Register 93, No. 15).
12. Amendment of subsection (c)(2) filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
13. Amendment filed 6–10–2003; operative 6–10–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 24).
14. Amendment of subsections (a), (b)(1), (b)(4) and (d)(2) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
15. Change without regulatory effect amending subsections (b)(1), (b)(4)(A)–(D), (b)(5) and (c)(3)(A)–(J) and amending NOTE filed 5–11–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 19).
16. Amendment of subsections (b)(1), (b)(4)–(b)(4)(D) and (c)(3) and repealer of subsections (c)(3)(A)–(K) filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).

Chapter 10. Areas Closed to Hunting

§ 625. Area Closed: Birds or Mammals.

For the purpose of facilitating the operation of the Sutter National Wildlife Refuge, it is unlawful to take birds or mammals by hunting on the following described lands: Approximately 127.28 acres owned by the State of California under and adjacent to the east levee of the Sutter Bypass between the hunter check station and parking lot on the north and the National Wildlife Refuge boundary on the south, as posted by signs.

NOTE: Authority cited: Sections 203, 213, 355, 356, 1530 and 4150, Fish and Game Code. Reference: Sections 200, 202–203.1, 206, 211–213, 217, 221, 344, 356, 1525–1530 and 4150, Fish and Game Code.

HISTORY

1. Renumbered from former Section 712 (Register 59, No. 9). For history of former section, see Register 54, No. 13.
2. Renumbering from Chapter 9 filed 3–17–72; effective thirtieth day thereafter (Register 72, No. 12).
3. Repealer and new section filed 6–5–81; effective thirtieth day thereafter (Register 81, No. 23).
4. Editorial correction of NOTE (Register 81, No. 44).

§ 626. King Range Special Hunting Closure, Humboldt County.

NOTE: Authority cited: Sections 200, 202 and 203, Fish and Game Code. Reference: Sections 200, 202–203.1, 206 and 220, Fish and Game Code.

HISTORY

1. New section filed 8–18–82: effective upon filing pursuant to Government Code Section 11346.2(d) (Register 82, No. 34). For prior history, see Registers 81, No. 44; 81, No. 23; 72, No.32; 72, No. 22; 72, No. 8; and 72, No. 5.
2. Repealer filed 6–17–83; effective thirtieth day thereafter (Register 83, No. 25).

Chapter 11. Ecological Reserves

§ 630. Ecological Reserves.

The areas specified in this chapter have been declared by the Fish and Game Commission to be ecological reserves. A legal description of the boundaries of each ecological reserve is on file at the department's headquarters, 1416 Ninth Street, Sacramento. Ecological reserves are established to provide protection for rare, threatened or endangered native plants, wildlife, aquatic organism and specialized terrestrial or aquatic habitat types. Public entry and use of ecological reserves shall be compatible with the primary purposes of such reserves, and subject to the following applicable general rules and regulations, except as otherwise provided for in the special area regulations:

(a) General Rules and Regulations:

(1) Protection of Resources. No person shall mine or disturb geological formations or archeological artifacts or take or disturb any bird or nest, or eggs thereof, or any plant, mammal, fish, mollusk, crustacean, amphibian, reptile, or any other form of plant or animal life in an ecological reserve except as provided in subsections 630(a)(2) and (a)(8). The department may implement enhancement and protective measures to assure proper utilization and maintenance of ecological reserves.

(2) Fishing. Fishing shall be allowed in accordance with the general fishing regulations of the commission except that the method of taking fish shall be limited to angling from shore. No person shall take fish for commercial purposes in any ecological reserve except by permit from the commission.

(3) Collecting. No collecting shall be done in an ecological reserve except by permit issued pursuant to section 650 of these regulations. Any person applying for a permit must have a valid scientific collecting permit issued pursuant to subdivision 3 of this title.

(4) Motor Vehicles. No person shall drive, operate, leave, or stop any motor vehicle, bicycle, tractor, or other type of vehicle in an ecological reserve except on designated access roads and parking areas.

(5) Swimming. No person shall swim, wade, dive, or use any diving equipment within an ecological reserve except as authorized under the terms of a permit issued pursuant to subsection (a)(3).

(6) Boating. No person shall launch or operate a boat or other floating device within an ecological reserve except by permit from the commission.

(7) Trails. The department may designate areas within an ecological reserve where added protection of plant or animal life is desirable, and may establish equestrian or walking trails or paths within such designated areas. No person shall walk or ride horseback in such areas except upon the established trails or paths.

(8) Firearms. No person shall fire or discharge any firearm, bow and arrow, air or gas gun, spear gun, or any propulsive device capable of firing a projectile, including, but not limited to, any paintball gun, BB gun or pellet gun, or any other weapon of any kind within or into an ecological reserve or possess such weapons within an ecological reserve, except law enforcement personnel and as provided for in individual area regulations that allow for hunting.

(9) Ejection. Employees of the department may eject any person from an ecological reserve for violation of any of these rules or regulations or for any reason when it appears that the general safety or welfare of the ecological reserve or persons thereon is endangered.

(10) Public Entry. Public entry may be restricted on any area at the discretion of the department to protect the wildlife, aquatic life, or habitat. No person, except state and local law enforcement officers, fire suppres-

sion agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, may enter any ecological reserve, or portion thereof, which is closed to public entry. No person may enter any Ecological Reserve between sunset and sunrise except with written permission from the department, which may be granted for purposes including night fishing in accordance with subsection (a)(2) from designated shore areas only.

A $2.00 day use pass or a valid $10.00 annual wildlife pass is required of all users of Elkhorn Slough and Upper Newport Bay ecological reserves except for users that possess a valid California sport fishing license, hunting license or trapping license, or users that are under 16 years of age or users that are part of an organized youth or school group and having free permits issued by the appropriate regional office. Refer to subsections 550(b)(4) and (5), Title 14, CCR, for regulations for fee requirements for wildlife areas.

(11) Introduction of Species. Unless authorized by the commission, the release of any fish or wildlife species, including domestic or domesticated species, or the introduction of any plant species, is prohibited. The department may reintroduce endemic species on ecological reserves for management purposes.

(12) Feeding of Wildlife. The feeding of wildlife is prohibited.

(13) Pesticides. The use of pesticides is prohibited on any ecological reserve unless authorized by the commission with the exception that the department may use pesticides for management purposes and for public safety.

(14) Litter and Dumping. No person shall deposit, drop, dump, or scatter any debris, earth, rock, vegetation, trash, or other materials of any kind on any ecological reserve except in a receptacle or area designated for that purpose. Where no designated receptacles are provided, any refuse resulting from a person's use of an area must be removed from that area by such person.

(15) Grazing. The grazing of livestock is prohibited on any ecological reserve, except that grazing may be allowed for habitat or vegetation management purposes under permit from the department.

(16) Falconry. Falconry is prohibited.

(17) Aircraft. No person shall operate any aircraft or hovercraft within a reserve, except as authorized by a permit from the commission.

(18) Pets. No person shall allow pets to enter any ecological reserve, except as provided in this section. Pets, including dogs and cats, are prohibited from entering reserves unless they are retained on a leash of less than ten feet or are inside a motor vehicle, except as provided for in individual area regulations that allow for hunting or training activities.

(19) Fires. No person shall light fireworks or other explosive or incendiary devices, or start or maintain any fire on or in any reserve, except for management purposes as provided in subsection (a)(1).

(20) Camping. No person shall camp on/in any ecological reserve.

(21) Vandalism. No person shall tamper with, damage or remove any property not his own when such property is located within an ecological reserve.

(22) Regional Manager's Authority: The regional manager shall have the authority to regulate public use of State ecological reserves where such use is not provided for in these regulations.

(b) Areas and Special Regulations for Use:

(1) Agua Hedionda Lagoon Ecological Reserve, San Diego County.

(A) The department, and the County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(B) All fishing is prohibited.

(2) Albany Mudflats Ecological Reserve, Alameda County.

(3) Alkali Sink Ecological Reserve, Fresno County.

(4) Allensworth Ecological Reserve, Tulare County.

(A) Hunting shall be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

(5) Apricum Hill Ecological Reserve, Amador County.

(A) No person, except as provided in subsection (a)(10), shall enter the reserve.

(6) Atascadero Creek Marsh Ecological Reserve, Sonoma County.

(7) Bair Island Ecological Reserve, San Mateo County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve during the period February 15 through May 20.

(B) Waterfowl shall be taken in accordance with the general waterfowl regulations.

(8) Baldwin Lake Ecological Reserve, San Bernardino County.

(A) All fishing is prohibited.

(B) Waterfowl and upland game hunting shall be allowed in accordance with the general hunting regulations. Waterfowl hunting shall be permitted from boats only, and in accordance with general waterfowl hunting regulations and pursuant to the provisions of Section 551, Title 14, CCR.

(C) Boating is permitted for the purpose of waterfowl hunting only. Boats may be launched and retrieved in designated areas only.

(9) Ballona Wetlands Ecological Reserve, Los Angeles County.

(A) Pedestrian use is allowed on designated trails only, and entrance to the reserve shall be restricted to designated access points.

(B) Bicycle use is allowed only on the designated bike path on the north side of the Ballona Creek flood control channel.

(C) Fishing from shore is allowed only in designated areas along Ballona Creek flood control channel. Fishing from boats is allowed only within the Ballona Creek flood control channel. Only barbless hooks may be used.

(D) Boating shall be allowed only within the Ballona Creek flood control channel.

(E) Existing recreational uses may be allowed under license agreement with Playa Vista Little League in that portion of Area C identified in the license agreement unless it is determined by the department that restoration or other uses in this area are more appropriate.

(F) Existing parking areas under leases to the County of Los Angeles may be allowed unless it is determined by the department that restoration or other uses in those areas are more appropriate.

(G) No person shall allow pets, including dogs and cats, to enter the reserve.

(H) Placing of signage, flagging, or marking is prohibited, except as allowed by written permission from the department.

(I) No person shall operate any remote–control, control–line, or free–flight model rocket, aircraft, or other vehicle which utilizes a combustive fuel motor, electric motor, or rocket motor.

(10) Batiquitos Lagoon Ecological Reserve, San Diego County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purpose of the reserve.

(B) San Diego County, after consultation with the department, may carry out management activities necessary for fish and wildlife management, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

(11) Big Table Mountain, Fresno County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6), (10), (12) and (20), the department may issue permits to conduct biological research or monitoring compatible with the purposes of the reserve.

(12) Blue Ridge Ecological Reserve, Tulare County.

(A) Hunting and trapping shall be permitted in accordance with the general hunting and trapping regulations, but only at such times and in specific areas as designated by the department. Trapping may only be done under permit from the department.

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(13) Blue Sky Ecological Reserve, San Diego County.

(A) Bicycles prohibited.

(14) Bobelaine Ecological Reserve, Sutter County.

(A) No person, except as provided in subsection (a)(10), employees of the National Audubon Society or employees of the Department of Water Resources, in the performance of their official duties or those persons possessing written permission from the area manager, may enter the reserve for any purpose.

(B) All fishing is prohibited.

(C) The area manager may issue permits to conduct biological research projects and may restrict the use of boats, vehicles and other motorized equipment within the reserve. Such projects and use shall be compatible with the primary purposes of the reserve.

(D) The Audubon Society may carry out operation and management activities necessary for fish and wildlife management, flood control, vector control and public access. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

(15) Boden Canyon Ecological Reserve, San Diego County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(16) Boggs Lake Ecological Reserve, Lake County.

(17) Bolsa Chica Ecological Reserve, Orange County.

(A) No person, except as provided in subsection (a)(10), or employees of Signal Corporation and its invitees, for the purposes of carrying out oil and gas operations, shall enter this reserve and remain therein except on established trails, paths or other designated areas.

(B) Fishing shall be permitted at designated areas around outer Bolsa Bay only.

(C) Horses are prohibited from entering the reserve.

(D) Pets are prohibited from entering the reserve except when they remain inside a motor vehicle.

(E) No person shall enter this reserve between 8:00 p.m. and 6:00 a.m.

(F) Motor vehicles are prohibited between 8:00 p.m. and 6:00 a.m.

(G) Vehicle parking is for reserve visitors' use only.

(H) The County of Orange, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(18) Bonny Doon Ecological Reserve, Santa Cruz County.

(19) Boulder Creek/Rutherford Ranch Ecological Reserve, San Diego County.

(20) Buena Vista Creek Ecological Reserve, San Diego County.

(21) Buena Vista Lagoon Ecological Reserve, San Diego County.

(A) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(B) Fishing is allowed at designated fishing areas only.

(22) Burton Mesa Ecological Reserve, Santa Barbara County

(A) Motor vehicles use is prohibited, except by department personnel or department authorized contractors for management or research, or by law enforcement/public safety officers in response to public safety or health hazards.

(B) Horses and bicycles are prohibited.

(23) Butler Slough Ecological Reserve, Tehama County.

(A) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

(24) Butte Creek Canyon Ecological Reserve, Butte County.

(A) Motor vehicle use in the Reserve is prohibited except by department personnel, law enforcement officers or firefighters in response to public safety or health hazards.

(B) Horses are prohibited.

(C) Fishing by boat or other flotation device within the Reserve and in the main channel of Butte Creek is permitted only from February 1 through April 30. Only hand–carried boats or flotation devices may be launched and operated.

(D) The use, application or deposition in any form of toxic substances is prohibited unless authorized by the commission.

(25) Butte Creek House Ecological Reserve, Butte County.

(A) Motor vehicle use is prohibited except by department personnel, law enforcement officers, or firefighters in response to public safety or health hazards.

(B) The use, application or deposition in any form of toxic substances is prohibited unless authorized by the commission.

(26) Buttonwillow Ecological Reserve, Kern County.

(A) Hunting may be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

(27) By–Day Creek Ecological Reserve, Mono County.

(A) All fishing is prohibited.

(B) Hunting shall be permitted in accordance with general hunting regulations.

(28) Calhoun Cut Ecological Reserve, Solano County.

(A) No person, except as provided below and in subsection (a)(10), shall enter this reserve.

(B) Hunting for waterfowl is allowed only from a boat on waters of the main channel of Calhoun Cut and its tributaries, accessible only from Lindsey Slough and subject to the general hunting regulations and the provisions of subsection (a)(10), related to the protection of wildlife, aquatic life and habitat.

(C) Fishing is allowed only from a boat on waters of the main channel of Calhoun Cut and its tributaries, accessible only from Lindsey Slough and subject to the general sport fishing regulations and the provisions of subsection (a)(10), related to the protection of wildlife, aquatic life and habitat.

(29) Canada de los Osos Ecological Reserve, Santa Clara County.

(A) No person, may enter the reserve except with written permission from the department, or unless part of an organized group that has received written permission.

(B) Fishing may be allowed only with written permission from the department. Fishing may be permitted from boats, as well as from shore; only lightweight hand–carried boats or floatation devices may be launched and operated. No gasoline–powered boats shall be permitted.

(C) Swimming, diving and wading may be allowed in designated areas with permission from the department.

(D) Hunting may be allowed, but only in participation with department sponsored hunts at such times, areas, and species as designated by the department.

(E) Target and skeet shooting, other discharge of firearms, and use of bow and arrow may be allowed, but only at such times and in specific areas as designated by the department.

(F) Except as otherwise permitted by the department, all public access trails are open to foot access only.

(G) Notwithstanding the provisions of subsections (a)(1), (2), (3), (5), (6), (8), (12) and (17), the department may issue permits to conduct biological research within the reserve, and may allow collection of plants and animals for educational purposes. Such activities must be compatible with the primary purpose of the reserve.

(H) Camping and campfires may be allowed in specified areas with written permission from the department.

(I) The department may restrict any activities on the reserve to persons under 16 and adults supervising those persons.

(J) Dogs may be allowed in the reserve with written permission from the department.

(30) Canebrake Ecological Reserve, Kern County.

(A) Firearms, archery equipment, and hunting dogs, either on leash or in a vehicle, may be possessed only by licensed hunters only at such times and in specific areas as designated by the department.

(B) Fishing may be allowed only in those specific areas designated by the department.

(C) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6), and (12), the department may issue permits to conduct biological or archaeological research. Such research shall be compatible with the primary purpose of the reserve.

(D) Notwithstanding the provisions of subsection (a)(18), only those animals assisting visually impaired or disabled persons are permitted.

(E) Notwithstanding the provisions of subsection (a)(7), equestrian use may be allowed, but only in specific areas designated by the department.

(31) Carlsbad Highlands Ecological Reserve, San Diego County.

(32) Carrizo Canyon Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), and employees of the Bureau of Land Management in the performance of their official duties shall enter this reserve during the period January 1 to September 30.

(B) The County of Riverside may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(C) Pets are prohibited from entering the reserve except when they remain inside a motor vehicle.

(33) Carrizo Plains Ecological Reserve, San Luis Obispo County, including the American, Panorama, Elkhorn Plain, North Chimineas, and South Chimineas Units.

(A) Hunting shall be allowed in accordance with the general hunting regulations and only at such times and in such places as designated by the department. Hunting of coyotes and ground squirrels is prohibited on the North and South Chimineas Units.

(B) Target shooting is permitted in designated areas.

(C) Notwithstanding the provisions on subsections (a)(1), (3), (5), (6), (10), (12) and (20), the department may issue permits to conduct biological research or monitoring compatible with the purposes of the reserve.

(D) All persons accessing the South Chimineas Unit shall be in possession of an access permit issued by the department. Upon leaving the property, the completed permits shall be provided to the department.

(34) China Point Ecological Reserve, Siskiyou County.

(A) No person, except as provided in subsection (a)(10) and employees of the U.S. Forest Service in the performance of their official duties, shall enter this reserve during the period February 15 through July 31.

(B) Fishing shall be permitted from boats as well as from shore; boats may be launched and operated in the Klamath River.

(C) Hunting shall be allowed in accordance with the general hunting regulations and subject to subsection (34)(A) above.

(35) Chorro Creek Ecological Reserve, San Luis Obispo County.

(A) Except as otherwise designated by the department, all public access trails are open to foot access only.

(B) Notwithstanding the provisions of subsections (a)(1), (2), (3), (5), (6), (8), (12) and (17), the department may issue permits to conduct biological research within the reserve, and may allow collection of plants and animals for educational purposes. Such activities must be compatible with the primary purpose of the reserve.

(36) Clover Creek Ecological Reserve, Shasta County.

(A) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

(37) Coachella Valley Ecological Reserve, Riverside County.

(A) The Bureau of Land Management, the Fish and Wildlife Service and The Nature Conservancy may carry out management activities necessary for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

(38) Coal Canyon Ecological Reserve, Orange County.

(A) Hunting shall be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(B) Method of take restrictions: Shotguns and archery equipment only.

(C) Horses and bicycles are allowed on designated trails only, excluding dates within 72 hours of any weather event that produces 1/4 inch of precipitation in any 24 hour time period, or any such event that produces 1/2 inch of precipitation with in any 72 hour time period.

(39) Coldwater Canyon Ecological Reserve, Ventura County.

(A) The existing travel corridor through the area is open to foot traffic only. All other areas are closed to public entry.

(40) Corral Hollow Ecological Reserve, San Joaquin County.

(A) No person, except as provided in subsection (a)(10), shall enter the reserve.

(41) Corte Madera Marsh Ecological Reserve, Marin County.

(A) Boating is permitted, except only lightweight hand–carried boats may be launched within the reserve.

(42) Cosumnes River Ecological Reserve, Sacramento County.

(A) Walking is allowed only on established trails, paths or other designated areas.

(B) Horses, except by written permission of the department for grazing management, are prohibited.

(C) Boating is permitted subject to the limitation that only lightweight, hand carried, non–gasoline powered floating devices may be launched and operated from designated launching sites. The department or its designee may further restrict the use and operation of boats to protect resources or provide for the orderly operation of recreational programs. Boating restrictions may include, but are not limited to, seasonal closures.

(D) Fishing is allowed only from a boat on the waters of the main channel of the Cosumnes River and sloughs accessible from the Mokelumne River in accordance with the general fishing regulations and the provisions of subsection (a)(10), related to the protection of wildlife, aquatic life and habitat.

(E) Hunting may be permitted in accordance with general hunting regulations, but only at such times and in specific locations as designated by the department.

(F) Picnicking shall occur only at such times and in those areas designated by the department.

(G) Pets are prohibited from entering the reserve, except when they remain inside a motor vehicle.

(H) The department, the State Lands Commission, the Bureau of Land Management, The Nature Conservancy, Ducks Unlimited, Inc. and the County of Sacramento may carry out management activities necessary for fish and wildlife management, flood control, vector control and public access. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, animal control, water control and associated use of equipment.

(I) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological or archaeological research. Such research shall be compatible with the primary purpose of the reserve.

(J) Notwithstanding the provisions of subsections (a)(4) and (11), farming may be allowed under permit from the department for manage-

ment purposes when such farming is compatible with the primary purpose of the reserve.

(43) Crestridge Ecological Reserve, San Diego County.

(A) Non–motorized mountain biking may be allowed on designated roads during designated seasons as determined by the department. Closures may be implemented at the discretion of the department.

(44) Dales Lake Ecological Reserve, Tehama County.

(A) Waterfowl hunting shall be permitted in accordance with the general waterfowl regulations per Section 502, Title 14, CCR.

(B) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

(45) Del Mar Mesa/Lopez Ridge Ecological Reserve, San Diego County.

(46) Del Monte Dunes Ecological Reserve, Monterey County.

(47) Eden Landing Ecological Reserve, Alameda County.

(A) No person shall enter this reserve except on designated trails without written permission or by posted notice of the regional manager.

(B) No person shall walk, ride horses or bicycles, except on designated trails.

(C) Dogs are restricted to designated trails and designated hunting areas during the waterfowl season. In designated hunting areas, dogs may be off leash only for hunting during waterfowl season and must be under voice control at all times.

(D) Waterfowl hunting shall be permitted, but only at such times and in specific areas as designated by the department. Waterfowl shall be taken in accordance with the general waterfowl regulations.

(E) Fishing shall be permitted from boats and from shore, but only at such times and in specific areas as designated by the department.

(F) Notwithstanding the provisions of section (a)(2), commercial bait fishing for brine shrimp may occur only at such times and in specific areas as designated by the department.

(G) Notwithstanding the provisions of subsections (a)(1), (2), (3), (5), (6), (8), (10), (12) and (20), the department may issue permits to conduct biological research or monitoring compatible with the primary purposes of the reserve.

(48) Elkhorn Slough Ecological Reserve (National Estuarine Research Reserve), Monterey County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) Fishing shall be conducted from only those specific areas of the reserve designated by the department.

(C) Hunting shall be permitted in accordance with general hunting regulations, but only at such times and in specific areas as designated by the department.

(D) The department may restrict the use of horses by grazing permittees.

(E) All designated public access trails are opened to foot access only.

(F) The causing of excessive noise especially that amplified electronically is prohibited.

(G) Picnicking shall be conducted in only those areas designated by the department.

(49) Estelle Mountain Ecological Reserve, Riverside County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

(50) Fagan Marsh Ecological Reserve, Napa County.

(A) Fishing shall be permitted from boats, as well as from shore; only lightweight hand–carried boats may be launched and operated.

(B) Swimming and diving are permitted.

(51) Fall River Mills Ecological Reserve, Shasta County.

(52) Fish Slough Ecological Reserve, Inyo and Mono counties.

(A) Fishing is prohibited within the 20–acre fenced and posted plot of land encompassing two spring areas and an artificial impoundment of 5.6 acres located in the northwest corner of that area known as "Fish Slough," northern Inyo and southern Mono counties.

(B) Hunting shall be allowed in accordance with the general hunting regulations.

(53) Fremont Valley Ecological Reserve, Kern County.

(54) Goleta Slough Ecological Reserve, Santa Barbara County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) No person, except as provided in subsection (a)(10) or designated employees of Santa Barbara Airport, City of Santa Barbara and Goleta Valley Mosquito Abatement District for the purposes of carrying out official duties shall enter this reserve and remain therein except on established trails, paths or other designated areas.

(C) No fishing shall be allowed except at designated areas.

(D) Horses are prohibited.

(E) The department, City of Santa Barbara and the Goleta Valley Mosquito Abatement District may carry out management activities necessary for fish and wildlife management and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, minor ditching for mosquito abatement when approved by department and use of associated equipment.

(55) Harrison Grade Ecological Reserve, Sonoma County.

(56) Headwaters Forest Ecological Reserve, Humboldt County.

(A) Horses are prohibited from entering the reserve.

(B) Bicycles are allowed only on the northern 3.5–mile designated corridor.

(C) Dogs on leash are allowed only on the northern 3.5–mile designated corridor.

(D) Camping may be authorized with written permission from the department or the Bureau of Land Management for research and monitoring.

(E) Swimming may be authorized with written permission from the department or the Bureau of Land Management for research and monitoring.

(F) Aircraft operations and motorized vehicle use may be authorized with written permission from the department or the Bureau of Land Management for emergency operations, monitoring, research and other management activities.

(G) The Bureau of Land Management may carry out operation and maintenance activities necessary for fish and wildlife management and public access. Authorized operation and maintenance activities shall include, but not be limited to use of chemicals, vegetation control, forestry management, controlled burning and use of associated equipment.

(57) Hidden Palms Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(58) Indian Joe Springs Ecological Reserve, Inyo County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

(59) Joshua Creek Canyon Ecological Reserve, Monterey County.

(60) Kaweah Ecological Reserve, Tulare County.

(A) Hunting shall be allowed in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(61) Kerman Ecological Reserve, Fresno County.

(A) Hunting shall be permitted in accordance with general hunting regulations from July 1 through January 31. Only licensed hunters will be permitted to possess firearms. Shotguns only, discharging not larger than number 2 lead or size T steel shot, will be allowed on the area. Pos-

session of firearms for other than law enforcement purposes will not be permitted on the area, except as provided herein.

(B) No plinking, firearms practice, or target shooting is allowed within the area.

(62) King Clone Ecological Reserve, San Bernardino County.

(63) Laguna Laurel Ecological Reserve, Orange County.

(64) Lake Hodges Ecological Reserve, San Diego County.

(65) Lake Mathews Ecological Reserve, Riverside County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) No person except as provided in subsection (a)(10) and employees and consultants of Metropolitan Water District and member public agencies of the District, in the performance of customary reservoir maintenance activities or other official duties, may enter or utilize boats, aircraft or motor vehicles within this reserve.

(C) All fishing is prohibited.

(D) Collections may be made by the department for the purposes of fish and wildlife management, or by Metropolitan Water District for the purpose of water quality testing.

(E) The department and Metropolitan Water District may carry out management activities necessary to ensure water quality and the proper operation and maintenance of Lake Mathews as a water supply facility and natural area. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, rodent control and use of associated equipment.

(66) Leek Springs Ecological Reserve, El Dorado County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve without written permission from the regional manager.

(B) All fishing is prohibited.

(C) Pets are prohibited from entering the reserve.

(D) Vehicles are prohibited, except for use by adjacent landowners and their invitees, United States Forest Service personnel, fire personnel or other authorized persons who may only use the road easement which bisects the property.

(E) Horses and bicycles are prohibited.

(67) Limestone Salamander Ecological Reserve, Mariposa County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(68) Little Butte Ecological Reserve, Mendocino County.

(69) Little Red Mountain Ecological Reserve, Mendocino County.

(70) Loch Lomond Vernal Pool Ecological Reserve, Lake County.

(71) Lokern Ecological Reserve, Kern County.

(A) Hunting may be permitted in accordance with general hunting regulations only at such times and in specific areas as designated by the department.

(72) Macklin Creek Ecological Reserve, Nevada County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve without written permission from the regional manager.

(B) All fishing in prohibited.

(73) Magnesia Spring Ecological Reserve, Riverside County.

(A) No person, except as provided in subsection (a)(10), and employees of the City of Rancho Mirage or the City of Palm Desert in the performance of their official duties shall enter this reserve during the period January 1 to September 30 except on designated trail.

(B) The County of Riverside may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(C) Pets are prohibited from entering the reserve except when they remain inside a motor vehicle.

(D) Year round access will only be permitted on the portion of the Mirage Trail from Painter's Path in the City of Palm Desert to the junction with the Hopalong Cassidy Trail located in the eastern half of Section 24 and continuing off the Reserve to Cahuilla Hills Park, City of Palm Desert. The Hopalong Cassidy trail then enters the reserve again at Section 35 and follows contours around the eastern side of the section before leaving the reserve and continuing on to City of Palm Desert owned parcels.

(E) Bicycles are only allowed on the portions of trail described in (D).

(74) Marin Islands Ecological Reserve, Marin County.

(75) Mattole River Ecological Reserve, Mendocino County.

(76) McGinty Mountain Ecological Reserve, San Diego County.

(77) Meadowbrook Ecological Reserve, San Diego County.

(78) Moro Cojo Ecological Reserve, Monterey County.

(79) Morro Dunes Ecological Reserve, including the Bayview Unit, San Luis Obispo County.

(80) Morro Rock Ecological Reserve, San Luis Obispo County.

(A) No person shall enter into or upon this reserve for any purpose except as follows:

1. For the purpose of fishing and sightseeing, persons may enter upon that portion of Morro Rock between the low tide mark and a point ten (10) feet in elevation above the mean high tide mark.

2. Those persons provided for in subsection (a)(10), and employees of the Department of Parks and Recreation may enter the reserve in the performance of their official duties.

(81) Napa River Ecological Reserve, Napa County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve between sunset and sunrise.

(B) Swimming is permitted.

(C) The possession and/or consumption of alcoholic beverages is prohibited.

(82) North Table Mountain Ecological Reserve, Butte County.

(A) Horses and bicycles are prohibited from entering the reserve.

(B) Hunting is permitted for deer and upland game in accordance with the general hunting regulations through November 15. Hunting is prohibited after November 15 and through the spring turkey season.

(83) Oasis Springs Ecological Reserve, Riverside County.

(A) All fishing is prohibited.

(B) Hunting shall be permitted in accordance with general hunting regulations.

(84) Offshore Rocks and Pinnacles, coastal counties.

(85) Otay Mountain Ecological Reserve, San Diego County.

(A) Hunting shall be allowed in accordance with the general hunting regulations and the Bureau of Land Management's Wilderness Area Restrictions.

(86) Owl Creek Ecological Reserve, Humboldt County.

(87) Palo Verde Ecological Reserve, Riverside County.

(A) Notwithstanding subsections (a)(4) and (11), farming may be allowed under permit from the department for management purposes when such farming is compatible with the primary purpose of the reserve.

(B) Hunting for rabbits, doves, quail and waterfowl shall be allowed in accordance with general hunting regulations and only at such times and in such places as designated by the department.

(C) Except as otherwise designated by the department, all public access to properties on the lowest flood plain and any new or established restoration sites shall be by foot.

(D) The department and cooperating agencies may carry out management activities necessary for habitat restoration, preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled burning, and chemical and mechanical treatment and use of associated equipment.

(E) Notwithstanding the provisions of subsections (a)(1), (2), (3), (5), (6), (8), (12) and (17) The department may issue permits to conduct biological and archeological research within the reserve, and may allow collection of plants and animals for educational purposes. Such activities must be compatible with the primary purpose of the reserve.

(F) Horseback riding is prohibited.

(88) Panoche Hills Ecological Reserve, Fresno County.

(A) Hunting shall be permitted in accordance with general hunting regulations from July 1 through January 31. Only licensed hunters will be permitted to possess firearms.

(B) No plinking, firearms practice, or target shooting is allowed within the area.

(89) Peninsular Ranges Ecological Reserve, Riverside County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

(90) Peytonia Slough Ecological Reserve, Solano County.

(A) Fishing shall be permitted from boats as well as from shore.

(B) Swimming, wading and diving shall be permitted within the reserve.

(C) Boats may be operated within the reserve; however, only lightweight, hand–carried boats may be launched within the reserve.

(91) Phoenix Field Ecological Reserve, Sacramento County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(92) Pilgrim Creek Ecological Reserve, San Diego County.

(93) Pine Hill Ecological Reserve, El Dorado County including the Salmon Falls Unit.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(B) No horses are permitted within the boundaries of the reserve.

(94) Piute Creek Ecological Reserve, San Bernardino County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

(95) Plaisted Creek Ecological Reserve, San Diego County.

(96) Pleasant Valley Ecological Reserve, Fresno County.

(A) Hunting may be permitted in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(97) Quail Hollow Ecological Reserve, Santa Cruz County.

(98) Quail Ridge Ecological Reserve, Napa County.

(A) No person, except as provided in subsection (a)(10) shall enter this reserve without permission from the department.

(B) Hunting will be permitted only as specially authorized hunts determined by the department.

(99) Rancho Jamul Ecological Reserve, including the Headquarters Unit, San Diego County.

(A) Controlled retriever training may be permitted within a designated area. This area shall be clearly posted.

(B) Hunting shall be allowed in accordance with the general hunting regulations, but only at such times and in specific areas as designated by the department.

(C) Within the 50.51 acre Headquarters Unit, the department may develop facilities and conduct activities consistent with training programs, meeting and storage needs, fire suppression and control, and educational programs under guidelines established by the regional manager.

(D) Uses associated with occupied state housing shall be allowed within the 50.51 acre Headquarters Unit.

(100) Redwood Shores Ecological Reserve, San Mateo County.

(A) Fishing shall be permitted from boats as well as from shore; only lightweight, hand–carried boats may be launched and operated.

(B) Swimming, wading and diving shall be allowed within the ecological reserve.

(C) Bicycles are allowed along levee–top road system.

(101) River Springs Lakes Ecological Reserve, Mono County.

(A) Hunting shall be permitted in accordance with the general hunting regulations.

(102) Saline Valley Ecological Reserve, Inyo County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

(103) San Bruno Mountain Ecological Reserve, San Mateo County.

(104) San Diego River Ecological Reserve, San Diego County.

(105) San Dieguito Lagoon Ecological Reserve, San Diego County.

(A) Fishing shall be permitted from shore and from the Grand Avenue bridge.

(B) No person, except as provided in subsection 630(a)(10), shall be permitted on the California least tern nesting island.

(C) No person, except as provided in subsection 630(a)(10), shall enter this reserve between 8:00 p.m. and 5:00 a.m.

(D) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(E) Collections of fish, wildlife, water and soil may be made by the department for the purposes of fish and wildlife management or by San Diego County for the purposes of water quality testing and vector control.

(106) San Elijo Lagoon Ecological Reserve, San Diego County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6) and (12), the department may issue permits to conduct biological research projects within the reserve. Such projects shall be compatible with the primary purposes of the reserve.

(B) San Diego County, after consultation with the department, may carry out management activities for fish and wildlife management, flood control, vector control and regional park recreational activities. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, minor ditching and use of associated equipment.

(C) Collections may be made by the department for purposes of fish and wildlife management or by San Diego County for the purpose of water quality testing and vector control.

(107) San Felipe Creek Ecological Reserve, Imperial County.

(A) Hunting shall be permitted in accordance with the general hunting regulations.

(108) San Joaquin River Ecological Reserve, Fresno and Madera Counts.

(A) No person shall enter into any unit of this reserve except as provided in subsection (a)(10), or as provided by written permission or by posted notice of the regional manager who will designate appropriate times and/or areas open to public use.

(B) The department may carry out or cause to be carried out management activities for fish and wildlife, flood control, and vector control. Authorized operation and maintenance activities shall include, but not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(C) Boating is permitted, subject to the limitations of subsection (A) above. Except in the execution of law enforcement, emergency services, or official duties of department employees or contractors, only lightweight, hand carried, non–gasoline powered floating devices may be launched and operated from designated launching sites. The Regional Manager or his designee may further restrict the use and operation of boats to protect the resource or provide for the orderly operation of recreational programs maintained on the area. Boating restrictions may include, but are not limited to, seasonal closures.

(D) Angling shall be permitted from boats as well as from shore, subject to the limitations in subsections (A) and (C), above.

(E) Subsection (a)(20) notwithstanding, late night or over–night use for camping and other purposes may be allowed subject to limitations in subsection (A) above.

(F) Subsection (a)(11) notwithstanding, the department may, for management purposes, introduce or cause to be introduced nonendemic fish species which are naturalized in the San Joaquin River system, primarily to establish and maintain urban sport–fishing opportunities.

(G) Subsection (a)(17) shall not be construed to prohibit aircraft from operating within a normal flight pattern when taking off from or landing at the Sierra Skypark airport located approximately one–quarter mile south of the reserve.

(109) San Luis Rey River Ecological Reserve, San Diego County.

(110) Santa Cruz Long-toed Salamander Ecological Reserve, Santa Cruz County.

(A) No person shall enter the reserve for any purpose except as follows:

1. Those persons provided for in subsection (a)(10), and employees of the departments of Parks and Recreation and Transportation in the performance of their official duties.

(111) Santa Rosa Plain Vernal Pool Ecological Reserve, Sonoma County, including the Hall Road, Todd Road, Wikiup and Yuba Drive Units.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve without written permission of the department. Public use of a trail to be constructed on the Hall Road Unit will be allowed under conditions established by the regional manager.

(B) Ecological research and environment education may be conducted with written permission of the department.

(112) Santa Rosa Plateau Ecological Reserve, Riverside County.

(A) Notwithstanding the provisions of subsection (a)(18), only those animals assisting visually impaired or disabled persons are permitted.

(B) Smoking is prohibited except inside a motor vehicle.

(113) Semitropic Ecological Reserve, Kern County.

(A) Notwithstanding the provisions of subsections (a)(1), (3), (5), (6), (10), (12) and (20), the department may issue permits to conduct biological research or monitoring compatible with the purposes of the reserve.

(114) Sky Valley Ecological Reserve, Riverside County.

(A) Upland game hunting shall be permitted in accordance with the general hunting regulations.

(115) Springville Ecological Reserve, Tulare County.

(A) No person, except as provided in subsection (a)(10), shall enter between sunset and sunrise.

(116) Stone Corral Ecological Reserve, Tulare County.

(A) Hunting may be permitted in accordance with general hunting regulations only at such times and in specific areas as designated by the department.

(117) Stone Ridge Ecological Reserve, Butte County.

(A) No person shall enter into or upon this reserve for any purpose except with prior written permission of the department for purposes of interpretive or wetland education field studies, or department approved biological research.

(118) Sycamore Canyon Ecological Reserve, Riverside County.

(119) Sycuan Peak Ecological Reserve, San Diego County.

(120) Table Bluff Ecological Reserve, Humboldt County.

(A) The department may carry out management activities for the preservation and expansion of the endangered western lily (*Lilium occidentale*). Authorized management activities may include, but not be limited to, controlled burning, chemical treatment and mechanical treatment.

(B) Except as provided in subsection (a)(10) no persons shall enter the fenced western lily area.

(121) Theiller Sebastopol Meadowfoam Ecological Reserve, Sonoma County.

(122) Thomes Creek Ecological Reserve, Tehama County.

(A) The department may carry out management activities necessary for habitat preservation and management. Authorized operations and maintenance activities shall include, but not be limited to, controlled burning, and chemical and mechanical treatment with the use of associated equipment.

(123) Tomales Bay Ecological Reserve, Marin County.

(A) Waterfowl may be taken in accordance with the general waterfowl regulations.

(B) Fishing shall be permitted from boats as well as from shore; only lightweight, hand-carried boats may be launched and operated.

(C) Swimming, wading, and diving shall be allowed within the reserve.

(D) The land area only of the reserve shall be closed to all entry from March 1 through June 30.

(124) Upper Newport Bay Ecological Reserve, Orange County.

(A) Fishing shall be permitted from boats. Fishing is also permitted from shore in designated areas. Clamming or wading is not permitted.

(B) Swimming is permitted only in that area bayward from North Star Beach to mid-channel.

(C) Boating is limited to non-motorized craft, with the exception of law enforcement, emergency, and department vessels and authorized operators under permit from the regional manager. Boating shall occur in designated areas only and is limited to five miles per hour.

(D) No person shall walk, or ride horseback except on established trails, paths, or other designated areas.

(E) The County of Orange may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(125) Walker Canyon Ecological Reserve, San Diego County.

(A) Hunting shall be allowed in accordance with the general hunting regulations.

(126) Watsonville Slough Ecological Reserve, Santa Cruz County.

(127) West Mojave Desert Ecological Reserve, San Bernardino County.

(A) Hunting shall be permitted in accordance with the general hunting regulations from July 1 to January 31. Only licensed hunters shall be permitted to possess firearms.

(B) No plinking, firearms practice or target shooting is allowed within the ecological reserve.

(128) Woodbridge Ecological Reserve, San Joaquin County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve.

(129) Yaudanchi Ecological Reserve, Tulare County.

(A) No person, except as provided in subsection (a)(10), shall enter this reserve between sunset and sunrise.

(B) No person shall walk except on established trails, paths, or other designated areas.

(C) Horses, except by written permission of the department for the purpose of grazing, are prohibited.

(130) Yorkville Ecological Reserve, Mendocino County.

NOTE: Authority cited: Sections 1580, 1581, 1583 and 1907, Fish and Game Code. Reference: Sections 1526, 1528, 1530 and 1580–1585, Fish and Game Code.

HISTORY

1. New subsection (b)(50) filed 3–11–86; effective thirtieth day thereafter (Register 86, No. 11). For prior history, see Register 85, No. 38.
2. Amendment of subsections (b)(1), (b)(4) and new subsections (b)(51)–(59) filed 9–10–86; effective thirtieth day thereafter (Register 86, No. 37).
3. Amendment filed 7–28–88; operative 8–27–88 (Register 88, No. 32).
4. Amendment of subsection (a)(10) filed 3–27–89; operative 3–27–89 (Register 89, No. 13).
5. Amendment of subsections (b)(52) and (b)(60) and new subsections (b)(68), (b)(69) and (b)(70) filed 2–13–91; operative 3–15–91 (Register 91, No. 12).
6. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
7. New subsection (b)(71) filed 10–24–91; operative 11–25–91 (Register 92, No. 5).
8. Amendment of subsections (b)(23) and (b)(56) filed 1–9–92; operative 2–10–92 (Register 92, No. 12).
9. New subsections (b)(72) through (b)(84)(D) and amendment of NOTE filed 6–24–93; operative 7–26–93 (Register 93, No. 26).
10. New subsections (b)(51)(B) and (b)(85)–(87) filed 9–23–93; operative 10–25–93 (Register 93, No. 39).
11. New subsections (b)(20)(C)–(D) filed 2–2–94; operative 3–4–94 (Register 94, No. 5).
12. New subsections (b)(75)(B)–(D) and (b)(88)–(97) filed 2–2–95; operative 3–6–95 (Register 95, No. 5).
13. Amendment of subsection (b)(28)(A) filed 10–19–95; operative 11–18–95 (Register 95, No. 42).
14. Amendment of subsections (b)(34)–(b)(34)(A), repealer of subsections (b)(83)–(b)(83)(A), subsection renumbering, amendment of newly designated subsection (b)(93) and new subsections (b)(97)–(b)(99)(F) filed 12–11–95; operative 1–10–96 (Register 95, No. 50).
15. Amendment of subsection (b)(40), repealer and new subsection (b)(54), repealer of subsection (b)(54)(A), amendment of subsection (b)(75), new subsections (b)(87)(B)–(C) and (b)(100)–(109), and amendment of NOTE filed 1–25–99; operative 1–25–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 5).

16. Amendment filed 9–1–2000; operative 9–1–2000 pursuant to Fish and Game Code section 215 (Register 2000, No. 35).
17. New subsections (b)(2)–(b)(2)(B), (b)(13)(A), (b)(29)(C), (b)(64)–(b)(64)(E), (b)(71)(C) and (b)(93)(C)–(D), repealer of former subsection (b)(104)(B), subsection renumbering, amendment of newly designated subsections (b)(30), (b)(30)(D), (b)(70)(A)–(B), (b)(76), (b)(93) and (b)(115)(A) and (C) filed 1–7–2003; operative 1–7–2003 pursuant to Fish and Game Code section 215 (Register 2003, No. 2).
18. Repealer of subsections (b)(6)–(b)(6)(G) and (b)(103)–(b)(104)(E), subsection renumbering, amendment of newly designated subsection (b)(30)(C) and amendment of NOTE filed 3–10–2003; operative 4–9–2003 (Register 2003, No. 11).
19. Amendment of subsection (b)(18)(B), new subsections (b)(25)–(b)(25)(K), (b)(32)–(b)(32)(C), (b)(39)–(b)(39)(K), (b)(45)–(b)(45)(G), (b)(56)–(b)(56)(G) and (b)(82)–(b)(82)(C), subsection renumbering and amendment of newly designated subsection (b)(30) filed 2–9–2004; operative 3–10–2004 (Register 2004, No. 7).
20. New subsections (b)(18), (b)(20)–(b)(20)(B), (b)(46), (b)(68), (b)(81), (b)(90), (b)(93), (b)(109), (b)(114) and (b)(116)–(b)(116)(C), repealer of subsection (b)(64), subsection renumbering and amendment of newly designated subsections (b)(19)(A), (b)(59)(D)–(F) and (b)(113) filed 11–10–2004; operative 11–10–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 46).
21. Amendment filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).
22. New subsections (b)(9)–(b)(9)(F) and subsection renumbering filed 4–10–2006; operative 5–10–2006 (Register 2006, No. 15).
23. Amendment of section and NOTE filed 3–26–2008; operative 4–25–2008 (Register 2008, No. 13).

§ 630.5. Marine Resources Protection Act Ecological Reserves.

NOTE: Authority cited: Section 14 of Article XB of the California Constitution; and Sections 1580, 1581, 1582, 1583, 1584, 1585, 8610.9 and 8610.14, Fish and Game Code. Reference: Section 14 of Article XB of the California Constitution; and Sections 1580, 1581, 1582, 1583, 1584, 1585, 8610.9 and 8610.14, Fish and Game Code.

HISTORY

1. New section filed 12–31–93; operative 1–31–94 (Register 93, No. 53).
2. Repealer filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 631. Carmel Bay Ecological Reserve, Monterey County.

NOTE: Authority cited: Sections 1580–1584, Fish and Game Code. Reference: Sections 1580–1584, Fish and Game Code.

HISTORY

1. New section filed 7–28–77; effective thirtieth day thereafter (Register 77, No. 31).
2. Repealer filed 7–29–77; effective thirtieth day thereafter (Register 77, No. 31).

§ 632. Marine Protected Areas (MPAs), Marine Managed Areas (MMAs), and Special Closures.

The areas specified in this section have been declared by the commission to be marine protected areas, marine managed areas, or special closures. Public use of marine protected areas, marine managed areas, or special closures shall be compatible with the primary purposes of such areas. MPAs, MMAs, and special closures are subject to the following general rules and regulations in addition to existing Fish and Game Code statutes and regulations of the commission, except as otherwise provided for in subsection 632(b), areas and special regulations for use. Nothing in this section expressly or implicitly precludes, restricts or requires modification of current or future uses of the waters identified as marine protected areas, special closures, or the lands or waters adjacent to these designated areas by the Department of Defense, its allies or agents.

(a) General Rules and Regulations:

(1) Protection of Resources.

(A) State Marine Reserves: In a state marine reserve, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource, except under a scientific collecting permit issued pursuant to Section 650 or specific authorization from the commission for research, restoration, or monitoring purposes.

(B) State Marine Parks: In a state marine park, it is unlawful to injure, damage, take, or possess any living or nonliving marine resource for commercial purposes. Any human use that would compromise protection of the species of interest, natural community or habitat, or geological, cultural, or recreational features, may be restricted by the commission as specified in subsection 632(b), areas and special regulations for use. The commission may issue scientific collecting permits pursuant to Section 650 or specifically authorize research, monitoring, and educational activities and certain recreational harvest in a manner consistent with protecting resource values.

(C) State Marine Conservation Areas: In a state marine conservation area, it is unlawful to injure, damage, take, or possess any living, geological, or cultural marine resource for commercial or recreational purposes, or a combination of commercial and recreational purposes except as specified in subsection 632(b), areas and special regulations for use. The commission may issue scientific collecting permits pursuant to Section 650 or specifically authorize research, education, and recreational activities, and certain commercial and recreational harvest of marine resources, provided that these uses do not compromise protection of the species of interest, natural community, habitat, or geological features.

(D) State Marine Recreational Management Areas: In a state marine recreational management area, it is unlawful to perform any activity that would compromise the recreational values for which the area may be designated. Recreational opportunities may be protected, enhanced, or restricted, while preserving basic resource values of the area. No other use is restricted unless specified in subsection 632(b), areas and special regulations for use.

(2) Finfish. Finfish, for the purpose of this section, are defined as any species of bony fish or cartilaginous fish (sharks, skates and rays). Finfish do not include amphibians, invertebrates, plants or algae. The definition of finfish provided in Section 159 does not apply to this Section.

(3) Pelagic Finfish. Pelagic finfish, for the purpose of this section, are a subset of finfish defined as: northern anchovy (Engraulis mordax), barracudas (Sphyraena spp.), billfishes* (family Istiophoridae), dolphinfish (Coryphaena hippurus), Pacific herring (Clupea pallasi), jack mackerel (Trachurus symmetricus), Pacific mackerel (Scomber japonicus), salmon (Oncorhynchus spp.), Pacific sardine (Sardinops sagax), blue shark (Prionace glauca), salmon shark (Lamna ditropis), shortfin mako shark (Isurus oxyrinchus), thresher sharks (Alopias spp.), swordfish (Xiphias gladius), tunas (family Scombridae), and yellowtail (Seriola lalandi). *Marlin is not allowed for commercial take.

(4) Access. Access into marine protected areas or marine managed areas for non–consumptive uses including but not limited to swimming, surfing, diving, boating, hiking and walking is allowed unless otherwise specified in subsection 632(b), areas and special regulations for use.

(5) Introduction of Species. Unless authorized by the commission or as a result of authorized fishing activities, the release of any fish or wildlife species, including domestic or domesticated species, or the introduction of any plant species, is prohibited. The department may reintroduce endemic species to marine protected areas or marine managed areas for management purposes.

(6) Feeding of Fish and Wildlife. The feeding of fish and wildlife is prohibited except permitted scientific collection pursuant to Section 650 or as a result of authorized fishing within state marine conservation areas, state marine parks, and state marine recreational management areas.

(7) Anchoring. Vessels shall be allowed to anchor in any marine protected area or marine managed area with catch onboard unless otherwise specified in subsection 632(b), areas and special regulations for use. Fishing gear shall not be deployed in the water while anchored in a state marine reserve. Fishing gear, except legal fishing gear used to take species identified as allowed for take in subsection 632(b), shall not be deployed in the water while anchored in a state marine recreational management area, state marine park or state marine conservation area. Anchoring regulations shall be consistent with federal law and allowances made for anchoring required by emergency or severe weather.

(8) Transit or Drifting. Vessels shall be allowed to transit through marine protected areas and marine managed areas with catch onboard. Fishing gear shall not be deployed in the water while transiting through a state marine reserve. Fishing gear, except legal fishing gear used to take species identified as allowed for take in subsection 632(b), shall not be deployed in the water while transiting through a state marine recreational management area, state marine park or state marine conservation area.

(b) Areas and Special Regulations for Use. Pursuant to the commission's authority in Fish and Game Code Section 2860 to regulate commercial and recreational fishing and any other taking of marine species in MPAs, Fish and Game Code Sections 10500(f), 10500(g), 10502.5,

10502.6, 10502.7, 10502.8, 10655, 10655.5, 10656, 10657, 10657.5, 10658, 10660, 10661, 10664, 10666, 10667, 10711, 10801, 10900, 10901, 10902, 10903, 10904, 10905, 10906, 10907, 10908, 10909, 10910, 10911, 10912, 10913, and 10932 are made inoperative as they apply to Subsection 632(b). All geographic coordinates listed use the North American Datum 1983 (NAD83) reference datum:

(1) Punta Gorda State Marine Reserve.

(A) This area is bounded by the three–fathom inshore depth contour, the 30–fathom depth contour and the following points:

40° 16.43′ N. lat. 124° 22.00′ W. long.;
40° 16.43′ N. lat. 124° 23.50′ W. long.;
40° 14.83′ N. lat. 124° 23.18′ W. long.; and
40° 15.23′ N. lat. 124° 21.62′ W. long.

(B) Take of all living marine resources is prohibited.

(C) Swimming. No person shall swim, wade, dive, or use any diving equipment within the Punta Gorda State Marine Reserve except as authorized pursuant to scientific research approved by the department.

(D) Boating. Except as allowed pursuant to Federal law, no person shall launch or operate a boat or other floating device within the Punta Gorda State Marine Reserve except to pass through the area during the normal course of vessel transit along the coast, to avoid inclement weather, or pursuant to scientific research approved by the department.

(E) Firearms. No person shall possess, fire, or discharge any firearm, bow and arrow, air or gas gun, spear gun, or any other weapon of any kind within, or into the Punta Gorda State Marine Reserve except as authorized pursuant to scientific research approved by the department.

(F) Public Entry. Public entry into the Punta Gorda State Marine Reserve may be restricted at the discretion of the department to protect wildlife, aquatic life, or habitat. No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, or institution or agency entering into a memorandum of understanding (MOU) with the department, may enter an area which is closed to public entry.

(G) Pesticides, Herbicides, and Other Regulated Chemicals. The use of pesticides, herbicides, and other regulated chemicals is prohibited in the Punta Gorda State Marine Reserve except as authorized pursuant to scientific research approved by the department. Where such chemicals are intended to be used as a part of any research program, any necessary authorization and/or permits required to dispense such chemicals into state waters or tide and submerged lands shall be obtained prior to final approval of the research by the department.

(H) Litter. No person shall deposit, drop, or scatter any debris on the Punta Gorda State Marine Reserve. Any refuse resulting from a person's use of an area must be removed from that area by such person.

(I) Aircraft. No person shall operate any aircraft or hovercraft within the Punta Gorda State Marine Reserve, except as authorized pursuant to scientific research approved by the department.

(J) Pets. Pets, including but not limited to, dogs and cats, are prohibited from entering the Punta Gorda State Marine Reserve unless authorized by the department.

(K) Memorandum of Understanding (MOU). The department may enter into MOU's with colleges, universities, and other bonafide research organizations to conduct marine–related research within the Punta Gorda State Marine Reserve.

(L) Scientific research conducted within the Punta Gorda State Marine Reserve shall not interfere with access by land to coastal trails along the shoreline adjacent to the reserve.

(2) MacKerricher State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 3–fathom depth contour and the following points:

39° 29.81′ N. lat. 123° 47.50′ W. long.;
39° 29.95′ N. lat. 123° 47.80′ W. long.;
39° 27.62′ N. lat. 123° 48.80′ W. long.; and
39° 27.55′ N. lat. 123° 48.52′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, squid, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(3) Point Cabrillo State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:

39° 21.24′ N. lat. 123° 49.25′ W. long.;
39° 21.33′ N. lat. 123° 49.64′ W. long.;
39° 20.66′ N. lat. 123° 49.68′ W. long.; and
39° 20.57′ N. lat. 123° 49.27′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of finfish and marine aquatic plants.

(4) Russian Gulch State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 3–fathom depth contour and the following points:

39° 19.86′ N. lat. 123° 48.84′ W. long.;
39° 19.85′ N. lat. 123° 48.89′ W. long.;
39° 19.52′ N. lat. 123° 48.46′ W. long.; and
39° 19.52′ N. lat. 123° 48.23′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(5) Van Damme State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 3–fathom depth contour and the following points:

39° 16.45′ N. lat. 123° 47.60′ W. long.;
39° 16.355′ N. lat. 123° 47.60′ W. long.;
39° 16.27′ N. lat. 123° 47.545′ W. long.; and
39° 16.27′ N. lat. 123° 47.43′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(6) Manchester and Arena Rock State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

39° 00.30′ N. lat. 123° 41.90′ W. long.;
39° 00.30′ N. lat. 123° 44.40′ W. long.;
38° 58.30′ N. lat. 123° 45.60′ W. long.; and
38° 57.50′ N. lat. 123° 43.70′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(7) Del Mar Landing State Marine Park.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

38° 44.44′ N. lat. 123° 30.81′ W. long.;
38° 44.32′ N. lat. 123° 30.95′ W. long.;
38° 44.25′ N. lat. 123° 30.64′ W. long.;
38° 44.28′ N. lat. 123° 30.49′ W. long.; and
38° 44.40′ N. lat. 123° 30.37′ W. long.

(B) Take of all living marine resources is prohibited except the recreational take of finfish by hook and line or spear.

(8) Salt Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

38° 35.18′ N. lat. 123° 20.49′ W. long.;
38° 34.40′ N. lat. 123° 21.35′ W. long.;
38° 33.05′ N. lat. 123° 19.58′ W. long.; and
38° 33.55′ N. lat. 123° 18.99′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobsters, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(9) Gerstle Cove State Marine Conservation Area.

(A) This area lies within the Salt Point State Marine Conservation Area and is bounded by the mean high tide line and a straight line connecting the following points:

38° 33.93′ N. lat. 123° 19.85′ W. long.; and
38° 33.93′ N. lat. 123° 19.65′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of finfish and algae except giant kelp and bull kelp.

(10) Fort Ross State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 3–fathom depth contour, and the following points:

38° 30.71′ N. lat. 123° 15.14′ W. long.;
38° 30.57′ N. lat. 123° 15.29′ W. long.;
38° 30.35′ N. lat. 123° 14.50′ W. long.; and
38° 30.61′ N. lat. 123° 14.16′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. The commercial take of all species other than giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) is allowed.

(11) Sonoma Coast State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 3–fathom depth contour, and the following points:

38° 22.55′ N. lat. 123° 04.64′ W. long.;
38° 22.54′ N. lat. 123° 04.78′ W. long.;
38° 19.50′ N. lat. 123° 04.80′ W. long.; and
38° 19.40′ N. lat. 123° 04.70′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, red abalone, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. The commercial take of all species other than giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) is allowed.

(12) Bodega State Marine Reserve.

(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:

38° 19.38′ N. lat. 123° 04.47′ W. long.;
38° 19.57′ N. lat. 123° 04.71′ W. long.;
38° 18.56′ N. lat. 123° 04.33′ W. long.; and
38° 18.71′ N. lat. 123° 04.15′ W. long.

(B) Take of all living marine resources is prohibited.

(C) In the Bodega State Marine Reserve licensees of the Regents of the University of California and all officers, employees, and students of such university may take, for scientific purposes, any invertebrate or specimen of marine plant life without a permit from the department.

(D) The director of the Bodega State Marine Reserve may authorize any person to enter the Reserve for the purpose of taking fish, invertebrates, or marine plants for scientific study and to take or possess fish, invertebrates, or marine plants for scientific study.

(E) Except as permitted by federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in the Bodega State Marine Reserve without authorization from the reserve director for the purpose of scientific study.

(13) Tomales Bay State Marine Park.

(A) This area is bounded by the mean high tide line of Tomales Bay within Tomales Bay Ecological Reserve southeastward of a line drawn between the following two points:

38° 05.73′ N. lat. 122° 49.84′ W. long.; and
38° 05.45′ N. lat. 122° 50.57′ W. long.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants.

(C) Only lightweight, hand–carried boats may be launched or operated within the park.

(D) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).

(14) Point Reyes Headlands State Marine Conservation Area.

(A)This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:

37° 59.73′ N. lat. 123° 01.46′ W. long.;
37° 59.73′ N. lat. 123° 01.68′ W. long.;
37° 59.40′ N. lat. 122° 57.60′ W. long.; and
37° 59.40′ N. lat. 122° 57.81′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of finfish and algae other than giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*).

(15) Estero de Limantour State Marine Conservation Area.

(A) This area consists of waters below the mean high tide line within Estero de Limantour eastward of a line drawn between the following two points:

38° 01.97′ N. lat. 122° 55.97′ W. long.; and
38° 02.33′ N. lat. 122° 55.97′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of finfish and algae other than giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*).

(16) Duxbury Reef State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:

37° 55.52′ N. lat. 122° 44.17′ W. long.;

37° 55.42′ N. lat. 122° 44.31′ W. long.;
37° 53.65′ N. lat. 122° 41.91′ W. long.; and
37° 53.77′ N. lat. 122° 42.02′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: Red abalone, Dungeness crab, rock crabs, rockfish (family Scorpaenidae), lingcod, cabezon, surfperch (family Embiotocidae), halibut, flounder, sole, turbot, salmon, kelp greenling, striped bass, steelhead, monkeyface–eel, wolf–eel, smelt, and silversides.

2. The commercial take of all species other than giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) is allowed.

(17) Farallon Islands State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and a distance of one nautical mile offshore Southeast Farallon and North Farallon Islands.

(B) Take other than the recreational take of marine aquatic plants is allowed except within the areas described in this section during the stated timeframes.

(C) All vessels shall observe a five (5) nautical mile per hour speed limit within 1,000 feet of any shoreline in the reserve.

(D) All commercial abalone and sea urchin diving vessels operating in the reserve shall terminate their vessel engine exhaust system either through a muffler for dry exhaust systems, or below the vessel waterline for wet exhaust systems.

(E) All commercial abalone and sea urchin diving vessels equipped with an open, deck–mounted air compressor system, while operating in the conservation area, shall have the air compressor's engine exhaust system terminate below the vessel waterline.

(F) From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline of any of the four islets comprising the North Farallons, including North Farallon, the Island of St. James and the two unnamed islets located between them, in the vicinity of 37° 46′ N. lat. 123° 06′ W. long., except in the area beginning at a line extending due west magnetic from the northernmost point of land on North Farallon and continuing clockwise to a line drawn due west magnetic from the southernmost point of land on North Farallon and in the area beginning at a line drawn due west magnetic from the northernmost point of land on the northernmost of the two unnamed islets extending clockwise to a line drawn due south magnetic from the southernmost point of land on that islet.

(G) From March 15 through August 15 of each year no vessel shall be operated or anchored less than 300 feet from the shoreline in the area beginning at the south end of Jordan Channel, westward around Indian Head, then generally northward past Great Arch Rock, then generally following the shoreline to a line extending due west from the northernmost point of land on Sugarloaf Island or in the area from the east end of Mussel Flat, generally southward to the northeasternmost point of land on Saddle Rock (Seal Rock) then generally southwest along the northerly shoreline of Saddle Rock to the southwesternmost point of land on Saddle Rock and continuing generally northward to the west end of Mussel Flat, both areas at Southeast Farallon Island.

(H) Nothing in this section shall prohibit emergency anchorage or vessel operation necessary to protect property or human life.

(18) Fagan Marsh State Marine Park.

(A) This area consists of waters below the mean high tide line within the Fagan Marsh Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants.

(C) Only lightweight, hand–carried boats may be launched or operated within the park.

(19) Peytonia Slough State Marine Park.

(A) This area consists of waters below the mean high tide line within the Peytonia Slough Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants.

(C) Only lightweight, hand–carried boats may be launched or operated within the park.

(20) Corte Madera Marsh State Marine Park.

(A) This area consists of waters below the mean high tide line within the Corte Madera Marsh Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants from shore only.

(C) Only lightweight, hand–carried boats may be launched or operated within the park.

(D) Swimming, wading, and diving are prohibited within the park.

(21) Marin Islands State Marine Park.

(A) This area consists of waters below the mean high tide line within the Marin Islands Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants from shore only.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(22) Albany Mudflats State Marine Park.

(A) This area consists of waters below the mean high tide line within the Albany Mudflats Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants from shore only.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(23) Robert W. Crown State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and a distance of 150 feet seaward of mean lower low water, between the following points:
37° 45.97′ N. lat. 122° 16.84′ W. long.; and
37° 45.95′ N. lat. 122° 16.52′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Finfish may be taken recreationally by hook and line only.

2. Finfish and kelp may be taken commercially.

(24) Redwood Shores State Marine Park.

(A) This area consists of waters below the mean high tide line within the Redwood Shores Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants.

(C) Only lightweight, hand–carried boats may be launched or operated in within the park.

(25) Bair Island State Marine Park.

(A) This area consists of waters below the mean high tide line within the Bair Island Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than kelp from shore only.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, shall enter this park during the period February 15 through May 20.

(E) Waterfowl may be taken in accordance with the general waterfowl regulations (Sections 502, 550, 551, and 552).

(26) James V. Fitzgerald State Marine Park.

(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:
37° 32.68′ N. lat. 122° 31.00′ W. long.;
37° 32.75′ N. lat. 122° 31.18′ W. long.;
37° 29.73′ N. lat. 122° 30.13′ W. long.; and
37° 29.74′ N. lat. 122° 29.90′ W. long.

(B) Take of all living marine resources is prohibited except the recreational take by hook and line or spear of: rockfish (family Scorpaenidae), lingcod, surfperch (family Embiotocidae), monkeyface eel, rock eel, white croaker, halibut, cabezon, kelp greenling, and smelt (Families Osmeridae and Atherinidae).

(27) Año Nuevo State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and a distance of 200 feet seaward of mean lower low water between the following two points:

37° 10.00′ N. lat. 122° 21.80′ W. long; and

37° 08.70′ N. lat. 122° 21.00′ W. long.

The area then continues southward bounded by the mean high tide line and straight lines connecting the following points in the order listed:

37° 08.70′ N. lat. 122° 21.00′ W. long.;

37° 04.70′ N. lat. 122° 21.00′ W. long.; and

37° 04.70′ N. lat. 122° 16.20′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of giant kelp (*Macrocystis pyrifera*) by hand harvest only.

(28) Greyhound Rock State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the three nautical mile offshore boundary and straight lines connecting the following points in the order listed except where noted:

37° 04.70′ N. lat. 122° 16.20′ W. long.;

37° 04.70′ N. lat. 122° 21.00′ W. long.;

37° 03.55′ N. lat. 122° 21.00′ W. long.; thence southward along the three nautical mile offshore boundary to

37° 02.57′ N. lat. 122° 19.10′ W. long.; and

37° 02.57′ N. lat. 122° 14.00′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: giant kelp (*Macrocystis pyrifera*) by hand harvest only, squid, salmon, and, by hook–and–line from shore only, other finfish.

2. Only the following species may be taken commercially: giant kelp (*Macrocystis pyrifera*) by hand harvest only, salmon, and squid except that not more than five percent (5%) by landed weight of any commercial squid catch may be other species taken incidentally to squid.

(29) Natural Bridges State Marine Reserve.

(A) This area is bounded by the mean high tide line and a distance of 200 feet seaward of mean lower low water between the following two points:

36° 57.90′ N. lat. 122° 07.65′ W. long.; and

36° 57.00′ N. lat. 122° 03.50′ W. long.

(B) Take of all living marine resources is prohibited.

(30) Elkhorn Slough State Marine Reserve.

(A) This area includes the waters below mean high tide within Elkhorn Slough lying east of longitude 121° 46.40′ W. and south of latitude 36° 50.50′ N.

(B) Take of all living marine resources is prohibited.

(31) Elkhorn Slough State Marine Conservation Area.

(A) This area includes the waters below mean high tide within Elkhorn Slough east of the Highway 1 Bridge and west of longitude 121° 46.40′ W.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish by hook–and–line only and clams. Clams may only be taken on the north shore of the slough in the area adjacent to the Moss Landing State Wildlife Area [subsection 550(a)].

(32) Moro Cojo Slough State Marine Reserve.

(A) This area includes the waters within Moro Cojo Slough below mean high tide and east of the Highway 1 Bridge and west of the crossing of the Southern Pacific Railroad tracks.

(B) Take of all living marine resources is prohibited.

(33) Soquel Canyon State Marine Conservation Area.

(A) This area is bounded by straight lines connecting the following points in the order listed:

36° 51.00′ N. lat. 121° 56.00′ W. long.;

36° 51.00′ N. lat. 122° 03.80′ W. long.;

36° 48.00′ N. lat. 122° 02.88′ W. long.;

36° 48.00′ N. lat. 121° 56.00′ W. long.; and

36° 51.00′ N. lat. 121° 56.00′ W. long.

(B) Take of all living marine resources is prohibited except the commercial and recreational take of pelagic finfish [subsection 632(a)(3)].

(34) Portuguese Ledge State Marine Conservation Area.

(A) This area is bounded by straight lines connecting the following points in the order listed:

36° 43.00′ N. lat. 121° 56.00′ W. long.;

36° 43.00′ N. lat. 122° 01.30′ W. long.;

36° 41.00′ N. lat. 122° 00.80′ W. long.;

36° 41.00′ N. lat. 121° 56.00′ W. long.; and

36° 43.00′ N. lat. 121° 56.00′ W. long.

(B) Take of all living marine resources is prohibited except the commercial and recreational take of pelagic finfish [subsection 632(a)(3)].

(35) Edward F. Ricketts State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

36° 36.50′ N. lat. 121° 53.37′ W. long.;

36° 37.25′ N. lat. 121° 53.78′ W. long.; and

36° 37.10′ N. lat. 121° 54.09′ W. long.

(B) Take of all living marine resources is prohibited except:

1. The recreational take of finfish by hook–and–line is allowed.

2. The commercial take of giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) is allowed by hand in the area defined by subsection 165(c)(4)(D) under the following conditions:

a. A kelp harvester with a valid license issued pursuant to Section 165 may take no more than 12 tons of kelp from the portion of Administrative Kelp Bed 220 within the Edward F. Ricketts State Marine Conservation Area in any calendar month.

b. Duplicate landing records must be kept on board the harvest vessel in accordance with the requirements of Section 165.

(36) Lovers Point State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

36° 37.10′ N. lat. 121° 54.09′ W. long.;

36° 37.25′ N. lat. 121° 53.78′ W. long.;

36° 37.38′ N. lat. 121° 53.85′ W. long.;

36° 37.60′ N. lat. 121° 54.75′ W. long.; and

36° 37.60′ N. lat. 121° 54.91′ W. long.

(B) Take of all living marine resources is prohibited.

(37) Pacific Grove Marine Gardens State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

36° 37.60′ N. lat. 121° 54.91′ W. long.;

36° 37.60′ N. lat. 121° 54.75′ W. long.;

36° 38.70′ N. lat. 121° 55.40′ W. long.;

36° 38.90′ N. lat. 121° 56.60′ W. long.; and

36° 38.22′ N. lat. 121° 56.15′ W. long.

(B) Take of all living marine resources is prohibited except:

1. The recreational take of finfish is allowed.

2. The commercial take of giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) by hand is allowed under the following conditions:

a. A kelp harvester with a valid license issued pursuant to Section 165 may take no more than 44 tons of kelp from the portion of Administrative Kelp Bed 220 within the Pacific Grove Marine Gardens State Marine Conservation Area in any calendar month.

b. Duplicate landing records must be kept on board the harvest vessel in accordance with the requirements of Section 165.

(38) Asilomar State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

36° 38.22′ N. lat. 121° 56.15′ W. long.;

36° 38.90′ N. lat. 121° 56.60′ W. long.; and

36° 36.60′ N. lat. 121° 57.50′ W. long.

(B) Take of all living marine resources is prohibited.

(39) Carmel Pinnacles State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
36° 33.65′ N. lat. 121° 57.60′ W. long.;
36° 33.65′ N. lat. 121° 58.50′ W. long.;
36° 33.10′ N. lat. 121° 58.50′ W. long.;
36° 33.10′ N. lat. 121° 57.60′ W. long.; and
36° 33.65′ N. lat. 121° 57.60′ W. long.
(B) Take of all living marine resources is prohibited.
(40) Carmel Bay State Marine Conservation Area.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
36° 33.65′ N. lat. 121° 57.10′ W. long.;
36° 31.70′ N. lat. 121° 56.30′ W. long.; and
36° 31.70′ N. lat. 121° 55.55′ W. long.
(B) Take of all living marine resources is prohibited except:
1. The recreational take of finfish is allowed.
2. The commercial take of giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) by hand is allowed under the following conditions:
a. A kelp harvester with a valid license issued pursuant to Section 165 may take no more than 44 tons of kelp from the portion of Administrative Kelp Bed 219 within the Carmel Bay State Marine Conservation Area in any calendar month.
b. Duplicate landing records must be kept on board the harvest vessel in accordance with the requirements of Section 165.
(41) Point Lobos State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
36° 31.70′ N. lat. 121° 55.55′ W. long.;
36° 31.70′ N. lat. 121° 58.25′ W. long.;
36° 28.88′ N. lat. 121° 58.25′ W. long.; and
36° 28.88′ N. lat. 121° 56.30′ W. long.
(B) Take of all living marine resources is prohibited.
(C) Within the portion of the Point Lobos State Marine Reserve which also falls within the boundary of the Point Lobos State Reserve (State Park Unit), restrictions on boating and diving activities exist. Contact the California Department of Parks and Recreation for current restrictions.
(42) Point Lobos State Marine Conservation Area.
(A) This area is bounded by straight lines connecting the following points in the order listed except where noted:
36° 31.70′ N. lat. 121° 58.25′ W. long.;
36° 31.70′ N. lat. 122° 01.30′ W. long.; thence southward along the three nautical mile offshore boundary to
36° 28.88′ N. lat. 122° 00.55′ W. long.;
36° 28.88′ N. lat. 121° 58.25′ W. long.; and
36° 31.70′ N. lat. 121° 58.25′ W. long.
(B) Take of all living marine resources is prohibited except the recreational and commercial take of salmon, albacore, and the commercial take of spot prawn.
(43) Point Sur State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
36° 18.40′ N. lat. 121° 54.10′ W. long.;
36° 18.40′ N. lat. 121° 56.00′ W. long.;
36° 15.00′ N. lat. 121° 52.50′ W. long.; and
36° 15.00′ N. lat. 121° 50.25′ W. long.
(B) Take of all living marine resources is prohibited.
(44) Point Sur State Marine Conservation Area.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 18.40′ N. lat. 121° 56.00′ W. long.;
36° 18.40′ N. lat. 121° 58.33′ W. long.; thence southward along the three nautical mile offshore boundary to
36° 15.00′ N. lat. 121° 55.10′ W. long.;
36° 15.00′ N. lat. 121° 52.50′ W. long.; and
36° 18.40′ N. lat. 121° 56.00′ W. long.
(B) Take of all living marine resources is prohibited except the commercial and recreational take of salmon and albacore.
(45) Big Creek State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
36° 07.20′ N. lat. 121° 38.00′ W. long.;
36° 07.20′ N. lat. 121° 39.00′ W. long.;
36° 05.20′ N. lat. 121° 38.00′ W. long.;
36° 05.20′ N. lat. 121° 41.25′ W. long.; thence southward along the three nautical mile offshore boundary to
36° 02.65' N. lat. 121° 39.70′ W. long.; and
36° 02.65' N. lat. 121° 35.13′ W. long.
(B) Take of all living marine resources is prohibited.
(C) Anchoring. Except as pursuant to Federal law or emergency caused by hazardous weather, it is unlawful to anchor or moor a vessel in waters shallower than 10 fathoms in the Big Creek State Marine Reserve.
(46) Big Creek State Marine Conservation Area.
(A) This area is bounded by the three nautical mile offshore boundary and straight lines connecting the following points in the order listed except where noted:
36° 07.20′ N. lat. 121° 39.00′ W. long.;
36° 07.20′ N. lat. 121° 42.90′ W. long.; thence southward along the three nautical mile offshore boundary to
36° 05.20′ N. lat. 121° 41.25′ W. long.;
36° 05.20′ N. lat. 121° 38.00′ W. long.; and
36° 07.20′ N. lat. 121° 39.00′ W. long.
(B) Take of all living marine resources is prohibited except the commercial and recreational take of salmon, albacore, and the commercial take of spot prawn.
(47) Piedras Blancas State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
35° 42.85′ N. lat. 121° 18.95′ W. long.;
35° 42.85′ N. lat. 121° 21.00′ W. long.;
35° 39.15′ N. lat. 121° 18.50′ W. long.; and
35° 39.15′ N. lat. 121° 14.45′ W. long.
(B) Take of all living marine resources is prohibited.
(48) Piedras Blancas State Marine Conservation Area.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
35° 42.85′ N. lat. 121° 21.00′ W. long.;
35° 42.85′ N. lat. 121° 22.85′ W. long.; thence southward along the three nautical mile offshore boundary to
35° 39.15′ N. lat. 121° 20.90′ W. long.;
35° 39.15′ N. lat. 121° 18.50′ W. long.; and
35° 42.85′ N. lat. 121° 21.00′ W. long.
(B) Take of all living marine resources is prohibited except the commercial and recreational take of salmon and albacore.
(49) Cambria State Marine Conservation Area.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
35° 37.10′ N. lat. 121° 09.20′ W. long.;
35° 37.10′ N. lat. 121° 10.70′ W. long.;
35° 32.85′ N. lat. 121° 06.70′ W. long.; and
35° 32.85′ N. lat. 121° 05.85′ W. long.
(B) The commercial take of all living marine resources is prohibited. Recreational take is allowed.
(50) White Rock (Cambria) State Marine Conservation Area.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
35° 32.85′ N. lat. 121° 05.85′ W. long.;
35° 32.85′ N. lat. 121° 06.70′ W. long.;
35° 30.50′ N. lat. 121° 05.00′ W. long.; and
35° 30.50′ N. lat. 121° 03.40′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) under the following conditions:

1. A kelp harvester with a valid license issued pursuant to Section 165 and holding a valid lease to Administrative Kelp Bed 208 may take no more than 125 tons of kelp from the portion of Administrative Kelp Bed 208 within the White Rock (Cambria) State Marine Conservation Area in any calendar month.

2. Duplicate landing records must be kept on board the harvest vessel in accordance with the requirements of Section 165.

(51) Morro Bay State Marine Recreational Management Area.

(A) This area includes the area below mean high tide within Morro Bay east of the Morro Bay entrance breakwater and west of longitude 120° 50.34′ W.

(B) Recreational hunting of waterfowl is allowed unless otherwise restricted by hunting regulations (sections 502, 550, 551, and 552).

(C) Take of all living marine resources is prohibited except the following activities are allowed north of latitude 35° 19.70′ N:

1. The recreational take of finfish

2. Aquaculture of oysters, pursuant to a valid State water bottom lease and permit.

3. Storing finfish taken outside the Morro Bay State Marine Recreational Management Area in a receiver for bait purposes.

(52) Morro Bay State Marine Reserve.

(A) This area includes the area below mean high tide line within Morro Bay east of longitude 120° 50.34′ W.

(B) Take of all living marine resources is prohibited.

(53) Point Buchon State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

35° 15.25′ N. lat. 120° 54.00′ W. long.;
35° 15.25′ N. lat. 120° 56.00′ W. long.;
35° 11.00′ N. lat. 120° 52.40′ W. long.; and
35° 13.30′ N. lat. 120° 52.40′ W. long.

(B) Take of all living marine resources is prohibited.

(54) Point Buchon State Marine Conservation Area.

(A) This area is bounded by straight lines connecting the following points in the order listed except where noted:

35° 15.25′ N. lat. 120° 56.00′ W. long.;
35° 15.25′ N. lat. 120° 57.80′ W. long.; thence southward along the three nautical mile offshore boundary to
35° 11.00′ N. lat. 120° 55.20′ W. long.;
35° 11.00′ N. lat. 120° 52.40′ W. long.; and
35° 15.25′ N. lat. 120° 56.00′ W. long.

(B) Take of all living marine resources is prohibited except the commercial and recreational take of salmon and albacore.

(55) Vandenberg State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

34° 44.65′ N. lat. 120° 37.75′ W. long.;
34° 44.65′ N. lat. 120° 40.00′ W. long.;
34° 33.25′ N. lat. 120° 40.00′ W. long.; and
34° 33.25′ N. lat. 120° 37.25′ W. long.

(B) Take of all living marine resources is prohibited except take incidental to base operations and commercial space launch operations identified by the Vandenberg Air Force Base Commander as mission critical.

(C) Public Entry. Public entry into the Vandenberg State Marine Reserve may be restricted at the discretion of the department to protect wildlife, aquatic life, or habitat, or by the Commander of Vandenberg Air Force Base to protect and provide safety for base operations.

(D) The Department shall enter into a Memorandum of Understanding (MOU) with the Commander of Vandenberg Air Force Base for the mutually beneficial management and administration of the Vandenberg State Marine Reserve. The MOU shall include, but not be limited to, the identification of Vandenberg Air Force Base's national defense mission activities that are unrestricted by the subject regulations and details on management and administrative roles and responsibilities.

(56) Refugio State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

34° 27.63′ N. lat. 120° 05.32′ W. long.;
34° 27.34′ N. lat. 120° 05.75′ W. long.;
34° 27.34′ N. lat. 120° 02.75′ W. long.; and
34° 27.76′ N. lat. 120° 02.75′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp and bull kelp and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.

(57) Goleta Slough State Marine Park.

(A) This area consists of waters below the mean high tide line within the Goleta Slough Ecological Reserve:

(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants from designated areas.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) No person shall enter this park and remain therein except on established trails, paths or other designated areas except department employees or designated employees of Santa Barbara Airport, City of Santa Barbara and Goleta Valley Mosquito Abatement District for the purposes of carrying out official duties.

(58) Richardson Rock (San Miguel Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line of Richardson Rock and straight lines connecting the following points in the order listed except where noted:

34° 07.905′ N. lat. 120° 28.200′ W. long.;
34° 02.211′ N. lat. 120° 28.200′ W. long.;
34° 02.211′ N. lat. 120° 31.467′ W. long.; thence northward along the three nautical mile offshore boundary to
34° 07.905′ N. lat. 120° 28.200′ W. long.

(B) Take of all living marine resources is prohibited.

(59) San Miguel Island Special Closure. Special restrictions on boating and access apply to San Miguel Island as follows.

(A) Boating is allowed at San Miguel Island except west of a line drawn between Judith Rock (34° 01.50′ N. lat. 120° 23.30′ W. long.) and Castle Rock (34° 03.30′ N. lat. 120° 26.30′ W. long.) where boats are prohibited closer than 300 yards from shore.

1. Notwithstanding the 300–yard boating closure between Judith Rock and Castle Rock, the following shall apply:

a. Boats may approach San Miguel Island no nearer than 100 yards from shore during the period(s) from March 15 through April 30, and October 1 through December 15; and

b. Boats operated by commercial sea urchin divers may enter waters of the 300– yard area between the western boundary of the Judith Rock State Marine Reserve at 120° 26.60′ W. long. and Castle Rock for the purpose of fishing sea urchins during the period(s) from March 15 through April 30, and October 1 through December 15.

2. The department may rescind permission for boats to enter waters within 300 yards between Judith Rock and Castle Rock upon finding that impairment to the island marine mammal resource is imminent. Immediately following such closure, the department will request the commission

to hear, at its regularly scheduled meeting, presentation of documentation supporting the need for such closure.

(B) Other Requirements:

1. Boats traveling within 300 yards of the shoreline or anchorages shall operate with a minimum amount of noise and shall not exceed speeds of five miles per hour.

2. Except as permitted by federal law or emergency caused by hazardous weather, boats may be anchored overnight only at Tyler Bight and Cuyler Harbor.

3. Landing is allowed on San Miguel Island only at the designated landing beach in Cuyler Harbor.

4. No person shall have access to all other offshore rocks and islands at San Miguel Island.

(60) Harris Point (San Miguel Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 03.160′ N. lat. 120° 23.300′ W. long.;

34° 09.285′ N. lat. 120° 23.300′ W. long.; thence southeastward along the three nautical mile offshore boundary to

34° 06.322′ N. lat. 120° 18.400′ W. long.; and

34° 01.755′ N. lat. 120° 18.400′ W. long.

(B) Take of all living marine resources is prohibited.

(C) An exemption to the reserve, where commercial and recreational take of living marine resources is allowed, exists between the mean high tide line in Cuyler Harbor and a straight line between the following points:

34° 03.554′ N. lat. 120° 21.311′ W. long.; and

34° 02.908′ N. lat. 120° 20.161′ W. long.

(61) Judith Rock (San Miguel Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 01.802′ N. lat. 120° 26.600′ W. long.;

33° 58.508′ N. lat. 120° 26.600′ W. long.; thence eastward along the three nautical mile offshore boundary to

33° 58.510′ N. lat. 120° 25.300′ W. long.; and

34° 01.618′ N. lat. 120° 25.300′ W. long.;

(B) Take of all living marine resources is prohibited.

(62) Carrington Point (Santa Rosa Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

34° 01.296′ N. lat. 120° 05.200′ W. long.

34° 04.000′ N. lat. 120° 05.200′ W. long.;

34° 04.000′ N. lat. 120° 01.000′ W. long.;

34° 00.500′ N. lat. 120° 01.000′ W. long.; and

34° 00.500′ N. lat. 120° 02.930′ W. long.

(B) Take of all living marine resources is prohibited.

(63) Skunk Point (Santa Rosa Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

33° 59.000′ N. lat. 119° 58.808′ W. long.;

33° 59.000′ N. lat. 119° 58.000′ W. long.;

33° 57.100′ N. lat. 119° 58.000′ W. long.; and

33° 57.100′ N. lat. 119° 58.257′ W. long.

(B) Take of all living marine resources is prohibited.

(64) South Point (Santa Rosa Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

33° 55.014′ N. lat. 120° 10.000′ W. long.

33° 51.506′ N. lat. 120° 10.000′ W. long.; thence eastward along the three nautical mile offshore boundary to

33° 50.657′ N. lat. 120° 06.500′ W. long.;

33° 53.800′ N. lat. 120° 06.500′ W. long.; and

33° 53.800′ N. lat. 120° 06.544′ W. long.

(B) Take of all living marine resources is prohibited.

(65) Painted Cave (Santa Cruz Island) State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 04.492′ N. lat. 119° 53.000′ W. long.;

34° 05.200′ N. lat. 119° 53.000′ W. long.; thence eastward along a line one nautical mile offshore to

34° 05.000′ N. lat. 119° 51.000′ W. long.; and

34° 04.034′ N. lat. 119° 51.000′ W. long.

(B) Take of all living marine resources is prohibited except for the recreational take of lobster and pelagic finfish [subsection 632(a)(3)].

(66) Gull Island (Santa Cruz Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and the following points except where noted:

33° 58.065′ N. lat. 119° 50.967′ W. long.;

33° 58.000′ N. lat. 119° 51.000′ W. long.;

33° 58.000′ N. lat. 119° 53.000′ W. long.;

33° 55.449′ N. lat. 119° 53.000′ W. long.; thence eastward along the three nautical mile offshore boundary to

33° 54.257′ N. lat. 119° 48.000′ W. long.; and

33° 57.756′ N. lat. 119° 48.000′ W. long.

(B) Take of all living marine resources is prohibited.

(67) Scorpion (Santa Cruz Island) State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 02.958′ N. lat. 119° 35.500′ W. long.;

34° 06.202′ N. lat. 119° 35.500′ W. long.; thence eastward along the three nautical mile offshore boundary to

34° 06.245′ N. lat. 119° 32.800′ W. long.; and

34° 02.700′ N. lat. 119° 32.800′ W. long.

(B) Take of all living marine resources is prohibited.

(68) Anacapa Island Special Closure.

(A) No net or trap may be used in waters less than 20 feet deep off the Anacapa Islands commonly referred to as Anacapa Island.

(B) A brown pelican fledgling area is designated from the mean high tide mark seaward to a water depth of 20 fathoms (120 feet) on the north side of West Anacapa Island between a line extending 000° True off Portuguese Rock (34° 00.91′ N. lat. 119° 25.26′ W. long.) to a line extending 000° True off the western edge of Frenchy's Cove (34° 00.417′ N. lat. 119° 24.600′ W. long.), a distance of approximately 4,000 feet. No person except department employees or employees of the National Park Service in the performance of their official duties shall enter this area during the period January 1 to October 31.

(69) Anacapa Island State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 00.828′ N. lat. 119° 26.623′ W. long.;

34° 00.800′ N. lat. 119° 26.700′ W. long.;

34° 03.940′ N. lat. 119° 26.700′ W. long.; thence eastward along the three nautical mile offshore boundary to

34° 04.002′ N. lat. 119° 24.600′ W. long.; and

34° 00.417′ N. lat. 119° 24.600′ W. long.

(B) Take of all living marine resources is prohibited except for the recreational take of lobster and pelagic finfish [subsection 632(a)(3)] and the commercial take of spiny lobster.

(70) Anacapa Island State Marine Reserve.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:

34° 00.417′ N. lat. 119° 24.600′ W. long.;

34° 04.002′ N. lat. 119° 24.600′ W. long.; thence eastward along the three nautical mile offshore boundary to

34° 04.033′ N. lat. 119° 21.400′ W. long.;

34° 01.000′ N. lat. 119° 21.400′ W. long.; and

34° 00.960′ N. lat. 119° 21.449′ W. long.

(B) Take of all living marine resources is prohibited.

(71) Footprint (Anacapa Channel) State Marine Reserve

(A) This area is bounded by the straight lines connecting the following points in the order listed except where noted:

33° 59.300′ N. lat. 119° 30.965′ W. long.;
33° 57.510′ N. lat. 119° 30.965′ W. long.; thence eastward along the three nautical mile offshore boundary to
33° 57.264′ N. lat. 119° 25.987′ W. long.;
33° 59.300′ N. lat. 119° 25.987′ W. long.; and
33° 59.300′ N. lat. 119° 30.965′ W. long.
(B) Take of all living marine resources is prohibited.
(72) Big Sycamore Canyon State Marine Reserve.
(A) This area is bounded by the 5– fathom depth contour, the 20–fathom depth contour, and the following points:
34° 04.79′ N. lat. 119° 02.03′ W. long.;
34° 03.92′ N. lat. 119° 02.70′ W. long.;
34° 02.97′ N. lat. 119° 00.00′ W. long.; and
34° 03.86′ N. lat. 119° 00.00′ W. long.
(B) Take of all living marine resources is prohibited.
(C) Swimming. No person shall swim, wade, dive, or use any diving equipment within the Big Sycamore Canyon State Marine Reserve except as authorized pursuant to scientific research approved by the department.
(D) Boating. Except as allowed pursuant to Federal law, no person shall launch or operate a boat or other floating device within the Big Sycamore Canyon State Marine Reserve except to pass through the area during the normal course of vessel transit along the coast, to avoid inclement weather, or pursuant to scientific research approved by the department.
(E) Firearms. No person shall possess, fire, or discharge any firearm, bow and arrow, air or gas gun, spear gun, or any other weapon of any kind within, or into the Big Sycamore Canyon State Marine Reserve except as authorized pursuant to scientific research approved by the department.
(F) Public Entry. Public entry into the Big Sycamore Canyon State Marine Reserve may be restricted at the discretion of the department to protect wildlife, aquatic life, or habitat. No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, or institution or agency entering into a memorandum of understanding (MOU) with the department, may enter an area which is closed to public entry.
(G) Pesticides, Herbicides, and Other Regulated Chemicals. The use of pesticides, herbicides, and other regulated chemicals is prohibited in the Big Sycamore Canyon State Marine Reserve except as authorized pursuant to scientific research approved by the department. Where such chemicals are intended to be used as a part of any research program, any necessary authorization and/or permits required to dispense such chemicals into state waters or tide and submerged lands shall be obtained prior to final approval of the research by the department.
(H) Litter. No person shall deposit, drop, or scatter any debris on the Big Sycamore Canyon State Marine Reserve. Any refuse resulting from a person's use of an area must be removed from that area by such person.
(I) Aircraft. No person shall operate any aircraft or hovercraft within the Big Sycamore Canyon State Marine Reserve, except as authorized pursuant to scientific research approved by the department.
(J) Pets. Pets, including but not limited to, dogs and cats, are prohibited from entering the Big Sycamore Canyon State Marine Reserve unless authorized by the department.
(K) Memorandum of Understanding (MOU). The department may enter into MOU's with colleges, universities, and other bonafide research organizations to conduct marine–related research within the Big Sycamore Canyon State Marine Reserve.
(L) The department shall notify the California Department of Parks and Recreation of scientific research approved within the Big Sycamore Canyon State Marine Reserve.
(73) Santa Barbara Island State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed except where noted:
33° 28.500′ N. lat. 119° 01.847′ W. long.;
33° 28.500′ N. lat. 118° 58.051′ W. long.; thence along the three nautical mile offshore boundary to
33° 24.842′ N. lat. 119° 02.200′ W. long.; and
33° 27.973′ N. lat. 119° 02.200′ W. long.
(B) Take of all living marine resources is prohibited.
(74) Abalone Cove State Marine Park.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
33° 44.53′ N. lat. 118° 22.83′ W. long.;
33° 44.47′ N. lat. 118° 22.83′ W. long.;
33° 44.14′ N. lat. 118° 22.47′ W. long.;
33° 44.14′ N. lat. 118° 22.12′ W. long.; and
33° 44.19′ N. lat. 118° 22.12′ W. long.
(B) Take of all living marine resources is prohibited except the recreational take of finfish by hook and line or spear.
(75) Point Fermin State Marine Park.
(A) This area is bounded by the mean high tide line, a distance of 600 feet seaward of mean lower low water, and the following points:
33° 42.31′ N. lat. 118° 17.57′ W. long.;
33° 42.21′ N. lat. 118° 17.57′ W. long.;
33° 42.47′ N. lat. 118° 17.00′ W. long.; and
33° 42.47′ N. lat. 118° 17.13′ W. long.
(B) Take of all living marine resources is prohibited except the recreational take of: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.
(76) Bolsa Chica State Marine Park.
(A) This area consists of waters below the mean high tide line within the Bolsa Chica Ecological Reserve.
(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than marine aquatic plants from designated areas around outer Bolsa Bay.
(C) Boating, swimming, wading, and diving are prohibited within the park.
(D) No person, except State and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department or employees of Signal Corporation and its invitees for the purpose of carrying out oil and gas operations, shall enter this park and remain therein except on established trails, paths, or other designated areas.
(E) No person shall enter this park between the hours of 8:00 p.m. and 6:00 a.m.
(F) The County of Orange, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.
(77) Special Closure: Arrow Point to Lion Head Point (Catalina Island) Invertebrate Area.
(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:
33° 28.64′ N. lat. 118° 32.33′ W. long.;
33° 28.82′ N. lat. 118° 32.33′ W. long.;
33° 27.25′ N. lat. 118° 29.90′ W. long.; and
33° 27.18′ N. lat. 118° 30.07′ W. long.
(B) Recreational take of invertebrates is prohibited. Take of other living marine resources is allowed.
(78) Catalina Marine Science Center State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
33° 26.65′ N. lat. 118° 29.33′ W. long.;
33° 26.83′ N. lat. 118° 29.13′ W. long.;
33° 26.96′ N. lat. 118° 28.56′ W. long.;

33° 26.92′ N. lat. 118° 28.53′ W. long.; and
33° 26.87′ N. lat. 118° 28.62′ W. long.
(B) Take of all living marine resources is prohibited.
(C) Except as pursuant to Federal law, emergency caused by hazardous weather, or as provided in this section, it is unlawful to anchor or moor a vessel in the Catalina Marine Science Center State Marine Reserve.
(D) The director of the Catalina Marine Science Center Marine State Marine Reserve, or any person that the director of the reserve has authorized may anchor or moor a vessel or take, for scientific purposes, any fish or specimen of marine life under the conditions prescribed by the department or the reserve director.
(79) Farnsworth Bank State Marine Conservation Area.
(A) This area consists of waters shallower than 250 feet within the area bounded by straight lines connecting the following points in the order listed:
33° 21.00′ N. lat. 118° 32.00′ W. long.;
33° 21.00′ N. lat. 118° 30.50′ W. long.;
33° 20.00′ N. lat. 118° 30.50′ W. long.;
33° 20.00′ N. lat. 118° 32.00′ W. long.; and
33° 21.00′ N. lat. 118° 32.00′ W. long.
(B) Take of purple coral (Stylaster californicus) is prohibited. Take of other living marine resources is allowed.
(80) Lover's Cove State Marine Conservation Area.
(A) This area is bounded by the mean high tide line, a distance of 100 yards seaward of mean lower low water, and the following points:
33° 20.64′ N. lat. 118° 19.25′ W. long.;
33° 20.67′ N. lat. 118° 19.20′ W. long.;
33° 20.59′ N. lat. 118° 18.94′ W. long.; and
33° 20.56′ N. lat. 118° 18.98′ W. long.
(B) Take of all living marine resources is prohibited except the commercial take of finfish and kelp.
(81) Upper Newport Bay State Marine Park.
(A) This area consists of waters below the mean high tide line within the Upper Newport Bay Ecological Reserve bounded by; the southern end of Shellmaker Island (33° 37.20′ N. lat. 117° 53.51′ W. long.) in the south, Back Bay Drive, East Bluff Drive, and Jamboree road in the east, the 10–foot elevation in the north and west, and a line connecting North Star Beach (33° 37.38′ N. lat. 117° 53.60′ W. long.) to the southern end of Shellmaker Island.
(B) Take of all living marine resources is prohibited except the recreational hook and line take of species other than kelp.
(C) Swimming is allowed only in the area between North Star Beach and mid–channel.
(D) Boats are limited to speeds less than five miles per hour.
(E) Shoreline access is limited to established trails, paths, or other designated areas.
(F) A $2.00 day use pass or a valid $10.00 annual wildlife pass is required of all users of Upper Newport Bay Ecological Reserve except: users that possess a valid California sport fishing license, hunting license or trapping license; users that are under 16 years of age; or users that are part of an organized youth or school group and having free permits issued by the appropriate regional office. Refer to subsections 550(b)(4) and (5), Title 14, CCR, for regulations for fee requirements for wildlife areas.
(82) Robert E. Badham State Marine Conservation Area.
(A) This area is bounded by the mean high tide line, a distance of 200 feet seaward of mean lower low water, and the following points:
33° 35.42′ N. lat. 117° 52.22′ W. long.;
33° 35.40′ N. lat. 117° 52.24′ W. long.;
33° 35.03′ N. lat. 117° 51.78′ W. long.; and
33° 35.05′ N. lat. 117° 51.74′ W. long.
(B) Take of all living marine resources is prohibited except:
1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.
2. Only spiny lobster may be taken commercially.
(83) Crystal Cove State Marine Conservation Area.
(A) This area is bounded by the mean high tide line, the 20–fathom depth contour, and the following points:
33° 35.05′ N. lat. 117° 51.74′ W. long.;
33° 34.76′ N. lat. 117° 52.32′ W. long.;
33° 33.27′ N. lat. 117° 49.62′ W. long.; and
33° 33.40′ N. lat. 117° 49.18′ W. long.
(B) Take of all living marine resources is prohibited except:
1. Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.
2. Only the following species may be taken commercially: finfish, crabs, ghost shrimp, jackknife clams, sea urchins, algae except giant kelp (*Macrocystis pyrifera*) and bull kelp (*Nereocystis spp.*) and worms except that no worms may be taken in any mussel bed, nor may any person pick up, remove, detach from the substrate any other organisms, or break up, move or destroy any rocks or other substrate or surfaces to which organisms are attached.
(84) Irvine Coast State Marine Conservation Area.
(A) This area is bounded by the mean high tide line, a distance of 600 feet seaward of mean lower low water, and the following points:
33° 35.05′ N. lat. 117° 51.74′ W. long.;
33° 35.00′ N. lat. 117° 51.84′ W. long.;
33° 33.37′ N. lat. 117° 49.28′ W. long; and
33° 33.40′ N. lat. 117° 49.18′ W. long.
(B) Take of all living marine resources is prohibited except:
1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.
2. Only spiny lobster may be taken commercially.
(85) Laguna Beach State Marine Conservation Area.
(A) This area is bounded by the mean high tide line, a distance of 600 feet seaward of mean lower low water, and the following points:
33° 32.86′ N. lat. 117° 48.35′ W. long.;
33° 32.78′ N. lat. 117° 48.45′ W. long.;
33° 30.37′ N. lat. 117° 45.17′ W. long.; and
33° 30.43′ N. lat. 117° 45.06′ W. long.
(B) Take of all living marine resources is prohibited except:
1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.
2. Only spiny lobster may be taken commercially.
(86) Heisler Park State Marine Reserve.
(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:
33° 32.66′ N. lat. 117° 47.61′ W. long.;
33° 32.53′ N. lat. 117° 47.66′ W. long.;
33° 32.43′ N. lat. 117° 47.26′ W. long.; and
33° 32.56′ N. lat. 117° 47.30′ W. long.

(B) Take of all living marine resources is prohibited.

(C) Boats may be launched and retrieved only in designated areas and may be anchored within the reserve only during daylight hours.

(87) South Laguna Beach State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, the 20–foot depth contour, and the following points:

33° 30.43′ N. lat. 117° 45.06′ W. long.;
33° 30.37′ N. lat. 117° 45.17′ W. long.;
33° 30.04′ N. lat. 117° 44.91′ W. long.; and
33° 30.15′ N. lat. 117° 44.81′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(88) Niguel State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1200 feet seaward of mean lower low water, and the following points:

33° 29.15′ N. lat. 117° 44.05′ W. long.;
33° 29.15′ N. lat. 117° 44.30′ W. long.;
33° 27.74′ N. lat. 117° 43.18′ W. long.; and
33° 27.74′ N. lat. 117° 42.95′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(89) Dana Point State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1200 feet seaward of mean lower low water, and the following points:

33° 27.74′ N. lat. 117° 42.95′ W. long.;
33° 27.74′ N. lat. 117° 43.18′ W. long.;
33° 27.47′ N. lat. 117° 42.28′ W. long.; and
33° 27.63′ N. lat. 117° 42.45′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally below the mean lower low–water mark: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(C) Except as expressly provided in this section, it is unlawful to enter the intertidal zone in the Dana Point State Marine Park for the purpose of taking or possessing, or to take or possess, any species of fish, plant, or invertebrate, or part thereof; to use or have in possession any contrivance designed to be used for catching fish; to disturb any native plant, fish, wildlife, aquatic organism; or to take or disturb any natural geological feature. This subdivision does not prohibit persons from entering the intertidal zone for the purpose of entertainment, recreation, and education while having a minimum impact on the intertidal environment and the living organisms therein. For this purpose, minimum impact includes foot traffic; general observation of organisms in their environment with immediate replacement of any unattached organisms to their natural location after temporary lifting for examination; and photography. Minimum impact does not include removal of attached organisms from their environment; gathering of fishing bait; littering, collecting rocks and shells; or turning rocks or other acts destructive to the environment.

(D) The department director may appoint a director of the Dana Point State Marine Park.

(E) The director of the Dana Point State Marine Park may issue a special collecting permit authorizing any person to enter the park for the purposes of scientific collecting under the conditions of a scientific collector's permit issued by the department.

(F) Notwithstanding subsections 632(b)(88)(B) or 632(b)(88)(C), the director of the Dana Point State Marine Park, or any person who has a scientific collector's permit from the department and to whom the director of the Dana Point State Marine Park has issued a special collecting permit may take, for scientific purposes, any fish or specimen of marine plant life under the conditions prescribed by the department.

(G) This section does not prohibit the entry of state and local law enforcement officers, fire suppression agencies, and employees of the department in the performance of their official duties. This section does not prohibit or restrict navigation in the Dana Point State Marine Park pursuant to federal law.

(90) Doheny Beach State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 600 feet seaward of mean lower low water, and the following points:

33° 27.70′ N. lat. 117° 41.38′ W. long.;
33° 27.60′ N. lat. 117° 41.38′ W. long.;
33° 27.27′ N. lat. 117° 40.28′ W. long.; and
33° 27.35′ N. lat. 117° 40.21′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: lobster, rockfish (family Scorpaenidae), greenling, lingcod, cabezon, yellowtail, mackerel, bluefin tuna, kelp bass, spotted sand bass, barred sand bass, sargo, croaker, queenfish, California corbina, white seabass, opaleye, halfmoon, surfperch (family Embiotocidae), blacksmith, Pacific barracuda, California sheephead, Pacific bonito, California halibut, sole, turbot, and sanddab. Finfish shall be taken only by hook and line or by spearfishing gear.

2. Only spiny lobster may be taken commercially.

(91) Doheny State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1,500 feet seaward of mean lower low water, and the following points:

33° 27.70′ N. lat. 117° 41.38′ W. long.;
33° 27.45′ N. lat. 117° 41.39′ W. long.;
33° 27.15′ N. lat. 117° 40.38′ W. long.; and
33° 27.35′ N. lat. 117° 40.21′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Commercial take is allowed.

(92) Buena Vista Lagoon State Marine Park.

(A) This area consists of waters below the mean high tide line within the Buena Vista Lagoon Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational take of species other than kelp by hook and line in designated areas and at designated times only.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(93) Agua Hedionda Lagoon State Marine Reserve.

(A) This area consists of waters below the mean high tide line within the Agua Hedionda Lagoon Ecological Reserve.

(B) Take of all living marine resources is prohibited.

(C) The department, and the County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(94) Batiquitos Lagoon State Marine Park.

(A) This area consists of waters below the mean high tide line within the Batiquitos Lagoon Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational take of finfish by hook and line from shore.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) San Diego County, after consultation with the department, may carry out management activities necessary for fish and wildlife management, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and associated use of equipment.

(95) Encinitas State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, as distance of 600 feet seaward of mean lower low water, and the following points:

33° 02.74′ N. lat. 117° 17.88′ W. long.;
33° 02.70′ N. lat. 117° 18.00′ W. long.;
33° 01.98′ N. lat. 117° 17.64′ W. long.; and
33° 02.04′ N. lat. 117° 17.54′ W. long.

(B) Take of all living marine resources is prohibited except the commercial and recreational take of finfish.

(96) Cardiff–San Elijo State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 3000 feet seaward of mean lower low water, and the following points:

33° 02.04′ N. lat. 117° 17.54′ W. long.;
33° 01.75′ N. lat. 117° 18.03′ W. long.;
33° 00.06′ N. lat. 117° 17.27′ W. long.; and
33° 00.29′ N. lat. 117° 16.73′ W. long.

(B) Take of all living marine resources is prohibited except:

1. Only the following species may be taken recreationally: finfish, chiones, clams, cockles, rock scallops, native oysters, crabs, lobster, ghost shrimp, sea urchins, mussels and marine worms except that no worms may be taken in any mussel bed unless taken incidentally to the take of mussels.

2. Commercial take is allowed.

(97) San Elijo Lagoon State Marine Park.

(A) This area consists of waters below the mean high tide line within the San Elijo Lagoon Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational take of finfish by hook and line from shore.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) San Diego County, after consultation with the department, may carry out management activities for fish and wildlife management, flood control, vector control and regional park recreational activities. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control, minor ditching and use of associated equipment.

(E) Collections may be made by the department for purposes of fish and wildlife management or by San Diego County for the purpose of water quality testing and vector control.

(98) San Dieguito Lagoon State Marine Park.

(A) This area consists of waters below the mean high tide line within the San Dieguito Lagoon Ecological Reserve.

(B) Take of all living marine resources is prohibited except the recreational take of finfish by hook and line from shore and the Grand Avenue bridge.

(C) Boating, swimming, wading, and diving are prohibited within the park.

(D) No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, shall be permitted on the California least tern nesting island.

(E) No person, except state and local law enforcement officers, fire suppression agencies and employees of the department in the performance of their official duties or persons possessing written permission from the department, shall enter this park between 8:00 p.m. and 5:00 a.m.

(F) The County of San Diego, after consultation with the department, may carry out management activities for fish and wildlife, flood control and vector control. Authorized operation and maintenance activities shall include, but shall not be limited to, use of chemicals, vegetation control, water control and use of associated equipment.

(G) Collections of fish, wildlife, water and soil may be made by the department for the purposes of fish and wildlife management or by San Diego County for the purposes of water quality testing and vector control.

(99) San Diego–Scripps State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 1000 feet seaward of mean lower low water, and the following points:

32° 52.28′ N. lat. 117° 15.16′ W. long.;
32° 52.32′ N. lat. 117° 15.34′ W. long.;
32° 51.86′ N. lat. 117° 15.48′ W. long.; and
32° 51.86′ N. lat. 117° 15.28′ W. long.

(B) Take of all living marine resources is prohibited except the commercial and recreational take of finfish.

(C) Licensees of the Regents of the University of California and all officers, employees, and students of such university may take, for scientific purposes, any invertebrate or specimen of marine plant life without a permit from the department.

(100) La Jolla State Marine Conservation Area.

(A) This area is bounded by the mean high tide line and straight lines connecting the following points in the order listed:

32° 51.86′ N. lat. 117° 15.28′ W. long.;
32° 51.86′ N. lat. 117° 16.25′ W. long.;
32° 51.22′ N. lat. 117° 16.17′ W. long.; and
32° 51.07′ N. lat. 117° 16.40′ W. long.

(B) Take of all living marine resources is prohibited except the commercial take of squid for bait by use of hand–held scoop net west of a line drawn due north from Goldfish Point (34° 51.00′ N. lat. 119° 16.17′ W. long.).

(C) Boats may be launched and retrieved only in designated areas and may be anchored within the conservation area only during daylight hours.

(101) Mia J. Tegner State Marine Conservation Area.

(A) This area is bounded by the mean high tide line, a distance of 150 feet seaward of mean lower low water, and the following points:

32° 40.27′ N. lat. 117° 14.73′ W. long.;
32° 40.27′ N. lat. 117° 14.76′ W. long.;
32° 39.91′ N. lat. 117° 14.42′ W. long.; and
32° 39.94′ N. lat. 117° 14.44′ W. long.

(B) Take of all living marine resources is prohibited except:

1. The recreational take of finfish is allowed.

2. The commercial take of finfish and marine aquatic plants is allowed.

NOTE: Authority cited: Sections 200, 202, 203.1, 205(c), 219, 220, 1590, 1591, 2860, 2861 and 6750, Fish and Game Code; and Sections 36725(a) and 36725(e), Public Resources Code. Reference: Sections 200, 202, 203.1, 205(c), 219, 220, 1580, 1583, 2861, 5521, 6653, 8420(e) and 8500, Fish and Game Code; and Sections 36700(e), 36710(e), 36725(a) and 36725(e), Public Resources Code.

HISTORY

1. New section filed 3–10–2003; operative 4–9–2003 (Register 2003, No. 11).

2. Amendment of section and NOTE filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

3. Amendment filed 11-2-2005; operative 11-2-2005 pursuant to Fish and Game Code section 215 (Register 2005, No. 44).
4. Amendment of section heading, subsections (b), (b)(72) and (b)(72)(A), new subsections (b)(72)(A)1.-2. and amendment of NOTE filed 10-19-2006; operative 10-19-2006 pursuant to Government Code section 11343.4 (Register 2006, No. 42).
5. Amendment of section heading, section and NOTE filed 8-22-2007; operative 9-21-2007 (Register 2007, No. 34).
6. Amendment of subsections (b)(58)(A), (b)(60)(A), (b)(60)(C), (b)(61)(A), (b)(62)(A), (b)(63)(A), (b)(64)(A), (b)(65)(A), (b)(66)(A), (b)(67)(A), (b)(68)(B), (b)(69)(A) and (b)(70)(A), new subsections (b)(71)-(b)(71)(B), subsection renumbering and amendment of newly designated subsection (b)(73)(A) filed 12-17-2007; operative 12-17-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 51).

Chapter 12. Management of Fish and Wildlife on Military Lands

§ 640. Management of Fish and Wildlife on Military Lands.

(a) Agreements: Pursuant to the provisions of Section 3450-3453 of the Fish and Game Code, the department may enter into agreements with the United States Department of Defense to provide for the development and administration of fish and wildlife management plans and programs on military installations. Such plans and programs shall be designed to provide biologically optimum levels of fish and wildlife resource management and use compatible with the primary military use of those lands. Military lands covered by such agreements shall not be available to the general public without the consent of the commanding officer responsible for such military lands.

(b) Military Lands Fish and Wildlife Management Plan: A fish and wildlife management plan shall be submitted to the department in writing, pursuant to agreements of Section 640(a). Upon the department's approval, the plan shall be submitted to the Commission for concurrence at the next scheduled meeting. The management plan shall include, but not be limited to the following information:

(1) A statement of management objectives;

(2) A description of the area;

(3) A description of the fish and wildlife resources and a statement on the condition of the habitat;

(4) A discussion of the appropriative and non-appropriative use of the resources; and

(5) A discussion of the projects on the area to improve habitat for fish and wildlife.

(c) Annual Review: The department shall annually review the implementation of the provisions of the management plan for each participating military installation and report its findings to the Commission annually at its February meeting. The Director of the department shall be informed annually prior to December 1 or any proposed modification of the management plan for the following calendar year. Such proposals shall include any request for the adoption of hunting and fishing regulations which may differ from those proposed by the department of the lands adjacent to the specified military installation. The department shall forward such proposals to the Commission within 60 days. Such requests shall include the following information:

(1) Species to be regulated;

(2) Proposed harvest regimes including areas, seasons, bag and possession limits and special conditions;

(3) Opportunities available to the general public, if any; and

(4) Biological data to support proposed regulations.

(d) Records: Records of the number and species of animals harvested pursuant to the management plan shall be maintained and this information shall be submitted to the department by December 1 of each year.

(e) Termination of Agreement: The commanding officer of a participating military installation or the department may terminate any agreement provided for herein upon 30 days' written notice to the Commission.

NOTE: Authority cited: Sections 3452 and 3453, Fish and Game Code. Reference: Sections 3450-3453, Fish and Game Code.

HISTORY

1. New Chapter 12 (Section 640) filed 3-4-87; effective thirtieth day thereafter (Register 87, No.10).

Subdivision 3. General Regulations

Chapter 1. Collecting Permits

§ 650. Scientific Collecting Permits.

(a) **General.** Except as otherwise provided, it is unlawful to take or possess marine plants, live or dead birds, mammals, fishes, amphibians, or reptiles for scientific, educational, or propagation purposes except as authorized by a permit issued by the department. Notwithstanding Fish and Game Code Section 86, take includes capturing, marking, and releasing any animal.

NOTE: Persons taking a rare, threatened, or endangered **PLANT** species are exempt from this permit but must obtain a RARE, THREATENED, AND ENDANGERED PLANT COLLECTING PERMIT. Forms are available from the Department of Fish and Game, 1416 Ninth Street, Sacramento, California 95814.

(1) The department may authorize and limit the kind and number of specimens that may be taken, the type of equipment and methods used, the time and seasons for take, and the areas where take may occur.

(2) The permittee shall carry the permit and any amendments at all times when conducting any activity authorized by the permit.

(3) The department may amend the conditions of a permit at any time.

(4) No person shall take any threatened, endangered, or fully protected animal except persons who have a valid Memorandum of Understanding in writing with the department. Any such wildlife inadvertently taken shall be immediately released at the site of capture except migratory birds may be banded with a federal leg band before release.

(b) **Issuance of Permits.** The department may issue permits to take wildlife and marine plants for bona fide scientific, educational, or propagation purposes to:

[The next page is 173.]

(1) Employees of local, state and federal agencies who take specimens in connection with their official duties.

(2) Faculty, professional staff, college level students of, or individuals hired by; public or private companies, educational institutions, zoological gardens or aquariums, in or out of state.

NOTE: See Fish and Game Code sections 3039, 4005, and 7850 concerning restrictions and additional licenses required for taking fish and wildlife for commercial purposes.

(3) Individuals who take wildlife or marine plants for other permittees or pursuant to environmental protection documents required by law.

(4) Individuals who possess a valid federal Bird Marking and Salvage Permit. Holders of this federal permit are not required to obtain a state permit to take migratory birds, other than raptorial birds.

(c) **Applicant Qualifications and Requirements.** Individuals who take wildlife or marine plants for use by schools, museums, and other organizations shall submit a written statement signed by a minimum of two faculty members of the institution verifying the take is required by the institution.

(1) Students required to take wildlife or marine plants for educational purposes shall submit proof of sponsorship from a faculty member requiring the take.

(2) Persons who take birds protected by the U.S. Migratory Bird Treaty Act must also possess all required federal permits.

(3) A permit shall not be issued to anyone under 18 years of age to mark birds except for students at the college level who must mark birds to meet an educational curriculum requirement and who have obtained the sponsorship of an instructor in such curriculum.

(d) **Marking.** Mark means any activity which results in placement of a color dye or other identifying device on an animal.

(e) **Application.** Each person must submit a completed application on SCIENTIFIC COLLECTING PERMIT APPLICATION, Form FG1379 (5/95), which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, 3211 "S" Street, Sacramento, California 95816.

(f) **Permit Revocation.** The department may revoke, suspend or decline to renew a permit for failure to comply with the provisions of a permit or failure to comply with these regulations. Any person whose permit is denied, revoked, or suspended may request a hearing before the commission to appeal the department's decision.

(g) **Permit Nontransferable.** Permits are not transferable. Persons may assist the permittee if the permittee is present and overseeing the activities.

(h) **Notification of Department Required Prior to Taking Specimens.** Before taking any wildlife or marine plants, the permittee shall notify the department office designated in the permit and provide the following information; name and permit number; date, time and location of take; species, gear to be used, vehicle description, and number of persons in party. Such notification may be given by letter, telephone or personal contact. The department may require a minimum time for providing the advance notification as a condition of the permit.

(i) **Reporting of Specimens Taken.** Permittees shall submit a completed report of activities within 30 days of expiration of the permit except the department may waive the reporting requirements. The waiver shall be in writing.

(1) The department shall accept the report in any of the following formats:

(A) Written on REPORT OF SPECIMENS COLLECTED, Form FG1379a (10/95), which is incorporated by reference herein, or;

(B) Written as a SPECIAL REPORT as designated in the conditions of the permit, or;

(C) Electronically in a format and to an address specified by the department, or;

(D) As otherwise required in writing by the department.

(2) No permit will be renewed unless the completed report is received by the department within 30 days of the expiration date of the permit, or as directed in writing by the department.

(3) Reports of wildlife or marine plants taken after submission of application for renewal shall be included in the next year's report.

(4) A permittee who instructs a commercial fishing class shall submit the report for the entire class. The report shall show the total number of each species of fish taken, the amount of fish sold and the price received therefor, the amount of fish donated to charitable institutions, and the name and address of such institutions. Students enrolled in commercial fishing classes shall not be required to submit an annual report.

(j) **Inspection.** Employees of the department or sponsors of permittees may inspect any collection at any time to determine whether or not the permittee is complying with the regulations.

(k) **Disposition of Specimens.** The department may restrict the use and disposition of all wildlife taken under authority of a permit.

(*l*) **Possession of Dead Wildlife.** The following are not required to possess a permit for accidentally killed and legally acquired wildlife; government accredited schools that are open to the public, government agencies, federally recognized native American groups, institutions or organizations engaged in bona fide scientific study of native wildlife if the specimens are readily available for use or viewing by the general public on a regular basis, any person or group with a valid permit issued by the federal government authorizing possession of specific wildlife, and nationally constituted youth organizations which have the study of native wildlife as an integral part of their national program. This exemption does not apply to accidentally killed big game mammals or to any threatened, rare, endangered or fully protected species.

(1) **Records.** The person who has the chief authority to act for any group, agency, or institution listed in section 650(b) shall maintain a permanent written record of the date of acquisition, the name and address of the person donating wildlife, how it was acquired, the species, sex, and number of animals, and the city and street address of the storage site. All records and wildlife must be maintained within California and shall be presented immediately to any employee of the department upon request.

(2) **Transportation.** Wildlife possessed pursuant to section 650(b) may not be transported from the storage site unless accompanied by a written document describing the animal or part thereof, listing the name of the person who has temporary possession, the purpose, and the date to be returned. The authorization must be written on organization letterhead, dated, and signed by the chief administrative officer.

(3) **Ownership.** All accidentally killed wildlife remains the property of the state and must be disposed of as directed by the department.

NOTE: Authority cited: Sections 200, 203, 205, 301, and 1907, Fish and Game Code. Reference: Sections 355, 356, 1002, 1050, 1054.2, 1700, 1755, 1802, 1907, 2001, 2080, 2081, 3503, 3503.5, 3511, 3800, 4150 and 4700, Fish and Game Code.

HISTORY

1. New subsection (a)(8) filed 1–16–74; effective thirtieth day thereafter (Register 74, No. 3). For prior history, see Register 70, No. 50.
2. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Order of Repeal of last sentence of first paragraph of subsection (g) and subsection (*l*) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
4. Repealer and new section filed 6–18–96; operative 7–18–96 (Register 96, No. 25).

§ 650.5. Frogs.

NOTE: Authority cited: Section 7709, Fish and Game Code.

HISTORY

1. New section filed 6–3–70 as an emergency; effective upon filing. Certificate of Compliance included (Register 70, No. 23).
2. Correctory amendment filed 6–19–70 (Register 70, No. 23).
3. Repealer filed 4–13–72; effective thirtieth day thereafter (Register 72, No. 16).

§ 651. Commercial Take of Native Reptiles and Amphibians for Scientific or Educational Institutions.

(a) Native reptiles and amphibians may be sold to scientific or educational institutions only by owners of biological supply houses who have been issued a permit by the department for such purposes.

(1) Permits shall be issued on an annual basis, commencing April 1 of each year, and expiring on March 31 of the following year, or for the unexpired portion of any permit year commencing April 1.

(2) To defray costs incurred in the administration of these regulations, a fee of $50 shall be paid to the department by each applicant upon the filing of an application for a permit.

(3) Applications for a permit to sell native reptiles and amphibians to scientific or educational institutions shall be submitted on forms provided by the department. Applications shall be accompanied by a copy of applicable city or county business permits, and shall include a list of employees or agents authorized by the supply house owner to collect native reptiles or amphibians for the supply house, pursuant to these regulations.

(b) Field Collecting Permit. Native reptiles and amphibians may be taken for sale to scientific or educational institutions only by owners of biological supply houses who have been issued a permit by the department pursuant to subsection (a) above, and by authorized employees or agents of such biological supply houses, only under authority of a field collecting permit issued by the department.

(1) The department may issue a field collecting permit to an owner of a biological supply house upon receipt by the department of the original copy of a written request for purchase from a faculty or staff member of a scientific or educational institution, accompanied by a statement from the supply house owner indicating (A) the name of the owner, authorized employees, or agents who will collect the specimens requested; (B) the species and number of each species the owner or each employee or agent will collect; and (C) the estimated beginning and ending dates of such collecting.

(2) The field collecting permit shall indicate the names of those authorized to collect the specimens requested by the scientific or educational institution.

(3) The field collecting permit shall indicate the maximum number of each species requested by the scientific or educational institution that the supply house is authorized to collect and possess.

(4) The field collecting permit shall indicate the inclusive dates during which collecting of the specimens requested by the scientific or educational institution is authorized, and the date by which such specimens shall be shipped.

(5) Specimens collected pursuant to a field collecting permit may be held only on the premises of a biological supply house following expiration of the authorized collecting period, but shall not be held on the premises of the supply house later than the authorized shipping deadline.

(c) Each owner, employee, or agent of a biological supply house collecting under authority of this section, shall have in his possession, in addition to his own copy of a field collecting permit, a copy of the permit issued to the biological supply house pursuant to Section 651(a) of these regulations, and, if amphibians are to be collected, a valid commercial fishing license.

(d) Each owner, employee, or agent of a biological supply house collecting under authority of a field collecting permit shall collect only those species and numbers authorized by the field collecting permit. Any species possessed in the field that is not authorized by the field collecting permit shall be considered to have been collected for commercial purposes and shall be a violation of these regulations.

(e) Delivery.

(1) All deliveries or shipments of reptiles or amphibians taken under authority of this section shall be accompanied by the original copy of the field collecting permit issued to the supply house owner. Shipments via the U.S. Postal Service or private carrier shall have this document attached to the outside of the shipping container, which shall be labeled: "Live Reptiles/Amphibians—Handle With Care."

(2) Possession by the scientific or educational institution of the original copy of the field collecting permit, which accompanies the shipment or delivery of the reptiles or amphibians taken pursuant to this section, shall constitute authority for the scientific or educational institution to possess the specimens purchased pursuant to this section.

(f) Methods of Take.

(1) Amphibians shall be taken only by hand or by a dip net.

(2) Reptiles shall be taken only by hand or by the following hand–operated devices: (A) Lizard nooses, (B) Snake tongs, (C) Snake hooks.

(3) It is unlawful to use crowbars, tire irons, jackhammers, winches, explosive devices, or any other method or means of collecting that involves removal or breaking apart of rocks, granite flakes, or other shelters in or about which reptiles or amphibians may be found.

(4) It is unlawful to take reptiles or amphibians by means of pit–traps or can–traps.

(g) Closures.

(1) No reptiles or amphibians may be taken from within the boundaries of State Parks or National Parks or Monuments, including public roadways therein.

(2) No reptiles or amphibians may be taken from within the boundaries of ecological reserves designated by the Commission, including public roadways therein.

(3) No garter snakes (*Thamnophis* sp.) may be taken in San Mateo County.

(h) The supply house owner shall be responsible for compliance by its employees or agents with these regulations. The department may refuse to authorize owners, employees, or agents of biological supply houses to collect or sell native reptiles or amphibians upon conviction of a violation of these regulations by a court of competent jurisdiction.

(i) Any permit issued pursuant to these regulations may be cancelled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

NOTE: Authority cited: Sections 1002, 5061, 6851 and 6896, Fish and Game Code. Reference: Sections 1002, 5050, 5060, 5061, 6850, 6852, 6854–6855, 6895 and 6896, Fish and Game Code.

HISTORY

1. New section filed 6–11–79; effective thirtieth day thereafter (Register 79, No. 24). For history of former section, see Register 70, No. 35.
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).

§ 652. Special Regulations Pertaining to Collecting of Birds, Their Nests and Eggs, and Mammals.

NOTE: Authority cited: Section 1002, Fish and Game Code. Reference: Section 1002, Fish and Game Code.

HISTORY

1. New Section 800.1 filed 4–1–53; effective thirtieth day thereafter (Register 53, No. 6).
2. Renumbered from former Section 800.1 (Register 59, No. 9).
3. Amendment filed 10–18–63; effective thirtieth day thereafter (Register 63, No. 18).
4. Repealer filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

§ 653. Marking Birds for Scientific Purposes.

NOTE: Authority cited: Sections 1002 and 1050, Fish and Game Code. Reference: Sections 1002 and 1050, Fish and Game Code.

HISTORY

1. Amendment of subsection (b) filed 4–11–78; effective thirtieth day thereafter (Register 78, No. 15). For prior history, see Register 77, No. 12.
2. Amendment filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Amendment of subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
5. Repealer filed 6–18–96; operative 7–18–96 (Register 96, No. 25).

§ 654. Permits for Possession of Protected Species of Wild Animals for Exhibition Purposes.

(a) Disposition of live or dead protected species of wild animals acquired by the department in its operations or enforcement of the fish and game laws may be made by issuing free permits for the possession of such wild animals to public zoological gardens, scientific or educational institutions for exhibition purposes.

(b) Permits for the possession of migratory birds as defined by the Migratory Bird Treaty Act are void unless accompanied by a permit issued by the U.S. Fish and Wildlife Service.

(c) Permits are not transferable.

(d) Employees of the department may inspect wildlife species possessed under authority of this permit at any time to determine whether or not such wildlife species are properly housed and cared for.

(e) The commission may revoke the permit for violation of its terms or of any fish and game law or upon the recommendation of the department when such wildlife specimens are not properly housed, exhibited or cared for.

NOTE: Authority cited: Section 1002, Fish and Game Code. Reference: Sections 1002, 1050 and 5050, Fish and Game Code.

HISTORY

1. New section filed 11–19–63; effective thirtieth day thereafter Register 63, No. 23).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No.29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 655. Permits to Take Seals and Sea Lions.

NOTE: Authority cited: Section 1002, Fish and Game Code. Reference: Section 1002, Fish and Game Code.

HISTORY

1. Amendment of subsection (f)(9) filed 6–8–72; effective thirtieth day thereafter (Register 72, No. 24). For prior history, see Register 71, No. 22.
2. Repealer filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

§ 656. Permits to Take Beaver or Bear in a Refuge.

The department may issue a free permit to take beaver or bear within a refuge under the following conditions:

(a) Applications to take beaver or bear shall be filed with the department and shall show:

(1) Name and address of applicant.

(2) Name of refuge involved.

(3) The approximate number of animals to be taken.

(4) Such other pertinent data as the department may require.

(b) All permits shall be for a stated period of time not to exceed six months.

(c) No permit shall be issued unless the department is satisfied that damage is presently occurring or is immediately threatened.

(d) During the first two weeks of January of each year, each permittee shall submit to the department report of specimens taken during the preceding calendar year and no new permit shall be issued until such a report has been received.

(e) The commission may revoke a permit for violation of the terms of the permit.

(f) Any applicant convicted of violating these regulations or the terms and conditions of his permit must appear before the Fish and Game Commission before his permit may be reinstated or a new permit issued to him.

NOTE: Authority cited: Sections 4009.5, 10500 and 10502, Fish and Game Code. Reference: Sections 3950, 4000, 4009.5, 10500, 10508–10510, 10513, 10770–10771, 10820–10838 and 10841–10843, Fish and Game Code.

HISTORY

1. New section filed 6–30–66; effective thirtieth day thereafter (Register 66, No. 20).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Amendment of undesignated first paragraph filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 657. Permits to Land California Caught Fish at Points Outside of California.

NOTE: Authority cited: Section 7891, Fish and Game Code. Reference: Section 7891, Fish and Game Code.

HISTORY

1. New section filed 7–31–68; effective thirtieth day thereafter (Register 68, No. 29).
2. Renumbering of Section 657 to Section 105.1 filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

§ 658. Commercial Take of Bullfrogs (Rana Catesbeiana) for Sale to Scientific or Educational Institutions.

(a) Permit Required of Supplier. Permits shall be issued only to qualified scientific supply houses which sell bullfrogs to bona fide scientific or educational institutions. Such supply houses shall be responsible for compliance by its employees with these regulations. The commission shall approve the qualifications of applicants under this section, and the department shall issue the permit following approval by the commission. See subsection 699(b) of these regulations for the fee for this permit.

(b) Market Order Issued by Supplier. A qualified scientific supply house shall issue a market order to each employee before that employee collects bullfrogs Each market order shall specify the exact number of bullfrogs to be collected, the collecting locality, and the dates, not to exceed seven (7) consecutive days, required for the employee to fill that order.

(c) Licenses and Permits Required of Employees. Each employee who collects bullfrogs for a qualified scientific supply house shall have a commercial fishing license and a scientific collecting permit issued by the department. Each boat used for this purpose shall be registered as a commercial fishing vessel.

(d) Market Order in Possession of Employees. Each employee shall have a market order in his possession when bullfrogs are being collected. No bullfrogs in excess of the numbers specified on the market order may be taken or possessed by the employee of a qualified scientific supply house.

(e) Commercial Fishing Reports Required. The commercial fishing provisions of the Fish and Game Code shall apply to the take of bullfrogs.

(f) Closed Areas. No bullfrogs may be taken for sale north of Interstate 80 in the Valley Sportfishing District described in section 12.00, title 14, California Administrative Code.

(g) Open Areas and Seasons. Bullfrogs may be taken for sale for scientific or educational purposes only in the following sportfishing districts or parts thereof, and only during the specified dates, except as provided in subsection (h):

(1) Southern District as described in section 6.00, title 14, CAC–August 1 through November 30.

(2) Colorado River District as described in section 7.00, title 14, CAC–August 1 through November 30.

(3) South of Interstate 80 in the Valley District as described in section 12.00, title 14, CAC, and in the remainder of the state–May 1 through November 30.

(h) The department may issue permits to owners of biological supply houses to collect bullfrogs during the closed season, but only for sale to a bona fide scientific or educational institution as determined by the department. The supply house owner shall submit a written request to the department for the permit. An original letter, under the scientific or educational institution's letterhead and from a staff or faculty member requesting the purchase of a stated number of bullfrogs, shall accompany the request.

(i) Restricted Sale. Except for bullfrogs sold, leased, or rented for use in frog jumping contests as defined in Fish and Game Code section 6880, bullfrogs taken under authority of a permit issued pursuant to this section may be sold only to bona fide scientific or educational institutions and may be used only for scientific or educational purposes, and may not be sold, purchased, or traded for any other use.

(j) Delivery of Bullfrogs. A licensed employee shall deliver or ship all captured bullfrogs to the premises of the scientific supply house.

(k) Bullfrog Capture Methods. Bullfrogs may be captured only by hand. No spears, gigs, hooks, or other devices which might injure bullfrogs may be used.

(*l*) Application Requirements. Permit applications shall be submitted on forms furnished by the department. They may be filed with the department at any time. Application for renewal of a permit for the following calendar year may be filed concurrently with the annual report in December.

(m) Notification of Warden. Before collecting bullfrogs, the supplier shall notify a warden in the area where the employee wishes to collect. Such notification may be given by letter, telephone, or personal contact and shall include the canals and exact location on each of entry and departure, the dates of collection, and approximate length of time during which collecting is to be done. The employee shall carry his commercial fishing license, scientific collecting permit and market order at all times when collecting. These documents and specimens shall be shown upon demand to any person authorized by the department to enforce the provisions of the Fish and Game Code or regulation made pursuant thereto.

(n) Cancellation and Suspension of Permits. Any permit may be cancelled or suspended at any time by the commission for cause after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

NOTE: Authority cited: Sections 205, 1002, 6851, 6896, 7121 and 7709, Fish and Game Code. Reference: Sections 1002, 6851, 7121 and 7709, Fish and Game Code.

HISTORY

1. Amendment of subsection (d) filed 4–13–72; effective thirtieth day thereafter (Register 72, No. 16). For prior history, see Register 71, No. 41.
2. Amendment filed 6–6–74; effective thirtieth day thereafter (Register 74, No. 23).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Amendment of subsections (f) and (g) filed 6–4–82; effective thirtieth day thereafter (Register 82, No. 23).
5. Order of Repeal of subsection (e) filed 6–3–85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
6. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
7. Amendment filed 9–8–86; effective thirtieth day thereafter (Register 86, No. 37).
8. Amendment of subsection (a) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
9. Amendment of subsection (i) and NOTE filed 1–25–95; operative 2–24–95 (Register 95, No. 4).

Chapter 2. Commission

§ 660. Election of Commission Officers.

It is the intent of the commission to provide protection from external influences of its operation and administration and decision–making processes. The commission finds that the choice of its president and vice president should be free of external influences. The commission further finds the selection of officers by seniority advances this goal.

(a) The president and vice president of the commission shall be elected annually, for a one–year term. The election shall take place at the February meeting, to take effect immediately. The president shall be the most senior member and the vice president shall be the next most senior member. Where the member declines to serve as president or vice president, the next most senior member shall be elected to that office.

(b) Seniority shall be the time served in his or her current term. In the case of two members with the same time of service in the current term, the member with the longer total time of service shall be the senior member.

(c) No member shall serve as either President or Vice President for more than two consecutive terms. Where such a member has served two consecutive terms, the next most senior member shall be elected to that office, and the next most senior member shall be deemed the next in seniority.

NOTE: Authority cited: Section 102, Fish and Game Code. Reference: Section 102, Fish and Game Code.

HISTORY

1. Amendment of chapter 2 heading and new section filed 10–5–98; operative 11–4–98 (Register 98, No. 41). For prior history of chapter 2 (sections 660–662), see Register 67, No. 50.

§ 660.1. Annual Certification and Report on Status of Resources.

Pursuant to the Constitution of the State of California, the Legislature has delegated powers to the Fish and Game Commission relating to the protection and propagation of fish and wildlife resources for the use and enjoyment of future generations. In accordance with these mandates, it is the policy of the Fish and Game Commission that:

The Department shall annually report to the Commission on the relative status of California's fish and wildlife resources with emphasis on those resources estimated to be at marginal or low levels. The Department shall identify management options, particularly for those resources that have declined to such a level that focused efforts are needed for recovery. In odd–numbered years, the Department shall report on the status of fish at the October meeting of the regulation–setting process of Section 206, Fish and Game Code. In even–numbered years, the Department shall report on the status of birds and mammals at the April meeting of the regulation–setting process prescribed by sections 207 and 208 of said Code. In satisfying this requirement, the Department may submit status reports that it prepares to satisfy other statutory requirements.

In conjunction with information provided by the Department, the Commission may solicit funds from private sources to provide for independent studies as needed, subject to approval by the Director of Finance pursuant to Government Code sections 11005 and 11005.1, and any funds received shall be designated for the benefit of the Status of the Resources Report Fund, pursuant to Government Code Section 16302. Such funds may also be used to help support the Department's resource monitoring and management programs or for peer review of scientific reports related to resource assessment.

Annually, based upon the best scientific information, the Commission shall certify the relative status of California's fish and wildlife resources. The Commission shall then prepare a report on the status of the State's resources for presentation to the Senate Resources & Wildlife Committee and the Assembly Water, Parks & Wildlife Committee.

NOTE: Authority cited: Section 703, Fish and Game Code. Reference: Section 703, Fish and Game Code.

HISTORY

1. New section filed 10–29–99; operative 11–28–99 (Register 99, No. 44).

Chapter 3. Miscellaneous

§ 670. Practice of Falconry.

(a) General Provisions. No person shall engage in any falconry activity except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act and published in Title 50, Code of Federal Regulations (CFR), Part 21 (Revised 9/14/89) are hereby incorporated and made a part of these regulations. Federal regulations shall be made available upon request from the Department of Fish and Game License and Revenue Branch, 3211 S. Street, Sacramento, Ca 95816.

(b) Take of Game or Nongame Birds or Mammals.

Any person using raptors to take game or nongame birds or mammals shall abide by all laws and regulations related to hunting, including but not limited to licenses, seasons, bag limits, and hunting hours. Any protected bird or mammal inadvertently taken by a raptor must be removed from the raptor, as soon as practical, and left at the site.

(c) Additional State Regulations. State regulations included herein complement current federal regulations and are cross–referenced by use of the respective federal Title 50 CFR section numbers boldfaced and placed in parentheses.

(1) LICENSING.

(A) Application for License. The department shall provide information on application procedures. This information may be obtained by contacting the department (address given in subsection (a) above).

(B) Co–sign Requirement. (Section 21.28 CFR)

Persons under the age of 18 shall have a parent or guardian co–sign their license application.

(C) Substitution of Experience. (Section 21.29 CFR) The department shall consider an applicant's experience acquired in another state or country when evaluating an application for any class of license.

(D) Application Fee. In addition to the fee required by Fish and Game Code Section 396, the department shall charge an application fee. The base fee for this application is $7.50 as of January 1, 1993 (Note: This fee shall be charged effective July 7, 1993) and shall be adjusted annually per Fish and Game Code Section 713.

(E) Examination Requirement. (Section 21.29 CFR)

1. Minimum Score. Persons applying for their first license or for renewal of a license that expired prior to January 1, 1978, must correctly answer at least 80% of the questions on an examination provided and administered by the department.

2. Reexamination for Failing Score. (Section 21.29 CFR) Any applicant who fails to pass the examination may take another examination no earlier than three months from the date of the prior examination.

3. Substitutions of Passing Score from Another State. (Section 21.29 CFR) Applicants who provide documentation of having successfully passed a federally approved examination in a state listed in Section 21.29(k), CFR, will not be required to take the test.

(F) Classes of Licenses. (Section 21.29 CFR) Licenses will be issued in three classes, apprentice, general, and master, only to persons who meet all requirements and qualifications described in these regulations. The department may issue the class of license equal to that of the most recent license issued to a person from a state listed in Section 21.29(k), CFR.

(G) Suspension, Revocation or Denial of License. (Section 21.29 CFR) The department may suspend, revoke, or deny issuance or renewal of any falconry license if the applicant or licensee either fails to comply with any requirement of these regulations or has been convicted of a violation of any falconry regulations, including such regulations of a state listed in Section 21.29(k), CFR. For the purpose of this subsection, violation of a general hunting regulation is not a violation of a falconry regulation. An applicant or licensee whose license has been suspended, revoked, or denied may appeal to the Commission.

(H) Notification of Termination of Sponsorship. (Section 21.29 CFR) A sponsor shall immediately notify the department in writing (address given in subsection (a) above) in the event of termination of sponsorship for a licensee. The person requiring the sponsor shall acquire a new sponsor within 60 days of the receipt of the notification by the department. Failure to comply with this subsection will result in loss of qualifying time from the date sponsorship was terminated and no subsequent license will be issued until all requirements have been fulfilled.

(I) Report Requirement for Apprentices. (Section 21.29 CFR) Apprentice licensees must complete and submit a report of progress on a form approved by the department (FG 362 (9/95), which is incorporated by reference herein). This report must be signed and dated by both the licensee and sponsor. The report will be used to determine qualifying experience for future licenses.

(J) Department Inspection and Approval of Equipment and Housing. (Section 21.29 CFR) The equipment and housing required by these regulations shall be inspected and approved by the department prior to the issuance of a license, except the department may authorize a sponsor to inspect and certify that the equipment and housing of apprentice applicants meets or exceeds the minimum standards required by these regulations. Equipment or housing that does not meet the minimum standards required by these regulations shall not be certified by a sponsor. The department may enter the premises of any licensee at any reasonable hour to inspect all housing, equipment, or raptors possessed by the licensee, or to inspect, audit, or copy any permit, book, or record required to be kept by these regulations.

(2) AUTHORIZATION.

(A) Authorization of Licensed Nonresidents. (Section 21.29 CFR) Nonresidents licensed to practice falconry in a state listed in Section 21.29(k), CFR, are authorized to practice falconry in California. Citizens from another country are authorized to practice falconry in California only in accordance with a permit issued by the U.S. Fish and Wildlife Service. (See subsection (c)(2)(F) below for importation).

(B) Nonresident License Not Valid for Resident. (Section 21.29 CFR) Residents are not authorized to possess raptors or practice falconry by a license issued by another state or country.

(C) Temporary Transfer of Raptor. (Section 21.29 CFR) Any licensee who allows another person to temporarily possess any raptor as authorized by sections 21.28(d)(6) and 21.29(j)(4), CFR, shall mail a copy of completed federal Form 3–186A and a copy of the statement authorizing temporary possession to the department (address given in subsection (a) above) on the day the bird is transferred.

(D) Apprentice Restriction. (Section 21.29 CFR) Except as provided in subsection (c)(2)(E) below, apprentice licensees may only take or possess American kestrels (*Falco sparverius*) or red–tailed hawks (*Buteo jamaicensis*).

(E) Possession of Captive Bred Raptors from Rehabilitation Facilities. (Section 21.29 CFR) All licensees may possess and use birds acquired from department approved rehabilitation facilities or legally acquired captive bred birds.

(F) Importation of Raptors. (Section 21.29 CFR) Licensees may import raptors for falconry only if they submit written authority to export raptors from the originating state or country with the department's copy of federal Form 3–186A. Nonresident licensees from a state listed in Section 21.29(k), CFR, and resident licensees who take their birds out of state and are returning to California, are exempt from this requirement. Citizens from another country may import raptors under the authority of a permit issued by the federal government, (see Section 21.29 CFR).

(G) Possession of Infertile Eggs. (Section 21.29 CFR) Infertile eggs laid by a licensee's bird may be possessed if the licensee notifies the department (address given in subsection (a) above), in writing within 48 hours after the egg is laid.

(3) BANDING.

(A) Prohibition of Removal of Bands. (Section 21.29 CFR) Raptor bands may not be removed from raptors except by a department employee or a person authorized by the department. The loss or removal of any band must be reported to the issuing office on federal Form 3–186A within five (5) working days of the loss or removal of the band.

(B) Prohibition on Defacing Band. (Section 21.29 CFR) The alteration, counterfeiting or defacing of a band is prohibited except that licensees may remove the rear tab or may smooth any imperfect surface provided the integrity of the band and numbering are not affected.

(4) TAKING.

(A) Possession of Valid Falconry License Required For Take. (Section 21.29 CFR) Only persons with a valid falconry license in possession may take a raptor from the wild. Raptors may not be taken in any state or na-

tional park. (Nonresidents see subsection (c)(4)(B) below for additional requirements)

(B) Nonresident Provisions. (Section 21.29 CFR) Nonresidents licensed to practice falconry in a state listed in Section 21.29(k), CFR, shall apply to the department (address given in subsection (a) above) for a permit to take raptors in California. Application shall be made on form FG 364 (1/96), (Request for Capture), which is incorporated by reference herein, and which shall be provided by the department upon request. If unsuccessful, the permit (form FG 364a (1/96), which is incorporated by reference herein) shall be returned to the department within five days after the expiration date (address given in subsection (a) above). The fee for the permit is $182.00 per bird as adjusted annually pursuant to Section 713 of the Fish and Game Code. Nonresidents shall only take raptors from the wild in accordance with the conditions of the permit.

Reporting Take Location. Permittee shall notify the department within 5 days of take of a bird from the wild, on form FG 364a (1/96), provided by the department. Such notification shall include the county of take and a description of the site in Township, Range, and Section format. A copy of a topographic map, with the capture site clearly indicated, shall be mailed to the department at the address indicated on the form (address given in subsection (a) above) within 14 days of take. The location reporting requirement is for all species listed in subsection (c)(4)(C) below, except red-tailed hawk, American kestrel, and great horned owl.

(C) Raptors Approved for Take From the Wild. (Section 21.29 CFR) Only the following raptors may be taken from the wild: Northern goshawk (*Accipiter gentilis*) (also see subsection (c)(4)(D) below), Cooper's hawk (*A. cooperii*), sharp-shinned hawk (*A. striatus*), red-tailed hawk (*Buteo jamaicensis*), ferruginous hawk (*B. regalis*), merlin (*Falco columbarius*), American kestrel (*F. sparverius*), prairie falcon (*F. mexicanus*) and great horned owl (*Bubo virginianus*).

Reporting Take Location. Permittee shall notify the department within 5 days of take of a bird from the wild, on form FG 363 (9/95), which is incorporated by reference herein, provided by the department. Such notification shall include the county of take and a description of the site in Township, Range, and Section format. A copy of a topographic map, with the capture site clearly indicated, shall be mailed to the department at the address indicated on the form (address given in subsection (a) above) within 14 days of take. The location reporting requirement is for all species listed in subsection (c)(4)(C) below, except red-tailed hawk, American kestrel, and great horned owl.

(D) Prohibition on Take of Northern Goshawks. (Section 21.29 CFR) Northern goshawks may not be taken from the wild at any time in the Lake Tahoe Basin as described below:

Those portions of Placer, El Dorado, and Alpine counties lying within a line beginning at the north end of Lake Tahoe, at the California–Nevada state line approximately four miles north of Stateline Point in the near vicinity of Mt. Baldy; westerly along the Tahoe Divide between the Lake Tahoe and Truckee River drainages to the intersection of the north line of Section 36, T17N, R17E, MDM; west along said north section line to the section corner common to section 25, 26, 35, and 36, T17N, R17E, MDM; south approximately one mile along the common section line; southwesterly to the intersection of the Tahoe Divide and Highway 267 in the near vicinity of Brockway Summit; southwesternly in the near vicinity of the Tahoe Divide to Mt. Pluto; south to Mt. Watson; westerly approximately two miles to Painted Rock; southerly approximately two miles along the Tahoe Divide to the intersection of Highway 89; southwesterly along the Tahoe Divide to Ward Peak; southerly approximately 30 miles along the Tahoe Divide to a point on the Echo Lakes Road; southeasterly along said road to Old Highway 50; southeasterly along Old Highway 50 to the intersection of the Echo Summit Tract Road; southerly along said road to Highway 50; easterly along Highway 50 to the intersection of the South Echo Summit Tract Road; southerly along said road to the Tahoe Divide; southerly along the Tahoe Divide past the Alpine county line to Red Lake Peak; northerly along the Tahoe Divide past Monument Peak to the California–Nevada state line; north on the state line to the point of beginning. NOTE: the area described above includes the entire basin of Lake Tahoe within California. The geographic boundary of the Lake Tahoe basin is also an area encompassed by the Lake Tahoe Basin Management Unit which is administered by the U.S. Forest Service. The Forest Service office is located in South Lake Tahoe, and maps depicting the boundary may be purchased there or obtained by mail. For ordering information call (916) 573–2600.

(E) Approved Methods of Take. (Section 21.29 CFR) Raptors may be taken by trap or net which do not injure the birds. All snare type traps must be attended at all times. All other traps must be identified with the name and address of the licensee and checked at least once every 12 hours.

(F) Eyas Bird Restriction. (Section 21.29 CFR) Eyas birds may be taken only by general or master licensees, and only from May 20 through July 15. No more than two eyas birds may be taken by the same licensee in any one year. In no case may all eyas birds be taken from any one nest. At least one eyas shall be left in a nest at all times.

(G) Passage Bird Restriction. (Section 21.29 CFR). Passage birds may only be taken from October 1 through January 31, except that a legally marked raptor which was lost or escaped may be taken at any time.

(H) Definition of Replacement Period. (Section 21.29 CFR) The 12 month period for replacing birds begins on March 1, of each year.

NOTE: Authority cited: Sections 200, 395, 1050 and 2120, Fish and Game Code. Reference: Sections 395, 713, 1050 and 1054.5, Fish and Game Code.

HISTORY

1. Amendment of subsection (d) filed 8–6–82; effective thirtieth day thereafter (Register 82, No. 32). For prior history, see Register 81, No. 45.
2. Editorial correction of subsection (b)(4)(C) filed 7–29–85; effective thirtieth day thereafter (Register 85, No. 31).
3. Amendment of subsections (a), (c), (d), (*l*) and (o) filed 1–31–86; effective upon filing pursuant to Government Code section 11346.2(d) (Register 86, No. 5).
4. Amendment of subsection (c) filed 8–12–87; operative 9–11–87 (Register 87, No. 33).
5. Amendment of subsections (e) and (l) filed 7–28–88; operative 8–27–88 (Register 88, No. 32).
6. Amendment of subsection (c) and NOTE filed 6–30–92; operative 7–30–92 (Register 92, No. 27).
7. Amendment filed 7–7–93; operative 7–7–93 (Register 93, No. 28).
8. Change without regulatory effect amending subsections (c)(1)(A), (G), and (H), (c)(2)(A), (C), (D), and (G), (c)(4)(A) and (C) and NOTE filed 9–8–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 37).
9. Amendment of subsections (c)(1)(I) and (c)(4)(B), (C), and (D) filed 4–21–94; operative 4–21–94 (Register 94, No. 16).
10. Change without regulatory effect amending subsections (a), (c)(1)(A), (c)(1)(I), (c)(2)(G), (c)(4)(B) and (c)(4)(C) filed 4–4–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 14).

§ 670.1. Listing of Endangered and Threatened Species.

(Note: These regulations were drafted to provide a petition form and rules and procedures governing the submission and review of petitions for listing, uplisting, downlisting and delisting of endangered and threatened species of plants and animals. The intent of the 1994 amendments is a smoother and more effective implementation of the California Endangered Species Act (CESA) through procedural clarity. While these amendments generally follow the chronology of the CESA statutes, they do not recreate each procedural step of the statutes in regulations.)

Pursuant to Sections 2071 and 2071.5 of the Fish and Game Code, the following rules and procedures shall govern the submission and review of petitions for listing, uplisting, downlisting and delisting of threatened or endangered species:

(a) Petition Requirement. Every person recommending that a species or subspecies be added to or removed from the State listing of endangered and threatened plants and animals or be changed in status (endangered to threatened or threatened to endangered) must submit a petition to the Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, California 94244–2090. Only petitions submitted on an authorized petition form (PETITION TO THE STATE OF CALIFORNIA FISH AND GAME COMMISSION, FGC–670.1 (3/94), which is incorporated by reference herein), available at the Commission office and offices of the Department of Fish and Game, will be considered by the Commission.

(b) Review of Petition for Completeness. An incomplete petition shall be returned to the petitioner by the commission staff within 10 days of receipt. A petition shall be deemed incomplete if it is not submitted on FGC–670.1 (3/94) or fails to contain information in each of the required categories set forth in subsection (d)(1).

(c) Notice of Receipt of Petition. Pursuant to Section 2073.3 of the Fish and Game Code, the commission staff shall submit a notice of receipt of an accepted petition to the Office of Administrative Law, for publication in the California Regulatory Notice Register, at the time the petition is transmitted to the department for evaluation. Notice of the receipt of a petition submitted by the department shall be submitted to the Office of Administrative Law for publication upon receipt. Notices shall contain the date and location of the Commission meeting at which the petition is scheduled for receipt.

(d) Department Initial Evaluation of Petition. (90–Day Review)

(1) Sufficient Scientific Information. The department's evaluation report, required pursuant to Section 2073.5 of the Fish and Game Code, shall contain an evaluation of whether or not the petition provides sufficient scientific information on the following petition components of Section 2072.3 of the Fish and Game Code to indicate that the petitioned action may be warranted:

(A) population trend;
(B) range;
(C) distribution;
(D) abundance;
(E) life history;
(F) kind of habitat necessary for survival;
(G) factors affecting the ability to survive and reproduce;
(H) degree and immediacy of threat;
(I) impact of existing management efforts;
(J) suggestions for future management;
(K) availability and sources of information; and
(L) a detailed distribution map.

(e) Consideration of Petition by Commission (rejection or acceptance).

(1) Rejection of Petition by Commission. Pursuant to Section 2074.2 of the Fish and Game Code, a petition will be rejected by the commission if it fails to include sufficient scientific information under the categories of Section 2072.3 of Fish and Game Code (subsections (d)(1)(A) through (L) above) that the petitioned action may be warranted. If the commission finds that the petition does not provide sufficient information to indicate that the petitioned action may be warranted, a notice of finding that the petition is rejected, including the reason for objections, will be published in the California Regulatory Notice Register.

(2) Acceptance of Petition by Commission. If the commission finds that the petition provides sufficient information to indicate that the petitioned action may be warranted, a notice of finding that the petition is accepted for consideration will be published in the California Regulatory Notice Register. If the petitioned action is to add a species to the threatened or endangered species list, the notice will declare the species a candidate.

(f) Department Review of Candidate Species. Pursuant to Section 2074.6 of the Fish and Game Code, within 12 months of the date of publication of notice of acceptance of a petition for consideration by the commission, the department shall provide a written report to the commission, based upon the best scientific information available to the department. This report shall indicate whether or not the petitioned action is warranted.

(1) Recommendations for Management and Recovery. Pursuant to Section 2074.6 of the Fish and Game Code, the department's status report shall contain a preliminary identification of the habitat which may be essential to the continued existence of the species and recommendations for management activities and other recommendations for recovery of the species.

(2) Solicitation of Data and Comments. In satisfying the requirements of Section 2074.4 of the Fish and Game Code, the department shall solicit both existing data on the candidate species from independent sources and comments on the petitioned action. During the status review period the department shall seek independent and competent peer review of the department status report whenever possible. For purposes of these regulations, peer review is defined as the analysis of a scientific report by persons of the scientific/academic community commonly acknowledged to be experts on the subject under consideration, possessing the knowledge and expertise to critique the scientific validity of the report. The department shall include in the status report a listing of the individuals and agencies that were given an opportunity to review the status report prior to its submittal to the commission. Any comments received shall also be included in the status report.

(3) Review Period for Department–Initiated Petitions. When a department–initiated petition is accepted by the commission for consideration, commission staff shall schedule receipt of the department's report prepared pursuant to Section 2074.6 of the Fish and Game Code for a commission meeting no sooner than 90 days from the date the notice of candidate species is published in the California Regulatory Notice Register.

(g) Receipt of Department's Status Report and Scheduling of Finding Hearing.

(1) Commission Meetings for Receipt of Report and Making of Finding. The commission shall receive the department's status report at a regularly scheduled meeting and provide for final consideration of the petition at the next scheduled meeting. Agendas for both of these meetings shall be distributed to all individuals requesting such notification.

(2) Upon Receipt by the Commission Office, Availability of Status Report. The Department's status report shall be made available for public review.

(h) Submission of Reports by Interested Parties During the Department's Review Period of Candidate Species.

(1) Time of Submission. Public comments, including critiques, rebuttals or comments on the petition or on the department's status review report, may be submitted in writing to the commission office or presented as oral or written testimony at the finding hearing on the petition. Interested parties who wish to submit a detailed written scientific report to the commission on the petitioned action must submit such report not later than the time the department submits its report pursuant to Section 2074.6 of the Fish and Game Code. Detailed scientific reports received after the department submits its review report may not be considered. The department shall provide interested parties with a preliminary estimation of the date the status review report will be submitted to the commission. Such estimations will be provided only upon written request and shall not obligate the department to submit the report at the time identified. The department shall reserve the right to submit the report at a later or earlier date. If, however, the report will be submitted appreciably earlier or later than the estimated date, the department shall notify those who made written requests at the earliest possible time. (Parties planning to submit scientific reports are encouraged to coordinate with the department during its review period and to share scientific information useful to the department in its review.)

(2) Solicitation of Comments. Interested individuals who wish to submit a detailed scientific report pursuant to subsection 670.1(h)(1) above may seek independent and competent peer review of this report prior to submission. All comments from the reviewers shall be included with the report to verify that peer review has been solicited. Failure to obtain peer review of privately prepared detailed scientific reports may be a factor considered by the Commission in its final determination on the petition.

(3) Availability of Detailed Scientific Report from Interested Individuals. Detailed scientific reports from private individuals shall be made available for public review upon receipt by the Commission office.

(i) Final Consideration of Petition by Commission. (Action warranted or not warranted.)

(1) Petition Action Warranted.

(A) Listing. A species shall be listed as endangered or threatened, as defined in sections 2062 and 2067 of the Fish and Game Code, if the Commission determines that its continued existence is in serious danger or is threatened by any one or any combination of the following factors:

1. Present or threatened modification or destruction of its habitat;
2. Overexploitation;
3. Predation;
4. Competition;
5. Disease; or
6. Other natural occurrences or human–related activities.

(B) Delisting. A species may be delisted as endangered or threatened, as defined in sections 2062 and 2067 of the Fish and Game Code, if the Commission determines that its continued existence is no longer threatened by any one or any combination of the factors provided in subsection (i)(1)(A) above.

1. Status During Delisting Process. A threatened or endangered species petitioned for delisting shall retain its listed status throughout the delisting process.

2. Removal of Species. After the commission has determined that the petitioned action is warranted, a delisted species shall retain its listed status until 30 days after the Office of Administrative Law has approved the associated rulemaking file and filed the regulation change with the Secretary of State.

(C) Uplisting and Downlisting. A threatened species may be uplisted to endangered if its continued existence throughout all or a significant portion of its range is in serious danger of becoming extinct by any one or any combination of the factors listed in subsection (i)(1)(A) above. An endangered species may be downlisted to threatened if it is no longer in serious danger of becoming extinct but special protection and management are still required because of continued threats to its existence by any one or any combination of the factors listed in subsection (i)(1)(A) above.

(2) Petitioned Action Not Warranted. The commission shall enter its findings in the public records and the subject species shall revert to its status prior to the filing of the petition.

(j) Submission of Regulatory Document. The department shall prepare an Initial Statement of Reasons for Regulation Change (also called Pre–publication of Notice Statement), including an assessment of the potential for adverse economic impact pursuant to Government Code Sections 11346.5 and 11346.53, when listing, delisting or change in status is recommended in the Department's report prepared pursuant to subsection (f) of this section. This document shall be submitted to the commission staff at the commission meeting after final consideration of the petition if the commission makes a finding that the petitioned action is warranted.

NOTE: Authority cited: Sections 2071 and 2071.5, Fish and Game Code. Reference: Sections 2062, 2067, 2071, 2071.5, 2072, 2072.3, 2072.7, 2073.3, 2073.5, 2074.2, 2074.4, 2074.6 and 2075.5, Fish and Game Code.

HISTORY

1. New sections filed 5–30–86; effective thirtieth day thereafter (Register 86, No. 22).
2. Amendment of subsection (a) filed 8–31–90; operative 9–30–90 (Register 90, No. 42).
3. Amendment of section and NOTE filed 8–29–94; operative 9–28–94 (Register 94, No. 35).

§ 670.2. Plants of California Declared to Be Endangered, Threatened or Rare.

The following species, subspecies and varieties of California native plants are hereby declared to be endangered, threatened (as defined by section 2067 of the Fish and Game Code) or rare (as defined by section 1901 of the Fish and Game Code), as indicated:

(a) Endangered:

(1) Agavaceae (Agave Family)

(A) *Nolina interrata* (Dehesa nolina)

(2) Amaryllidaceae (Amaryllis Family)

(A) *Brodiaea coronaria* ssp. *rosea* (Indian Valley brodiaea)

(B) *Brodiaea filifolia* (thread–leaved brodiaea)

(C) *Brodiaea insignis* (Kaweah brodiaea)

(D) *Brodiaea pallida* (Chinese Camp brodiaea)

(3) Apiaceae (Carrot Family)

(A) *Eryngium aristulatum* var. *parishii* (San Diego button–celery)

(B) *Eryngium constancei* (Loch Lomond button–celery)

(C) *Eryngium racemosum* (Delta button–celery)

(4) Asteraceae (Sunflower Family)

(A) *Baccharis vanessae* (Encinitas baccharis)

(B) *Blennosperma bakeri* (Sonoma sunshine)

(C) *Cirsium ciliolatum* (Ashland thistle)

(D) *Cirsium fontinale* var. *fontinale* (fountain thistle)

(E) *Cirsium fontinale* var. *obispoense* (Chorro Creek bog thistle)

(F) *Eriophyllum latilobum* (San Mateo woolly sunflower)

(G) *Helianthus niveus* ssp. *tephrodes* (Algodones Dunes sunflower)

(H) *Deinandra conjugens* (Otay tarplant)

(I) *Deinandra increscens* ssp. *villosa* (Gaviota tarplant)

(J) *Deinandra mohavensis* (Mojave tarplant)

(K) *Holocarpha macradenia* (Santa Cruz tarplant)

(L) *Lasthenia burkei* (Burke's goldfields)

(M) *Layia carnosa* (beach layia)

(N) *Lessingia germanorum* (San Francisco lessingia)

(O) *Pentachaeta bellidiflora* (white–rayed pentachaeta)

(P) *Pentachaeta lyonii* (Lyon's pentachaeta)

(Q) *Pseudobahia bahiifolia* (Hartweg's golden sunburst)

(R) *Pseudobahia peirsonii* (San Joaquin adobe sunburst)

(5) Berberidaceae (Barberry Family)

(A) *Berberis nevinii* (Nevin's barberry)

(B) *Berberis pinnata* ssp. *insularis* (island barberry)

(C) *Mahonia sonnei* (Truckee barberry)

(6) Boraginaceae (Borage Family)

(A) *Amsinckia grandiflora* (large–flowered fiddleneck)

(B) *Plagiobothrys diffusus* (San Francisco popcorn–flower)

(7) Brassicaceae (Mustard Family)

(A) *Arabis macdonaldiana* (McDonald's rock cress)

(B) *Caulanthus californicus* (California jewel–flower)

(C) *Erysimum capitatum* var. *angustatum* (Contra Costa wallflower)

(D) *Erysimum menziesii* (Menzies's wallflower)

(E) *Erysimum teretifolium* (Santa Cruz wallflower)

(F) *Rorippa subumbellata* (Tahoe yellow cress)

(G) *Streptanthus niger* (Tiburon jewel–flower)

(H) *Thelypodium stenopetalum* (slender–petaled thelypodium)

(8) Cactaceae (Cactus Family)

(A) *Opuntia basilaris* var. *treleasei* (Bakersfield cactus)

(9) Campanulaceae (Bellflower Family)

(A) *Downingia concolor* var. *brevior* (Cuyamaca Lake downingia)

(10) Caryophyllaceae (Pink Family)

(A) *Arenaria paludicola* (marsh sandwort)

(B) *Silene campanulata* ssp. *campanulata* (Red Mountain catchfly)

(11) Chenopodiaceae (Goosefoot Family)

(A) *Atriplex tularensis* (Bakersfield smallscale)

(B) *Nitrophila mohavensis* (Amargosa nitrophila)

(12) Convolvulaceae (Morning–glory Family)

(A) *Calystegia stebbinsii* (Stebbins's morning–glory)

(13) Crassulaceae (Stonecrop Family)

(A) *Dudleya brevifolia* (short–leaved dudleya)

(B) *Dudleya traskiae* (Santa Barbara Island dudleya)

(C) *Sedella leiocarpa* (Lake County stonecrop)

(14) Cupressaceae (Cypress Family)

(A) *Cupressus abramsiana* (Santa Cruz cypress)

(15) Cyperaceae (Sedge Family)

(A) *Carex albida* (white sedge)

(16) Ericaceae (Heath Family)

(A) *Arctostaphylos densiflora* (Vine Hill manzanita)

(B) *Arctostaphylos hookeri* ssp. *hearstiorum* (Hearst's manzanita)

(C) *Arctostaphylos hookeri* ssp. *ravenii* (Presidio manzanita)

(D) *Arctostaphylos imbricata* (San Bruno Mountain manzanita)

(E) *Arctostaphylos pacifica* (Pacific manzanita)
(F) *Arctostaphylos pallida* (pallid manzanita)
(G) *Ornithostaphylos oppositifolia* (Baja California birdbush)
(17) Fabaceae (Pea Family)
(A) *Astragalus agnicidus* (Humboldt milk–vetch)
(B) *Astragalus lentiginosus* var. *sesquimetralis* (Sodaville milk–vetch)
(C) *Astragalus magdalenae* var. *peirsonii* (Peirson's milk–vetch)
(D) *Astragalus pycnostachyus var. lanosissimus* (Ventura marsh milk–vetch)
(E) *Astragalus tener* var. *titi* (coastal dunes milk–vetch)
(F) *Lotus argophyllus* var. *adsurgens* (San Clemente Island bird's–foot trefoil)
(G) *Lotus argophyllus* var. *niveus* (Santa Cruz Island bird's–foot trefoil)
(H) *Lotus dendroideus* var. *traskiae* (San Clemente Island lotus)
(I) *Lupinus nipomensis* (Nipomo Mesa lupine)
(J) *Lupinus tidestromii* var. *tidestromii* (Tidestrom's lupine)
(K) *Trifolium trichocalyx* (Monterey clover)
(18) Hydrophyllaceae (Waterleaf Family)
(A) *Eriodictyon altissimum* (Indian Knob mountainbalm)
(19) Lamiaceae (Mint Family)
(A) *Acanthomintha duttonii* (San Mateo thorn–mint)
(B) *Acanthomintha ilicifolia* (San Diego thorn–mint)
(C) *Monardella linoides* ssp. *viminea* (willowy monardella)
(D) *Pogogyne abramsii* (San Diego mesa mint)
(E) *Pogogyne clareana* (Santa Lucia mint)
(F) *Pogogyne nudiuscula* (Otay Mesa Mint)
(20) Liliaceae (Lily Family)
(A) *Fritillaria roderickii* (Roderick's fritillary)
(B) *Lilium occidentale* (western lily)
(C) *Lilium pardalinum ssp. pitkinense* (Pitkin Marsh lily)
(21) Limnanthaceae (False Mermaid Family)
(A) *Limnanthes douglasii* var. *sulphurea* (Point Reyes meadowfoam)
(B) *Limnanthes floccosa* ssp. *californica* (Butte County meadowfoam)
(C) *Limnanthes gracilis* var. *parishii* (Parish's meadowfoam)
(D) *Limnanthes vinculans* (Sebastopol meadowfoam)
(22) Linaceae (Flax Family)
(A) *Hesperolinon didymocarpum* (Lake County western flax)
(23) Malvaceae (Mallow Family)
(A) *Malacothamnus clementinus* (San Clemente Island bush mallow)
(B) *Malacothamnus fasciculatus* var. *nesioticus* (Santa Cruz Island bush mallow)
(C) *Sidalcea covillei* (Owens Valley checkerbloom)
(D) *Sidalcea oregana* ssp. *valida* (Kenwood Marsh checkerbloom)
(E) *Sidalcea pedata* (bird–foot checkerbloom)
(F) *Sidalcea stipularis* (Scadden Flat checkerbloom)
(24) Onagraceae (Evening–primrose Family)
(A) *Clarkia franciscana* (Presidio clarkia)
(B) *Clarkia imbricata* (Vine Hill clarkia)
(C) *Clarkia lingulata* (Merced clarkia)
(D) *Clarkia springvillensis* (Springville clarkia)
(E) *Oenothera deltoides* ssp. *howellii* (Antioch dunes evening–primrose)
(25) Poaceae (Grass Family)
(A) *Dichanthelium lanuginosum* var. *thermale* (Geysers dichanthelium)
(B) *Neostapfia colusana* (Colusa grass)
(C) *Orcuttia californica* (California Orcutt grass)
(D) *Orcuttia inaequalis* (San Joaquin Valley Orcutt grass)
(E) *Orcuttia pilosa* (hairy Orcutt grass)
(F) *Orcuttia tenuis* (slender Orcutt grass)
(G) *Orcuttia viscida* (Sacramento Orcutt grass)
(H) *Poa napensis* (Napa blue grass)
(I) *Tuctoria mucronata* (Crampton's tuctoria)
(26) Polemoniaceae (Phlox Family)
(A) *Eriastrum densifolium* ssp. *sanctorum* (Santa Ana River woollystar)
(B) *Navarretia leucocephala* ssp. *plieantha* (many–flowered navarretia)
(C) *Phlox hirsuta* (Yreka phlox)
(27) Polygonaceae (Buckwheat Family)
(A) *Chorizanthe orcuttiana* (Orcutt's spineflower)
(B) *Chorizanthe parryi* var. *fernandina* (San Fernando Valley spineflower)
(C) *Chorizanthe valida* (Sonoma spineflower)
(D) *Dodecahema leptoceras* (slender–horned spineflower)
(E) *Eriogonum alpinum* (Trinity buckwheat)
(F) *Eriogonum apricum* var. *apricum* (Ione buckwheat)
(G) *Eriogonum apricum* var. *prostratum* (Irish Hill buckwheat)
(H) *Eriogonum thornei* (Thorne's buckwheat)
(I) *Eriogonum grande* ssp. *timorum* (San Nicholas Island buckwheat)
(J) *Eriogonum kelloggii* (Kellogg's buckwheat)
(K) *Polygonum hickmanii* (Scotts Valley polygonum)
(28) Ranunculaceae (Buttercup Family)
(A) *Delphinium bakeri* (Baker's larkspur)
(B) *Delphinium variegatum* ssp. *kinkiense* (San Clemente Island larkspur)
(29) Rhamnaceae (Buckthorn Family)
(A) *Ceanothus ophicochilus* (Vail Lake ceanothus)
(30) Rosaceae (Rose Family)
(A) *Cercocarpus traskiae* (Catalina Island mountain–mahogany)
(B) *Potentilla hickmanii* (Hickman's cinquefoil)
(C) *Rosa minutifolia* (small–leaved rose)
(31) Rubiaceae (Madder Family)
(A) *Galium catalinense* ssp. *acrispum* (San Clemente Island bedstraw)
(32) Saxifragaceae (Saxifrage Family)
(A) *Lithophragma maximum* (San Clemente Island woodland star)
(33) Scrophulariaceae (Figwort Family)
(A) *Castilleja campestris* ssp. *succulenta* (succulent owl's–clover)
(B) *Castilleja grisea* (San Clemente Island Indian paintbrush)
(C) *Castilleja uliginosa* (Pitkin Marsh Indian paintbrush)
(D) *Cordylanthus maritimus* ssp. *maritimus* (salt marsh bird's–beak)
(E) *Cordylanthus palmatus* (palmate–bracted bird's–beak)
(F) *Cordylanthus rigidus* ssp. *littoralis* (seaside bird's–beak)
(G) *Gratiola heterosepala* (Boggs Lake hedge–hyssop)
(b) Threatened:
(1) Amaryllidaceae (Amaryllis Family)
(A) *Allium munzii* (Munz's onion)
(2) Asteraceae (Sunflower Family)
(A) *Cirsium loncholepis* (La Graciosa thistle)
(B) *Cirsium rhothophilum* (surf thistle)
(C) *Hazardia orcuttii* (Orcutt's hazardia)
(D) *Verbesina dissita* (crownbeard)
(3) Boraginaceae (Borage Family)
(A) *Plagiobothrys strictus* (Calistoga popcorn–flower)
(4) Brassicaceae (Mustard Family)
(A) *Dithyrea maritima* (beach spectaclepod)
(B) *Nasturtium gambelii* (Gambel's water cress)
(5) Crassulaceae (Stonecrop Family)
(A) *Dudleya stolonifera* (Laguna Beach dudleya)
(6) Fabaceae (Pea Family)
(A) *Astragalus claranus* (Clara Hunt's milk–vetch)
(B) *Lupinus citrinus* var. *deflexus* (Mariposa lupine)
(C) *Lupinus milo–bakeri* (Milo Baker's lupine)
(7) Liliaceae (Lily Family)
(A) *Calochortus tiburonensis* (Tiburon mariposa lily)
(B) *Fritillaria striata* (striped adobe–lily)
(8) Linaceae (Flax Family)
(A) *Hesperolinon congestum* (Marin western flax)
(9) Philadelphaceae (Mock Orange Family)

(A) *Carpenteria californica* (tree–anemone)
(10) Poaceae (Grass Family)
(A) *Pleuropogon hooverianus* (North Coast semaphore grass)
(11) Polemoniaceae (Phlox Family)
(A) *Gilia tenuiflora* ssp. *arenaria* (sand gilia)
(B) *Navarretia leucocephala* ssp. *pauciflora* (few–flowered navarretia)
(12) Polygonaceae (Buckwheat Family)
(A) *Chorizanthe howellii* (Howell's spineflower)
(13) Scrophulariaceae (Figwort Family)
(A) *Castilleja affinis* spp. *neglecta* (Tiburon Indian paintbrush)
(14) Verbenaceae (Vervain Family)
(A) *Verbena californica* (California vervain)
(c) Rare:
(1) Amaryllidaceae (Amaryllis Family)
(A) *Allium yosemitense* (Yosemite onion)
(B) *Bloomeria humilis* (dwarf goldenstar)
(2) Apiaceae (Carrot Family)
(A) *Lilaeopsis masonii* (Mason's lilaeopsis)
(B) *Sanicula maritima* (adobe sanicle)
(C) *Sanicula saxatilis* (rock sanicle)
(3) Asteraceae (Sunflower Family)
(A) *Blennosperma nanum* var. *robustum* (Point Reyes blennosperma)
(B) *Eriophyllum congdonii* (Congdon's woolly sunflower)
(C) *Deinandra arida* (Red Rock tarplant)
(D) *Deinandra minthornii* (Santa Susanna tarplant)
(E) *Dieteria asteroides* var. *lagunensis* (Mount Laguna aster)
(F) *Packera ganderi* (Gander's ragwort)
(G) *Packera layneae* (Layne's ragwort)
(4) Boraginaceae (Borage Family)
(A) *Cryptantha roosiorum* (bristlecone cryptantha)
(5) Brassicaceae (Mustard Family)
(A) *Caulanthus stenocarpus* (slender–pod jewel–flower)
(6) Campanulaceae (Bellflower Family)
(A) *Nemacladus twisselmannii* (Twisselmann's nemacladus)
(7) Crassulaceae (Stonecrop Family)
(A) *Dudleya cymosa* ssp. *marcescens* (marcescent dudleya)
(B) *Dudleya nesiotica* (Santa Cruz Island dudleya)
(8) Cyperaceae (Sedge Family)
(A) *Carex tompkinsii* (Tompkins's sedge)
(9) Ericaceae (Heath Family)
(A) *Arctostaphylos bakeri* (Baker's manzanita)
(B) *Arctostaphylos edmundsii* var. *parvifolia* (Hanging Gardens manzanita)
(10) Euphorbiaceae (Spurge Family)
(A) *Croton wigginsii* (Wiggins's croton)
(11) Fabaceae (Pea Family)
(A) *Astragalus johannis–howellii* (Long Valley milk–vetch)
(B) *Astragalus monoensis* (Mono milk–vetch)
(C) *Astragalus traskiae* (Trask's milk–vetch)
(D) *Lupinus padre–crowleyi* (Father Crowley's lupine)
(E) *Thermopsis macrophylla* var. *agnina* (Santa Ynez false lupine)
(F) *Trifolium polyodon* (Pacific Grove clover)
(12) Hydrophyllaceae (Waterleaf Family)
(A) *Eriodictyon capitatum* (Lompoc yerba santa)
(13) Liliaceae (Lily Family)
(A) *Calochortus dunnii* (Dunn's mariposa lily)
(B) *Calochortus persistens* (Siskiyou mariposa lily)
(C) *Chlorogalum purpureum* var. *reductum* (Camatta Canyon amole)
(14) Limnanthaceae (False Mermaid Family)
(A) *Limnanthes bakeri* (Baker's meadowfoam)
(15) Malvaceae (Mallow Family)
(A) *Sidalcea hickmanii* ssp. *anomala* (Cuesta Pass checkerbloom)
(B) *Sidalcea hickmanii* ssp. *parishii* (Parish's checkerbloom)
(16) Onagraceae (Evening–primrose Family)
(A) *Clarkia speciosa* ssp. *immaculata* (Pismo clarkia)
(B) *Oenothera californica* ssp. *eurekensis* (Eureka Dunes evening–primrose)
(17) Poaceae (Grass Family)
(A) *Agrostis blasdalei* var. *marinensis* (Marin bent grass)
(B) *Calamagrostis foliosa* (leafy reed grass)
(C) *Swallenia alexandrae* (Eureka Valley dune grass)
(D) *Tuctoria greenei* (Greene's tuctoria)
(18) Polemoniaceae (Phlox Family)
(A) *Eriastrum tracyi* (Tracy's eriastrum)
(19) Polygonaceae (Buckwheat Family)
(A) *Dedeckera eurekensis* (July gold)
(B) *Eriogonum butterworthianum* (Butterworth's buckwheat)
(C) *Eriogonum crocatum* (Conejo buckwheat)
(D) *Eriogonum giganteum* var. *compactum* (Santa Barbara Island buckwheat)
(E) *Eriogonum twisselmannii* (Twisselmann's buckwheat)
(20) Portulacaceae (Purslane Family)
(A) *Lewisia congdonii* (Congdon's lewisia)
(21) Ranunculaceae (Buttercup Family)
(A) *Delphinium hesperium* ssp. *cuyamacae* (Cuyamaca larkspur)
(B) *Delphinium luteum* (yellow larkspur)
(22) Rhamnaceae (Buckthorn Family)
(A) *Ceanothus hearstiorum* (Hearst's ceanothus)
(B) *Ceanothus maritimus* (maritime ceanothus)
(C) *Ceanothus masonii* (Mason's ceanothus)
(D) *Ceanothus roderickii* (Pine Hill ceanothus)
(23) Rosaceae (Rose Family)
(A) *Ivesia callida* (Tahquitz ivesia)
(24) Rubiaceae (Madder Family)
(A) *Galium angustifolium* ssp. *borregoense* (Borrego bedstraw)
(B) *Galium buxifolium* (box bedstraw)
(C) *Galium californicum* ssp. *sierrae* (El Dorado bedstraw)
(25) Saxifragaceae (Saxifrage Family)
(A) *Bensoniella oregona* (bensoniella)
(26) Scrophulariaceae (Figwort Family)
(A) *Castilleja gleasonii* (Mt. Gleason Indian paintbrush)
(B) *Cordylanthus mollis* ssp. *mollis* (soft bird's–beak)
(C) *Cordylanthus nidularius* (Mt. Diablo birds–beak)
(D) *Cordylanthus tenuis* ssp. *capillaris* (Pennell's bird's–beak)
(E) *Holmgrenanthe petrophila* (rock lady)
(F) *Pedicularis dudleyi* (Dudley's lousewort)
(27) Sterculiaceae (Cacao Family)
(A) *Fremontodendron decumbens* (Pine Hill flannelbush)
(B) *Fremontodendron mexicanum* (Mexican flannelbush)

NOTE: Authority cited: Sections 1904 and 2070, Fish and Game Code. Reference: Sections 1755, 1904, 2062, 2067, 2070, 2072.7 and 2075.5, Fish and Game Code.

HISTORY

1. New section filed 10–11–78; effective thirtieth day thereafter (Register 78, No. 41).
2. Amendment of subsections (a)(10), (b)(10), (b)(17) and new subsections (a)(12)–(a)(27) and (b)(19)–(b)(21) filed 6–11–79; effective thirtieth day thereafter (Register 79, No. 24).
3. Amendment filed 8–9–79; effective thirtieth day thereafter (Register 79, No. 32).
4. Amendment filed 10–17–79; effective thirtieth day thereafter (Register 79, No. 42).
5. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
6. Amendment of subsections (a)(2)–(a)(4), (a)(10), (a)(16), (a)(17), (a)(20) and (a)(26) filed 12–18–81; effective thirtieth day thereafter (Register 81, No. 51).
7. New subsections (a)(7)(D), (a)(14)(E) and (F), (a)(18)(C), (a)(20)(E) and (F), (a)(25)(B), (a)(26)(H), (a)(27) and (a)(28) filed 1–13–82; effective thirtieth day thereafter (Register 82, No. 3).
8. New subsections (a)(4)(H), (a)(7)(E), (a)(14)(G) and (H), (a)(18)(D), (a)(24)(F), (a)(29)–(a)(31) filed 3–17–82; effective thirtieth day thereafter (Register 82, No. 12).
9. Amendment of subsection (a)(26) and new subsections (b)(2)(C), (b)(3)(F)–(H), (b)(16)(F), (b)(20)(F), (b)(21)(B), and (b)(24)–(27) filed 6–4–82; effective thirtieth day thereafter (Register 82, No. 23).
10. New subsections (b)(1)(B), (b)(3)(E), (b)(9)(F) and (G), (b)(11)(C), (b)(14)(C), (b)(17)(C), (b)(18)(D), (b)(20)(E), and (b)(22) and (23) filed 6–4–82; effective thirtieth day thereafter (Register 82, No. 23).

11. Amendment of subsection (a)(3) and new subsection (a)(26)(H) filed 4–20–84; effective thirtieth day thereafter (Register 84, No. 16).
12. Editorial correction filed 7–20–84 (Register 84, No. 29).
13. Amendment filed 8–3–84; effective thirtieth day thereafter (Register 84, No. 31).
14. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
15. Amendment filed 5–30–86; effective thirtieth day thereafter (Register 86, No. 22).
16. Amendment of subsection (a), relettering and amendment of former subsection (b) to subsection (c), and new subsection (b) filed 1–16–87; effective upon filing pursuant to Fish and Game Code section 215 (Register 87, No. 4).
17. Amendment of subsections (a)(17) and (b)(3) filed 2–26–88; operative 3–27–88 (Register 88, No. 13).
18. Amendment of subsection (a) filed 10–23–89; operative 11–22–89 (Register 89, No. 43).
19. Editorial correction of printing error inadvertently omitting text (Register 90, No. 38).
20. Renumbering: former (a)(8) through (a)(25) to (a)(11) through (a)(28) respectively; former (a)(26), (27), (28), (29), (30), (31); to (a)(32), (9), (31), (10), (29) and (30) respectively; renumbering (a)(25)(A) to (a)(29)(C); relettering former (a)(25)(B) to (a)(28)(A); renumbering (b)(1)–(5) to (b)(5), (6), (7), (9), (10) respectively; adding new (a)(4)(K)–(N), (a)(7)(H), (a)(8), (a)(8)(A), (a)(10)(B), (a)(13)(C), (a)(27)(I), (b)(1), (b)(1)(A), (b)(2), (b)(2)(A)–(C), (b)(3), (b)(3)(A), (b)(4), (b)(4)(A)–(B), (b)(6)(B)–(C), (b)(8), (b)(8)(A), (b)(9)(B), (b)(11), (b)(11)(A); nonsubstantive spelling corrections at (a)(4)(G), (J), (a)(5)(C), (a)(6)(B), (a)(7)(A), (E), (F), (a)(17)(B), (E), (G), (a)(18)(B), (a)(19)(A), (E), (a)(23)(A), (E), (a)(25)(B), (a)(32)(A), (F), (b)(7)(A), (c)(1)(A), (c)(3)(F), (c)(9)(A), (C), (E), (F), (c)(11)(A), (C), (c)(15)(A), (B); correction of printing error repeating (a)(5), (a)(5)(A), (a)(4), (a)(4)(A)–(J) filed 10–9–90; operative 11–8–90 (Register 90, No. 45).
21. New subsection (a)(4)(O) filed 4–7–92; operative 5–7–92 (Register 92, No. 15).
22. New subsections (a)(4)(P)–(Q) and subsection (b)(8)(A) and renumbering filed 12–1–92; operative 12–31–92 (Register 92, No. 49).
23. New subsection (a)(4)(B) and subsection relettering filed 6–11–93; operative 7–12–93 (Register 93, No. 24).
24. New subsection (a)(29) and subsection renumbering filed 12–28–93; operative 1–27–94 (Register 93, No. 53).
25. New subsections (b)(13)–(b)(13)(A) filed 7–14–94; operative 8–15–94 (Register 94, No. 28).
26. Editorial correction relocating subsection (b)(8)(B) to (b)(7)(B) (Register 94, No. 28).
27. Change without regulatory effect amending subsections (a)(4)(H), (a)(4)(J), (a)(13)(B), (a)(17)(C), (a)(17)(F), (a)(19)(A), (a)(22)(A), (a)(25)(A), (a)(27)(G), (a)(28)(A), (a)(33)(D), (a)(33)(G), (b)(1)(A), (b)(6)(C), (b)(8)(A), (c)(3)(D), (c)(3)(G), (c)(5)(A), (c)(9)(B) and (c)(14)(B) filed 2–10–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 6).
28. Change without regulatory effect amending subsections (a)(26)(A), (b)(10)(B) and (b)(12)(A) filed 10–3–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 40).
29. Change without regulatory effect amending subsections (a)(5)(A) and (C) and (a)(20)(B) filed 8–20–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 34).
30. Change without regulatory effect amending section and NOTE filed 6–7–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 44).
31. New subsection (a)(17)(D) and subsection relettering filed 11–7–2000; operative 12–7–2000 (Register 2000, No. 45).
32. New subsection (a)(16)(G) filed 4–4–2002; operative 4–4–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 14).
33. New subsection (a)(27)(B) and subsection relettering filed 8–9–2002; operative 9–8–2002 (Register 2002, No. 32).
34. New subsection (b)(2)(C) and subsection relettering filed 12–26–2002; operative 1–25–2003 (Register 2002, No. 52).
35. New subsections (b)(10)–(b)(10)(A), repealer of subsection (c)(17)(C) and subsection renumbering and relettering filed 12–30–2002; operative 1–29–2003 (Register 2003, No. 1).
36. New subsection (a)(27)(K) filed 4–19–2005; operative 5–19–2005 (Register 2005, No. 16).
37. Change without regulatory effect amending subsections (a)(4)(H)–(J), (a)(13)(A) and (C), (a)(27)(H), (b)(4)(B), (b)(6)(A), (c)(3)(C)–(G) and (c)(11)(B) filed 5–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 21).
38. New subsection (a)(28)(A), repealer of subsection (c)(21)(A) and subsection relettering filed 10–6–2006; operative 11–5–2006 (Register 2006, No. 40).

§ 670.5. Animals of California Declared To Be Endangered or Threatened.

The following species and subspecies are hereby declared to be endangered or threatened, as indicated:

(a) Endangered:

(1) Crustaceans:

(A) California freshwater shrimp *(Syncaris pacifica)*

(B) Shasta crayfish *(Pacifastacus fortis)*

(2) Fishes:

(A) Bull trout *(Salvelinus confluentus)*

(B) Mohave tui chub *(Gila bicolor mohavensis)*

(C) Owens tui chub *(Gila bicolor snyderi)*

(D) Bonytail *(Gila elegans)*

(E) Colorado pikeminnow *(Ptychocheilus lucius)*

(F) Lost River sucker *(Deltistes luxatus)*

(G) Modoc sucker *(Catostomus microps)*

(H) Shortnose sucker *(Chasmistes brevirostris)*

(I) Razorback sucker *(Xyrauchen texanus)*

(J) Desert pupfish *(Cyprinodon macularius)*

(K) Owens pupfish *(Cyprinodon radiosus)*

(L) Unarmored threespine stickleback *(Gasterosteus aculeatus williamsoni)*

(M) Winter run chinook salmon *(Oncorhynchus tshawytscha)*

(N) Coho salmon (*Oncorhynchus kisutch*) south of Punta Gorda (Humboldt County), California.

(3) Amphibians:

(A) Santa Cruz long–toed salamander *(Ambystoma macrodactylum croceum)*

(B) Desert slender salamander *(Batrachoseps aridus)*

(4) Reptiles:

(A) Coachella Valley fringe–toed lizard *(Uma inornata)*

(B) Blunt–nosed leopard lizard *(Gambelia silus)*

(C) San Francisco garter snake *(Thamnophis sirtalis tetrataenia)*

(5) Birds:

(A) California brown pelican *(Pelecanus occidentalis californicus)*

(B) California condor *(Gymnogyps californianus)*

(C) Bald eagle *(Haliaeetus leucocephalus)*

(D) American peregrine falcon *(Falco peregrinus anatum)*

(E) California clapper rail *(Rallus longirostris obsoletus)*

(F) Light–footed clapper rail *(Rallus longirostris levipes)*

(G) California least tern *(Sterna antillarum browni)*

(H) Western yellow–billed cuckoo *(Coccyzus americanus occidentalis)*

(I) Elf owl *(Micrathene whitneyi)*

(J) Great gray owl *(Strix nebulosa)*

(K) Least Bell's vireo *(Vireo bellii pusillus)*

(L) Inyo California towhee *(Pipilo crissalis eremophilus)*

(M) Willow flycatcher *(Empidonax traillii)*

(N) Arizona Bell's vireo *(Vireo bellii arizonae)*

(O) Gila woodpecker *(Melanerpes uropygialis)*

(P) Gilded northern flicker *(Colaptes auratus chrysoides)*

(Q) Belding's savannah sparrow *(Passerculus sandwichensis beldingii)*

(R) Marbled murrelet (*Brachyramphus marmoratus*)

(6) Mammals:

(A) Riparian brush rabbit (*Sylvilagus bachmani riparius*)

(B) Morro Bay kangaroo rat *(Dipodomys heermanni morroensis)*

(C) Giant kangaroo rat *(Dipodomys ingens)*

(D) Tipton kangaroo rat *(Dipodomys nitritoides nitratoides)*

(E) Fresno kangaroo rat *(Dipodomys nitritoides exilis)*

(F) Salt–marsh harvest mouse *(Reithrodontomys raviventris)*

(G) Amargosa vole *(Microtus californicus scirpensis)*

(H) California bighorn sheep (*Ovis canadensis californiana*)

(b) Threatened:

(1) Gastropods:

(A) Trinity bristle snail *(Monadenia setosa)*

(2) Fishes:

(A) Delta smelt (*Hypomesus transpacificus*)

(B) Cottonball Marsh pupfish *(Cyprinodon salinus milleri)*

(C) Rough sculpin *(Cottus asperrimus)*

(D) Spring–run chinook salmon (*Oncorhynchus tshawytscha*) of the Sacramento River drainage.

(E) Coho salmon (*Oncorhynchus kisutch*) from Punta Gorda (Humboldt County), California to the northern border of California.

(3) Amphibians:

(A) Siskiyou mountain salamander *(Plethodon stormi)*

(B) Kern Canyon slender salamander *(Batrachoseps simatus)*

(C) Tehachapi slender salamander *(Batrachoseps stebbinsi)*

(D) Limestone salamander *(Hydromantes brunus)*

(E) Shasta salamander *(Hydromantes shastae)*

(F) Black toad *(Bufo exsul)*

(4) Reptiles:

(A) Desert tortoise *(Gopherus agassizzi)*

(B) Barefoot banded gecko *(Coleonyx switaki)*

(C) Southern rubber boa *(Charina bottae umbratica)*

(D) Alameda whipsnake *(Masticophis lateralis euryxanthus)*

(E) Giant garter snake *(Thamnophis couchi gigas)*

(5) Birds:

(A) Swainson's hawk *(Buteo swainsoni)*

(B) California black rail *(Laterallus jamaicensis coturniculus)*

(C) Yuma clapper rail *(Rallus longirostris yumanensis)*

(D) Greater sandhill crane *(Grus canadensis tabida)*

(E) Bank swallow *(Riparia riparia)*

(F) Xantus's murrelet (*Synthliboramphus hypoleucus*)

(6) Mammals:

(A) Mohave ground squirrel (*Spermohilus mohavensis*)

(B) San Joaquin antelope squirrel *(Ammospermophilus nelsoni)*

(C) Stephens' kangaroo rat *(Dipodomys stephensi)*

(D) Sierra Nevada red fox *(Vulpes vulpes necator)*

(E) San Joaquin kit fox *(Vulpes macrotis mutica)*

(F) Island fox *(Urocyon littoralis)*

(G) Wolverine *(Gulo gulo)*

(H) Guadalupe fur seal *(Arctocephalus townsendi)*

(I) Peninsular bighorn sheep *(Ovis canadensis cremnobates)*

NOTE: Authority cited: Sections 2070 and 2075.5, Fish and Game Code. Reference: Sections 1755, 2055, 2062, 2067, 2070, 2072.7, 2075.5 and 2077, Fish and Game Code.

HISTORY

1. New section filed 5–28–71; effective thirtieth day thereafter (Register 71, No. 22).
2. Amendment of subsections (a)(1), (a)(3) and (b)(3) filed 12–11–73; effective thirtieth day thereafter (Register 73, No. 50).
3. Amendment of subsections (a)(1) and (b)(1) filed 1–23–78; effective thirtieth day thereafter (Register 78, No. 4).
4. Amendment filed 9–2–80; effective thirtieth day thereafter (Register 80, No. 36).
5. Editorial correction of subsection (b) (Register 80, No. 41).
6. Editorial correction of NOTE and HISTORY 4. (Register 80, No. 51).
7. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
8. Amendment of subsection (b)(6) filed 3–18–83; effective thirtieth day thereafter (Register 83, No. 12).
9. Amendment filed 5–30–86; effective thirtieth day thereafter (Register 86, No. 22).
10. New subsections (a)(5)(M)–(O) filed 2–16–88; operative 3–17–88 (Register 88, No. 9).
11. Amendment filed 2–26–88; operative 3–27–88 (Register 88, No. 13).
12. Relettering of former subsections (a)(6)(C)–(a)(6)(E) to subsections (a)(6)(D)–(a)(6)(F) and new subsections (a)(6)(C) and (b)(5)(E) filed 5–12–89; operative 6–11–89 (Register 89, No. 20).
13. Amendment of subsection (b)(4) filed 8–3–89; operative 8–3–89 pursuant to Government Code section 11346.2(d) (Register 89, No. 32).
14. New subsection (a)(2)(M) filed 9–22–89; operative 9–22–89 pursuant to Government Code section 11346.2(d) (Register 89, No. 39).
15. Reordering of subsections (a)(5)(K)–(P) and new subsection (a)(5)(Q) filed 12–3–90; operative 1–2–91 (Register 91, No. 3).
16. Editorial correction of printing error in subsections (a)(2)(E) and (a)(5)(O) and (P) (Register 91, No. 31).
17. New subsection (a)(5)(R) filed 3–12–92 as an emergency; operative 4–13–92 (Register 92, No. 12).
18. Adoption of subsection (b)(2)(A) and subsection relettering filed 11–9–93; operative 12–9–93 (Register 93, No. 46).
19. Repealer of subsection (b)(6)(A) and subsection redesignation filed 4–20–94; operative 5–20–94 (Register 94, No. 16).
20. New subsection (a)(6)(A), subsection redesignation and amendment of NOTE filed 4–29–94; operative 5–30–94 (Register 94, No. 17).
21. New subsection (a)(2)(N) filed 12–1–95; operative 12–31–95 (Register 95, No. 48).
22. New subsection (b)(2)(D) filed 1–6–99; operative 2–5–99 (Register 99, No. 2).
23. New subsection (a)(6)(H), repealer of subsection (b)(6)(H) and subsection relettering filed 3–23–99 as an emergency; operative 3–23–99 (Register 99, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–21–99 or emergency language will be repealed by operation of law on the following day.
24. Certificate of Compliance as to 3–23–99 order, including amendment of subsection (a)(6)(H), transmitted to OAL 7–16–99 and filed 8–27–99 (Register 99, No. 35).
25. Change without regulatory effect adding subsection (b)(6)(A) and relettering subsections filed 12–13–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 50).
26. New subsection (b)(5)(F) filed 11–22–2004; operative 12–22–2004 (Register 2004, No. 48).
27. Amendment of subsections (a)(2) and (b)(2) filed 2–28–2005; operative 3–30–2005 (Register 2005, No. 9).
28. Amendment of subsection (a)(2)(E) filed 12–27–2007; operative 1–26–2008 (Register 2007, No. 52).

§ 670.6. Commission Policy on Monitored Species.

It is the policy of the commission that the department shall monitor and report on the impact of ongoing management efforts for and the status of species or subspecies listed herein that were previously considered for candidacy or listing by the commission. The commission may reconsider listing any of these species or subspecies at any time based upon a new petition submitted pursuant to sections 2071 or 2072.7 of the Fish and Game Code. Any petition implemented pursuant to this section will be considered by the commission in accordance with procedures set forth in Article 2, Chapter 1.5, of the Fish and Game Code (California Endangered Species Act).

(a) Monitored Species and Subspecies. Note: There are no species currently listed.

NOTE: Authority cited: Section 703, Fish and Game Code. Reference: Sections 703, 2071 and 2072.7, Fish and Game Code.

HISTORY

1. New section filed 8–29–96; operative 9–28–96 (Register 96, No. 35).
2. Amendment of subsection (a) and repealer of subsection (a)(1) filed 10–4–2000; operative 11–3–2000 (Register 2000, No. 40).

§ 670.7. Permits to Take Fully Protected Animals for Scientific Purposes.

The department may issue revocable permits to take fully protected species for scientific purposes under the following conditions:

(a) Permits may be issued only to members of the faculty or professional staff of a scientific or educational institution; professional wildlife staff of a government agency or private institution; or others who are deemed qualified by the department.

(b) Requests for permits to take fully protected species shall be submitted to the department in writing, and shall include the following information:

(1) Name and address of applicant.

(2) Species and number to be collected.

(3) Scientific background and research experience of principal investigator and assistants.

(4) Description of proposed study, with reference to the literature, including purpose, methods of capture, materials, expected result, and intended disposition of animals collected or handled.

(5) Duration of study; locality and periods of sampling or capture.

(c) Revocable permits issued by the department shall be in the form of a memorandum of understanding. This memorandum shall include the conditions under which taking of animals may be permitted, beginning and termination dates, and requirements for periodic reports to the department, which shall be at least yearly. The memorandum, and any addenda to it, shall be signed by the director of the department and by the applicant or the applicant's executive supervisor.

(d) The department shall notify the commission prior to the issuance of any memorandums and prepare a report annually regarding any memorandums issued pursuant to this section.

(e) Commission approval shall be required prior to the issuance by the department of any memorandum for a fully protected species listed in subsection (f). Such memorandums shall be subject to conditions established by the commission.

(f) Commission approval shall be required for studies involving the take for scientific purposes of the following fully protected species:

(1) California condor (*Gymnogyps californianus*).

(2) Southern sea otter (*Enhydra lutris nereis*).

(3) Bighorn sheep (*Ovis canadensis*).

(g) Permits for the taking of fully protected species that are also declared to be rare or endangered by the commission pursuant to Section 670.5, or federally designated as endangered or threatened by the Secretary of the Interior, shall be subject to conditions of State–Federal Cooperative Agreements relating to these species.

(h) Any permit issued pursuant to these regulations may be cancelled or suspended at any time by the director of the department when, in his judgment, permittee is acting or has acted contrary to the terms and conditions of subject permit, or if, in his judgment, the safety or welfare of the species authorized to be taken by subject permit is or may be jeopardized by the actions of permittee.

NOTE: Authority cited: Section 1002, Fish and Game Code. Reference: Sections 3511, 4700, 5050 and 5515, Fish and Game Code.

HISTORY

1. New section filed 2–18–81; effective thirtieth day thereafter (Register 81, No. 8).

§ 671. Importation, Transportation and Possession of Live Restricted Animals.

(a) It shall be unlawful to import, transport, or possess alive animals restricted in subsection (c) below except under permit issued by the Department of Fish and Game. Permits may be issued by the department as specified herein and for purposes designated in Section 671.1 subject to the conditions and restrictions designated by the department. Except for mammals listed in Fish and Game Code Section 3950 or live aquatic animals requiring a permit pursuant to Fish and Game Code Section 2271, no permit is required by this section for any animal being imported, transported, or possessed pursuant to any other permit issued by the department. Cities and counties may also prohibit possession or require a permit for these and other species not requiring a state permit.

(b) The commission has determined the below listed animals are not normally domesticated in this state. Mammals listed to prevent the depletion of wild populations and to provide for animal welfare are termed "welfare animals", and are designated by the letter "W". Those species listed because they pose a threat to native wildlife, the agriculture interests of the state or to public health or safety are termed "detrimental animals" and are designated by the letter "D". The department shall include the list of welfare and detrimental wild animals as part of DFG MANUAL NO. 671 (2/25/92) IMPORTATION, TRANSPORTATION AND POSSESSION OF RESTRICTED SPECIES, to be made available to all permittees and other interested individuals.

(c) Restricted species include:

(1) Class Aves—Birds

(A) Family Alaudidae—Larks
Alauda arvensis (Skylark) (D).

(B) Family Cuculidae—Cuckoos
All species (D).

(C) Family Corvidae—Crows, Ravens, Rooks, Jackdaws
All species (D).

(D) Family Turdidae—Thrushes, Blackbirds, Fieldfare

1. *Turdus merula* (European blackbird) (D).
2. *Turdus viscivorus* (Missel thrush) (D).
3. *Turdus pilaris* (Fieldfare) (D).
4. *Turdus musicus* (Song thrush) (D).

(E) Family Sturnidae—Starlings, Mynahs
All species (D), except *Sturnus vulgaris* (Starling), *Gracula religiosa* or *Eulabes religiosa* (Hill mynahs), and *Leucopsar rothschildi* (Rothchild's mynah) are not restricted.

(F) Family Ploceidae—Sparrows, Weavers, Queleas

1. Genus *Passer* (Sparrow)
All species (D), except *Passer domesticus* (English house sparrow) is not restricted.
2. *Foudia madagascariensis* (Madagascar weaver) (D).
3. *Ploceus baya* (Baya weaver) (D).
4. *Genus Quelea* (Queleas)—All species (D).

(G) Family Estrildidae—Waxbills, Munias, Ricebirds

1. *Padda oryzivora* (Java sparrow) (D).

(H) Family Emberizidae—Yellowhammer
Emberiza citrinella (Yellowhammer) (D).

(I) Order Falconiformes—Falcons, Eagles, Hawks, Vultures
All species (D)

(J) Order Strigiformes—Owls
All species (D)

(K) Family Pyconotidae—Bulbuls or Fruit Thrushes
Pycnonotus jocosus (Red-whiskered bulbul) (D).

(L) Family Zosteropidae—Whiteeyes
Genus *Zosterops* (Whiteeyes)—All species (D).

(M) Family Psittacidae—Parrots, Parakeets
Myiopsitta monachus (Monk or Quaker parakeet) (D).

(N) Family Anatidae (ducks, geese, and swans)

1. *Cygnus olor* (Mute Swan) (D)

(2) Class Mammalia—Mammals

(A) Order Primates—Monkeys, Apes
All species (W), except Family Hominidae—not restricted.

(B) Order Edendata—Sloths, Anteaters, Armadillos, etc.
All species:

1. Family Dasypodidae—Armadillos—All Species (D).
2. Family Bradypodidae—Sloths—(W).
3. Family Myrmecophagidae—Anteaters—(W).

(C) Order Marsupialia—Marsupials or Pouched Animals
All species (W).

(D) Order Insectivora—Shrews, Moles, Hedgehogs, etc.
All species (D).

(E) Order Dermoptera—Gliding Lemurs
All species (D).

(F) Order Chiroptera—Bats
All species (D).

(G) Order Monotremata—Spiny Anteaters, Platypuses
All Species (W).

(H) Order Pholidota—Pangolins or Scaly Anteaters
All species (W).

(I) Order Lagomorpha—Pikas, Rabbits, and Hares
All species, (D), except domesticated races of rabbits and hares of the Family Leporidae—not restricted.

(J) Order Rodentia—Hamsters, Field Mice, Voles, Muskrats, Gerbils, Squirrels, Chipmunks, Woodchucks, and Prairie Dogs

1. All species (D), except:

a. *Ondatra zibethica* (Muskrats)—Not restricted under conditions set forth in Fish and Game Code Section 2250;

b. Domesticated races of golden hamsters of the species *Mesocricetus auratus* and domesticated races of dwarf hamsters of the Genus *Phodopus* not restricted;

c. Domesticated races of rats or mice (white or albino; trained, dancing or spinning, laboratory–reared) not restricted;

d. Domesticated races of guinea pigs of the species *Cavia porcellus* not restricted; and

e. Domesticated races of chinchillas of the species *Chinchilla laniger* not restricted.

(K) Order Carnivora—Raccoons, Ringtailed Cats, Kinkajous, Coatis, Cacomistles, Weasels, Ferrets, Skunks, Polecats, Stoats, Mongoose, Civets, Wolves, Foxes, Coyotes, Lions, Tigers, Ocelots, Bobcats, Servals, Leopards, Jaguars, Cheetahs, Bears, etc.

1. Family Felidae—All species (W) except:

a. *Acinonyx jubatus* (cheetahs)—(D).

b. Domestic cats and hybrids of domestic cats are not restricted.

2. Family Canidae—All species (W).

a. Wolf hybrids *Canis familiaris* (domestic dog) x *Canis lupus* (wolf).

i. Any F1 (first) generation wolf hybrid whelped on or before February 4, 1988 may be possessed under permit from the department.
ii. No state permit is required to possess the progeny of F1 generation wolf hybrids, but cities and counties may prohibit possession or require a permit.
b. Domesticated dogs are not restricted.
3. Family Viverridae—All species (D).
4. Family Procyonidae—All species—(D), except:
a. *Ailuris fulgens* (Lesser Panda)—(W).
b. *Aiuropoda melanoleuca* (Giant panda)—(W).
c. *Bassariscus astutus* (Ringtail or Ringtailed cat)—(W).
d. *Jentinkia sumichrasti* (Mexican and Central American Cacomistle)—(W).
5. Family Mustelidae—All species (D), except:.
a. *Ambloynx cinerea* (Oriental small-clawed otter)—(W).
b. *Aonyx capensis* (African clawless otter)—(W).
c. *Pteronura brasiliensis* (Giant otter)—(W).
d. All species of Genus *Lutra* (River otters)—(W).
6. All others—(W).
(L) Order Tubulidentata—Aardvarks
All species—(W).
(M) Order Proboscidae—Elephants
All species—(W).
(N) Order Hyracoidae—Hyraxes
All species—(W).
(O) Order Sirenia—Dugongs, Manatees
All species—(W).
(P) Order Perissodactyla—Horses, Zebras, Tapirs, Rhinoceroses, etc.
All species (W), except Family Equidae is not restricted.
(Q) Order Artiodactyla—Swine, Peccaries, Camels, Deer, Elk, Moose, Antelopes, Cattle, Goats, Sheep, etc.
All species (D) except:
1. *Bos taurus* and *Bos indicus* (Domestic cattle); *Bos grunniens* (Yak); *Bubalus bulalis* (Asian water buffalo); *Ovis aries* (Domestic sheep); *Capra hircus* (Domestic goat); *Sus scrofa domestica* (Domestic swine); *Llama glama* (Llama); *Llama pacos* (Alpaca); *Llama guanicoe* (Guanaco); Hybrids of llama, alpaca and guanacos; *Camelus bactrianus* and *Camelus dromedarius* (Camels); and *Bison bison* (American bison), are not restricted.
2. Permits may be issued for species of Elk (Genus *Cervus*) which are already maintained within California; and
3. Permits may be issued pursuant to Section 676, Title 14, CCR, for importing, breeding, slaughter and sale of the meat and other parts of fallow deer (*Dama dama*) for commercial purposes.
(3) Class Amphibia—Frogs, Toads, Salamanders
(A) Family Bufonidae—Toads
Bufo marinus, *Bufo paracnemis*, *Bufo horribilis* (Giant toad or marine toad group) and all other large toads from Mexico and Central and South America-(D).
(B) Family Pipidae—Tongueless Toads
All species of the Genus *Xenopus*-(D).
(C) Family Ambystomatidae-Mole Salamanders
All species of the genus *Ambystoma* (tiger salamanders)-D
(D) Family Leptodactylidae—Neotropical Frogs
Eleutherodactylus coqui—Commom Coqui or Coqui frog (D).
(4) Class Agnatha—Jawless Fishes
(A) Family Petromyzontidae—Lampreys
All nonnative species (D).
(5) Class Osteichthyes—Bony Fishes
(A) Family Percichthyidae—Temperate Basses
1. *Morone americana* (White perch) (D).
2. *Morone chrysops* (White bass) (D).
(B) Family Clupeidae—Herrings
Dorosoma cepedianum (Gizzard shad) (D).
(C) Family Sciaenidae—Drums
Aplodinotus grunniens (freshwater drum) (D).
(D) Family Characidae—Characins
1. *Astyanax fasciatus* (Banded tetra) (D).
2. All species of the genera *Serrasalmus, Serrasalmo, Pygocentrus, Taddyella, Rooseveltiella*, and *Pygopristis* (Piranhas) (D).
3. *Hoplias malabaricus* (Tiger fish) (D).
(E) Family Salmonidae—Trouts
Salmo salar (Atlantic salmon)—Restricted in the Smith River watershed (D).
(F) Family Lepisosteidae—Gars
All species (D).
(G) Family Amiidae—Bowfins
All species (D).
(H) Family Poeciliidae—Livebearers
Belonesox belizanus (Pike killifish) (D).
(I) Family Channidae—Snakeheads
All species (D).
(J) Family Cyprinidae—Carps and Minnows
1. *Leuciscus idus (ide)* (D).
2. *Ctenopharyngodon idellus* (Grass carp) (D), except that permits may be issued to a person, organization or agency for possession of triploid grass carp, under conditions set forth in Section 238.6.
3. *Hypophthalmichthys molitrix* (Silver carp) (D).
4. *Aristichthys nobilis* (Bighead carp) (D).
5. *Hypophthalmichthys harmandi* (Largescale Silver carp) (D).
6. *Mylopharyngodon piceus* (Black carp) (D).
(K) Family Trichomycteridae (*Pygidiidae*)—Parasitic Catfishes.
All species (D).
(L) Family Cetopsidae—Whalelike Catfishes.
All species (D).
(M) Family Clariidae—Labyrinth Catfishes
All species of the genera *Clarias, Dinotopterus*, and *Heterobranchus* (D).
(N) Family Heteropneustidae (Saccobranchidae)—Airsac Catfishes
All species (D).
(O) Family Cichlidae—Cichlids
1. *Tilapia sparrmani* (Banded Tilapia) (D).
2. *Tilapia zilli* (Redbelly tilapia) (D), except permits may be issued to a person or agency for importation, transportation, or possession in the counties of San Bernardino, Los Angeles, Orange, Riverside, San Diego, and Imperial.
3. *Tilapia aurea* (Blue tilapia) (D).
4. *Tilapia nilotica* (Nile tilapia) (D).
(P) Family Anguillidae—Freshwater Eels.
All species of genus *Anguilla* (D).
(Q) Family Esocidae—Pikes all species (D).
(R) Family Percidae—Perches
1. *Perca flavescens* (Yellow perch) (D).
2. *Stizostedion vitreum* (Walleye) (D).
(S) Family Catostomidae—Suckers
All members of the genus *Ictiobus* (Buffalos) (D).
(T) Family Cyprinodontidae-Killifishes
Cyprinodon variegatus (Sheepshead minnow) (D).
(U) Family Latidea—Lates perches
Lates calcarifer (Barramundi also know as Barramundi perch or Silver barramundi) (D).
(6) Class Elasmobranchiomorphi—Cartilaginous Fishes
(A) Family Carcharhinidae—Requiem Sharks
All species of genus *Carcharhinus* (Freshwater sharks) (D).
(B) Family Potamotrygonidae—River stingrays
All species (D).
(7) Class Reptilia—Reptiles
(A) Order Crocodilia—Crocodiles, Caimans, Alligators and Gavials
All species (D).
(B) Family Chelyridae—Snapping Turtles

All species (D).

(C) Family Elapidae—Cobras, Coral Snakes, Mambas, Kraits, etc.
All species (D).

(D) Family Viperidae—Adders and Vipers
All species (D).

(E) Family Crotalidae—Pit Vipers
All species (D), except *Crotalus viridis* (Western rattlesnake), *Crotalus atrox* (Western diamondback rattlesnake), *Crotalus ruber* (red diamondback rattlesnake), *Crotalus scutulatus* (Mojave rattlesnake), *Crotalus mitchelli* (speckled rattlesnake) and *Crotalus cerastes* (Sidewinder) not restricted.

(F) Family Colubridae—Colubrids

1. *Dispholidus typus* (Boomslang) (D).
2. *Theoltornis kitlandii* (Bird or vine snake) (D).
3. All species of genus *Nerodia* (watersnakes) (D).

(G) Family Helodermatidae

1. *Heloderma suspectum suspectum* (reticulate Gila monster) (D).

(8) Class Crustacea—Crustaceans

(A) All species of Family Cambaridae—Crayfish, etc. (D), except *Procambarus clarkii* and *Orconectes virilis* not restricted.

(B) All species of genus *Eriocheir* (D).

(9) Class Gastropoda—Slugs, Snails

(A) *Potamopyrgus antipodarum* (New Zealand mudsnail)

(B) All nonnative species of slugs and land snails (D), except:

1. *Rumina decollata* (decollate snail) in the counties of San Bernardino, Riverside, Imperial, Orange, San Diego, Los Angeles, Ventura, Kern, Fresno, Madera, Tulare and Santa Barbara not restricted with the concurrence of the appropriate county agricultural commissioners.
2. *Helix aspersa* (brown garden snail) not prohibited.

(C) *Pomacea canaliculata* (Channel Apple Snail) (D).

(D) All species of genus *Haliotis* (Abalone) (D), except *Haliotis rufescens* (Red abalone), *Haliotis sorenseni* (White abalone), *Haliotis corrugate* (Pink abalone), *Haliotis fulgens* (Green abalone), *Haliotis cracherodii* (Black abalone), *Haliotis kamtschatkana* (Pinto abalone), *Haliotis walallensis* (Flat abalone) and *Haliotis assimilis* (Threaded abalone) are not restricted.

1. NOTE: Unpermitted nonnative abalone are determined to be detrimental to native populations, therefore the exemptions provided in Fish and Game Code subsection 2271(b) and subsection 236(b), Title 14, CCR, are not applicable.

(10) Class Bivalvia–Bivalves

All members of the genus *Dreissena* (zebra mussels)—(D).

(11) Transgenic Aquatic Animals.

Includes freshwater and marine fishes, invertebrates, crustaceans, mollusks, amphibians, and reptiles (D).

NOTE: Unpermitted transgenic aquatic animals are determined to be detrimental to native wildlife, therefore the exemption provided for in Fish and Game Code Section 2150(e) is not applicable.

NOTE: Authority cited: Sections 2118 and 2120, Fish and Game Code. Reference: Sections 1002, 2116, 2118, 2118.2, 2118.4, 2119, 2120, 2122, 2123, 2124, 2125, 2126, 2127, 2150, 2190, 2271, 3005.9 and 3005.92, Fish and Game Code.

HISTORY

1. Amendment of subsection (g)(5) filed 2–9–84; effective thirtieth day thereafter (Register 84, No. 6). For prior history, see Register 81, No. 29.
2. Amendment of subsection (i) filed 7–8–85; effective thirtieth day thereafter (Register 85, No. 28).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Notice of Erroneous Filing filed 3–24–86 by OAL; purported amendment of subsection (g)(5) filed in error on 2–5–86 is null and void and text as filed with Secretary of State on 2–9–84 remains in effect uninterrupted (Register 86, No. 13).
5. Amendment of subsection (g)(5) filed 3–24–86; effective thirtieth day thereafter (Register 86, No. 13).
6. Amendment of subsection (h) filed 11–7–86; effective upon filing (Register 86, No. 45).
7. Amendment of subsection (g)(1) filed 5–1–87; operative 5–31–87 (Register 87, No. 19).
8. New subsection (e)(15) filed 2–16–88; operative 3–17–88 (Register 88, No. 9).
9. Amendment of subsection (b) filed 9–8–88; operative 10–8–88 (Register 88, No. 38).
10. Amendment filed 2–26–92; operative 2–26–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).
11. Amendment filed 7–21–93; operative 7–21–93 pursuant to section 202, Fish and Game Code (Register 93, No. 30).
12. Amendment of subsection (c)(9)(A) filed 2–28–94; operative 3–30–94 (Register 94, No. 9).
13. New subsection (c)(10) filed 3–7–94; operative 4–6–94 (Register 94, No. 10).
14. Amendment of subsection (c)(1)(I)2 filed 8–23–94; operative 9–22–94 (Register 94, No. 34).
15. Editorial correction of designation of subsection (c)(5)(G) (Register 94, No. 34).
16. Amendment of subsections (c)(2)(Q)2–3 filed 12–7–94; operative 12–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 49).
17. Change without regulatory effect amending subsection (c)(1)(C) filed 9–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 39).
18. Amendment of subsection (c)(5)(J)2. filed 5–5–97; operative 6–4–97 (Register 97, No. 19).
19. Amendment of section heading and section filed 8–27–98; operative 9–26–98 (Register 98, No. 35).
20. New subsection (c)(3)(C) filed 2–27–2001; operative 2–27–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 9).
21. New subsection (c)(11) and amendment of NOTE filed 4–14–2003; operative 5–14–2003 (Register 2003, No. 16).
22. New subsection (c)(9)(A), redesignation of portion of section (c)(9) as new subsection (c)(9)(B) and redesignation of former subsections (c)(9)(A)–(B) as (c)(9)(B)1.–2. filed 9–1–2004; operative 10–1–2004 (Register 2004, No. 36).
23. Amendment of subsection (c)(1)(I), new subsections (c)(1)(N) and (c)(3)(D), amendment of subsections (c)(5)(A) and (c)(5)(J), new subsection (c)(5)(U), amendment of subsection (c)(7)(F), new subsections (c)(9)(C)–(D) and amendment of NOTE filed 3–13–2008; operative 4–12–2008 (Register 2008, No. 11).

§ 671.1. Permits for Restricted Species.

(a) General. It is unlawful for any person to import, export, transport, maintain, dispose of, or use for any purpose any animal restricted by Section 671 except as authorized in a permit issued by the department.

(1) Limited Scope. A permit issued pursuant to this Section 671.1 does not supersede any Federal, State, or local law regulating or prohibiting the animals or the activities authorized in the permit.

(2) Inspections. The department may approve an application prior to facilities being inspected and approved. A permit shall not be issued unless the applicant's facilities have been inspected and approved by the department or persons designated by the department.

The department may enter any facility at a reasonable hour, where restricted species are kept or may be kept to inspect animals, facilities, animal equipment, or to inspect, audit, or copy any permit, book or record required to be kept by these regulations or federal regulations relating to such species.

(3) Change of Address or Name. The permittee must notify the Department's License and Revenue Division, 3211 S Street, Sacramento, California 95816, in writing of any change of address or name related to the permit within fourteen (14) days of the change.

(4) Records. Any record, log, invoice, or other document required by this Section 671.1 shall be maintained by the permittee for at least three years from the date issued, and be made available to the department immediately upon demand.

(5) Transportation Records Required of Broker/Dealer. The permittee shall prepare and sign an invoice in duplicate prior to any animals leaving their facility. The invoice shall contain the name and address of the Broker/Dealer, a phone number where the Broker/Dealer and the consignee can be reached 24 hours, the name and address of the consignee, the date of the shipment, and the number and scientific name of each animal. The invoice shall accompany the animals being shipped. The consignee shall sign and date the invoice receipt of the shipment and retain a copy.

(6) Permits for Business. A person (as defined in Fish and Game Code Section 67) other than a natural person can qualify for and be issued a permit, only by employing at least one full time employee who possesses the requirements for obtaining a permit. The permittee must continue to employ such qualified persons as long as the animals are possessed in California.

(7) Financial Responsibility. The department may require an applicant for a nonresident permit to provide proof he/she will immediately cover all expenses incurred by the department for personnel, equipment, and

facilities used to locate, capture, house, care for, and transport animals that escape or that are released or abandoned. The written proof must be in the form of an insurance bond or other financial guarantee payable to the department, local government agency, or entity contracting for the animals.

(8) Health Certificates. The department may require as a condition on any permit that restricted animals be approved for interstate shipment pursuant to applicable federal or state agency standards for diseases such as but not limited to tuberculosis, brucellosis, and pseudo rabies. Permit conditions may be more restrictive than federal standards.

(9) Transgenic Aquatic Animals. The department may issue permits for importation, possession, transportation or rearing of, or research on, transgenic aquatic animals pursuant to the following terms and conditions:

(A) All transgenic aquatic animals shall be held, raised, and transported in a closed–water system or in a system which treats effluent discharge from the facility with a disinfection system adequate to ensure against the inadvertent release of live animals. A closed–water system means that there is no discharge to waters of the state. Municipal treated sewage systems are not considered waters of the state. The Commission may grant an exception to subsection (a)(9)(A) of this regulation if it is determined that doing so shall not pose a significant risk to the waters or wildlife of the state.

(B) Access to facilities containing transgenic aquatic animals must be restricted through means determined to be adequate by the Department to assure against unauthorized removal of animals.

(C) Movement of live transgenic aquatic animals from facilities is prohibited unless specifically permitted by the Department.

(D) Release of transgenic aquatic animals or their progeny into waters of the state is prohibited.

(E) If transgenic aquatic animals are held with non–transgenic animals of the same species, all such animals that commingle with transgenic animals shall be treated as transgenic for the purposes of regulation and may not be introduced into waters of the state. Nontransgenic individuals that can be individually identified as nontransgenic may be exempt from this provision with prior department approval.

(F) In addition to any other penalty provided by law, any unauthorized release of transgenic aquatic animals or their progeny into the waters of the state may be subject to the penalties provided for under Fish and Game Code Sections 2125, 12007, and/or 12023.

(G) A university, college, governmental research agency or other bona fide scientific institution, as determined by the department, may apply for an expedited permit review under 671.1(b)(6) of this section by demonstrating that they meet or exceed the requirements stipulated in subsections (A) through (F) as part of a federal program or permit, for example, National Institute of Health guidelines administered by an Institutional Animal Care and Use Committee (IACUC). Such institutions shall have 120 calendar days from May 14, 2003 to submit supporting documentation for an initial permit.

(H) The Department shall provide written notice of the filing of all permit applications to any interested party who submits a written request for such notice. The Department shall consider all written comments regarding a permit application that are received from any interested party prior to approval of that application. All approved applications shall be reviewed by the Fish and Game Commission during a regularly scheduled public meeting; and the Commission, following public comment, may deny the issuance of a permit if it finds that an applicant is or will be unable to meet all regulatory requirements for importation, transportation, possession, and confinement of transgenic aquatic animals.

(I) The regulations under subsection 671.1(a)(9) shall be reviewed by the Department and other interested parties no later than one year after their effective date of May 14, 2003. A summary of the review shall be reported to the Commission at a regularly scheduled meeting within 90 days of May 14, 2004.

(b) Permits and Fees. The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR. The department may issue permits with the conditions it determines are necessary to protect native wildlife, agriculture interests, animal welfare, and/or human health and safety to:

(1) Animal Care. A person who is a resident and who has the demonstrated experience and ability to house an animal, and who legally possessed the animal in California prior to January 1992. The permittee may only possess and provide care for the animal(s) specifically listed on their department approved permit inventory. No other activity is authorized except that which is medically necessary for the care of the animal. The base permit fees for this activity in 1998 are $34.75 for Welfare species and $289.50 for Detrimental species.

(2) Exhibiting. A person who is a resident or nonresident who is in the business of exhibiting animals and who possesses the qualifications listed in 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for commercial exhibition purposes. The base permit fee for this activity in 1998 is $289.50 for residents and $579.00 for nonresidents.

(3) Single Event Breeding for Exhibitor. A person who is a resident and permitted pursuant to Section 671.1(b)(2) to conduct a one time, single breeding of an animal which is listed on the department approved permit inventory. The permit may be renewed annually, but only upon written verification by a veterinarian accredited by the U.S. Department of Agriculture (USDA) that the breeding authorized by the former permit was not successful. The base permit fee for this activity in 1998 is $34.75.

(4) Breeding. A person who is a resident and who possesses the qualifications listed in Section 671.1(c)(1) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, but only if the department determines the breeding will not result in unneeded or uncared for animals or the species is threatened or endangered. The base permit fee for this activity in 1998 is $289.50.

(5) AZA. A person accredited by the American Association of Zoos and Aquariums (AZA) to import, transport, and possess only those species listed on the department approved permit inventory for breeding, exhibition, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is $289.50.

(6) Research. A university, college, governmental research agency, or other bona fide scientific institution, as determined by the department, engaging in scientific or public health research to import, transport, and possess only those species listed on the department approved permit inventory for breeding, or for bona fide scientific or public health research. The base permit fee for this activity in 1998 is $289.50.

(7) Broker/Dealer. A person who is a resident or nonresident to act as a broker or dealer in a transaction involving the buying and/or selling of restricted species, or who is the business of transporting restricted species within the state between permittees. The base permit fee for this activity in 1998 is $289.50 for residents and $579.00 for nonresidents.

(A) Special Restrictions.

(1) Minimum Caging Period. Animals may be kept in transport caging for a period not to exceed 48 hours. An additional 48 hours may be approved by an enforcing officer or a veterinarian accredited by the USDA.

(2) Nonresident Restriction. The nonresident dealer shall only transport animals between permittees authorized by this Section or between AZA accredited institutions and permittees or ship them out of state in compliance with Federal guidelines.

(8) Shelter. A person who is a resident, who possesses the qualifications listed in Section 671.1(c)(1), and who has a statement in writing signed by the department's regional manager verifying the need for a shelter or similar facility in the area, to transport and possess restricted species for humane purposes only. The base permit fee for this activity in 1998 is $34.75. The permit fee may be waived upon recommendation of the regional manager when he/she determines it is in the best interest of the public, the animal, or the department to do so.

(A) Special Authorizations.

(1) A permittee may exhibit animals at its facility for fund–raising purposes.

Register 2008, No. 11; 3–14–2008

(2) The department may authorize a permittee to import restricted species upon receipt of written verification that appropriate facilities outside of California were contacted and no housing was available, and that these specific animals would be euthanized if they cannot be imported into California.

(NOTE: Deer Farming Permits. See Section 676.)

(c) Qualifications, Application Fees, and Permit Information.

(1) Qualifications. Applicants shall be at least 18 years of age and possess at least two years, full–time, paid or volunteer, hands–on experience caring for restricted species at a facility(ies) engaged in a similar or directly related activity to the permit requested. Applicants shall have at least one year full–time hands–on professional experience working with prohibited species in the same family or closely related taxonomic family as each species being requested. Experience will be considered only for the periods the applicant was directly involved in and responsible for the animals while engaged in the activity requested on the permit. Applicants must be residents of California, except permits for an exhibiting permit or a broker/dealer permit may be issued to nonresidents.

Persons or facilities accredited by the American Association of Zoological Parks and Aquariums (AZA), universities, colleges, governmental research agencies or other bona fide scientific institutions, as determined by the department, engaging in scientific or public health research are exempt from meeting these qualifications.

(2) Application. Completed applications and all fees shall be submitted to the Department of Fish and Game, License and Revenue Branch, Sacramento (see Section 671.1(a)(3) above for address) for each permit, permit amendment, or renewal. Application fees are nonrefundable and are in addition to permit fees.

The following information and documents shall accompany an application for each permit, amendment, or renewal:

(A) An inventory of each animal requested including the common and scientific name, sex, and age of each animal;

(B) Written certification from a veterinarian accredited by the USDA, that he/she has observed each of the permittee's animals at least twice during the prior year, that the animals have been appropriately immunized and are being housed and cared for as required by law. The certification must be signed by the veterinarian and must include the veterinari–

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an's printed name, address and license number. In the case of animals to be acquired by the permittee, the certification shall include the future dates the animals will be inspected by the veterinarian;

(C) A resume which provides the dates and description of the applicant's experience. The resume is required only when applying for the original permit or when applying to add new species to the inventory.

(D) A copy of current license or registration document required by the United States Department of Agriculture (USDA) and a copy of the most recent USDA facility inspection form completed for the facility.

(E) A letter of recommendation on letterhead stationary signed in ink by the owner or operator of a facility where the applicant gained his/her experience. The letter must provide the printed name of the owner or operator and detailed information regarding the quality and extent of the applicant's knowledge and experience related to the permit requested.

(F) Applicants for a breeding permit shall include a statement describing why the progeny are necessary. The statement must be in writing on letterhead stationary from a university, research facility, exhibitor, breeder, zoological garden or other authorized recipient. The statement must contain the printed name and be signed in ink by an official representative of the organization providing the statement. The statement is required only with the original application and when applying to add new species to the breeding inventory.

(3) Term of Permit. Permits issued under the provisions of this Section 671.1 shall be valid for a term of one year from the date of issue.

(4) Denial. The department may deny the issuance of a permit if the conditions of Section 671.1(b) are not met, or the failure to comply with terms and conditions of a permit or the provisions of sections 671–671.6. Any person denied a permit under these regulations may request a hearing before the commission to show cause why their permit request should not be denied.

(5) Revocation. Any permit issued pursuant to these regulations may be canceled or suspended at any time by the commission for failure to comply with the terms and conditions of the permit or for failure to comply with sections 671–671.6, after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

(6) Fees. The following fees will be adjusted annually pursuant to Section 699, Title 14, CCR.

(A) Application. A nonrefundable application fee for new permit, amending or renewing existing permit: $30.

(B) Inspection. The applicant shall pay $100.00 for two inspections each year. If an inspection requires more than two hours, or additional inspections are required to verify corrections of facilities or for compliance with these regulations an additional $25.00 per hour shall be charged. The inspection fee shall be waived if a person submits an annual statement from a veterinarian accredited by the USDA certifying that the animals have been inspected at least twice during the year, at six month intervals, and that the animals are being cared for and housed in accordance with applicable requirements in sections 671.2 through 671.4, Title 14, CCR. In the case of animals to be acquired, the inspection fee shall be waived if a veterinarian accredited by the USDA will certify that the facilities meet the minimum requirements of Section 671.2, Title 14, CCR, and that the animals will be inspected at least twice during the next year as required.

NOTE: Authority cited: Sections 1002, 2118, 2120, 2122, 2150 and 2150.2, Fish and Game Code. Reference: Sections 2116–2118, 2190 and 2271, Fish and Game Code.

HISTORY

1. Amendment filed 5–6–75 as an emergency; effective upon filing (Register 75, No. 18). For prior history, see Register 75, No. 4.
2. Certificate of Compliance filed 7–3–75 (Register 75, No. 27).
3. Amendment of subsection (a) filed 5–11–79; effective thirtieth day thereafter (Register 79, No. 19).
4. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
5. Order of Repeal of subsection (b) filed 6–3–85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
6. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
7. Repealer and new section filed 2–26–92; operative 2–26–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).
8. Amendment of subsection (b)(5)(A)2b and new subsections (b)(9) and (c)(6)(A)9 filed 12–7–94; operative 12–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 49).
9. Repealer and new section filed 8–27–98; operative 9–26–98 (Register 98, No. 35).
10. New subsections (a)(9)–(a)(9)(G) and amendment of NOTE filed 4–14–2003; operative 5–14–2003 (Register 2003, No. 16).
11. Amendment of subsection (a)(9)(G) and new subsections (a)(9)(H)–(I) filed 8–28–2003; operative 9–27–2003 (Register 2003, No. 35).

§ 671.2. Humane Care and Treatment Standards.

(a) Care and Treatment. Except as provided by subsection (c) below, every person who imports, transports, or possesses a restricted species shall comply with the following provisions:

(1) Food. Food shall be wholesome, palatable and free from contamination and shall be supplied in sufficient quantity and nutritive value to maintain the animal in good health. The diet shall be prepared with consideration for the age, species, condition, and size of each animal.

(2) Feeding. Animals not in hibernation shall be fed at least once a day. Food receptacles shall be clean and sanitary. Food shall be accessible to all animals in the enclosure and placed to prevent contamination. If self–feeders are used, adequate measures shall be taken to prevent mold, contamination, deterioration or caking of food.

(3) Water. Potable water must be accessible to the animals at all times or provided as often as necessary for the health and comfort of the animal as directed by a licensed veterinarian. All water receptacles shall be clean and sanitary.

(4) Cleaning of enclosures. Excrement shall be removed from enclosures at least once per day or in the case of large pasture areas, large flight cages, breeding chambers or large natural habitat enclosures, as often as necessary to maintain animals in a healthy condition. When enclosures are cleaned by hosing or flushing, adequate measures shall be taken to protect confined animals from the direct spray.

(5) Disinfection of enclosures. After an animal with an infectious or transmissible disease is removed from a cage, room, or pen/run, that enclosure shall be disinfected in compliance with the directions of a licensed veterinarian.

(6) Pest control. Programs of disease prevention and parasite control, euthanasia and adequate veterinary care shall be established and maintained under the supervision of a licensed veterinarian. The pest control program shall be reviewed annually by the veterinarian for the safe use of materials and methods.

(7) Daily observation. Animals shall be observed every day by the person in charge of the care of the animals or by someone working under his or her direct supervision. Sick or diseased, stressed, injured, or lame animals shall be provided with veterinary care or humanely destroyed.

(8) Handling. Animals shall be handled expeditiously and carefully so as not to cause unnecessary discomfort, behavioral stress, or physical harm to the animal. Except as provided below, an animal may be placed on a chain and collar only when being transported by an attendant between areas on a permittee's premises or between a mode of conveyance and a worksite or veterinarian's office, or when the handler is working or exercising the animal(s) within the compound. Care shall be exercised to avoid harm to the handler or the general public. Animals shall be kept under control at all times and shall not be allowed to roam free outside of a compound, except when under the control of the handler during filming or exhibition.

Exceptions: Elephants chained pursuant to subsection 671.3(b)(2)(M)4. (see Department of Fish and Game Manual No. 671–2/25/92). Raptors may be jessed and tethered.

(9) Chaining/staking. Animal(s) shall not be chained or otherwise tethered to a stake, post, tree, building or other anchorage, except during filming, training or exhibition, in an emergency situation or when repairs are being made to the cage. The animal(s) shall be under the direct supervision of the handler or his designee at all times.

Exceptions: Elephants chained pursuant to subsection 671.3(b)(2)(M)4. (see Department of Fish and Game Manual No. 671–2/25/92). Raptors may be jessed and tethered.

(10) Public display. Animals shall be publicly displayed only for periods of time and under conditions consistent with the animal's health and comfort. The animal must be handled so there is no perceived risk to the public in the judgement of the department's enforcement officer, with sufficient distance allowed between animal acts and the viewing public to assure safety to both the public and the animals. Animals on display shall be contained within an escape–proof area or enclosure at all times when not under the immediate control of a handler. Circus or traveling show animals shall be allowed a rest period of at least 4 hours per day within an enclosure as directed by a licensed veterinarian.

(b) Log Requirement. Permittees shall maintain a written log in the English language for each animal in their possession which documents each animal's health care. The log shall contain the following information: date of acquisition, name and address of person from whom the animal was acquired, identifying marks or characteristics, date and description of illness and/or injury, health care treatment provided, name and signature of the person treating the animal, if applicable. This log shall be made available to department officers or its authorized agent on demand.

(c) Alternative Care and Treatment Authorized by Veterinarian. When specifically directed in writing by a licensed veterinarian, a person may provide alternative care and treatment. The veterinarian's written instructions for long–term care of the animals held under the permit shall be presented to the inspector at the time of inspection. The implementation of any short–term exceptions to the veterinarian's long–term instructions or to the provisions of subsections 671.2(a)(1) through (10) above shall be verified in writing in the animal's log by the permittee within 10 working days from the date of the action. Such exception shall not exceed two weeks without written concurrence from a licensed veterinarian.

NOTE: Authority cited: Section 2120, Fish and Game Code. Reference: Sections 2116.5, 2118 and 2120, Fish and Game Code.

HISTORY

1. Amendment filed 6–30–66; effective thirtieth day thereafter (Register 66, No. 20).
2. Amendment filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
3. New NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. Repealer filed 7–15–87; operative 8–14–87 (Register 87, No. 29).
6. New section filed 2–26–92; operative 2–26–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).
7. Amendment of section heading and subsections (a), (a)(4), (a)(8), (a)(9) and (b) filed 8–27–98; operative 9–26–98 (Register 98, No. 35).

§ 671.3. Minimum Facility and Caging Standards for Wild Animals Housed at Permanent Facilities.

(a) General Housing Requirements and Specifications.

(1) All cages or enclosures shall be completely enclosed unless otherwise specified.

(2) Compatible animals may be held in the same enclosure if the required floor space is provided.

(3) Common walls between noncompatible animals shall be constructed so that animals cannot gain access to each other.

(4) If the ambient air temperature falls below that necessary to maintain the animal in a healthy condition, an artificial heat source that is sufficient to maintain that minimum ambient air temperature shall be provided.

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(5) If a pool of water is required, the floor space occupied by the pool shall be in addition to the minimum floor space requirement unless otherwise specified.

(6) Night quarters, holding pens and nesting boxes may not be used as primary housing.

(7) Except as provided in subsection (b) below, all animals listed shall be housed in facilities that have double doors or, if individual cages do not have double doors, then a perimeter fence shall enclose the entire facility to prevent escape.

(8) All enclosures shall be provided with sufficient drainage to prevent standing water from accumulating.

(9) Wherever a concrete floor is specified, either wood plank flooring or natural substrate may be used to cover the concrete floor.

(10) The following are minimum pen, cage or enclosure size requirements:

MINIMUM PEN, CAGE OR ENCLOSURE SIZE REQUIREMENTS

Type of Animal	*Floor Space (Sq. Feet) One Animal*	*Two Animals*	*Each Additional Animal*	*Interior Ceiling or Outside Fence Height (Feet)*
CLASS AVES—Birds				
Ploceidae, Estrildidae, Zosteropidae	4	4	+3/animal	2 Ceiling
More than 2 birds requires a cage height of 6 feet.				
Alaudidae, Cuculidae, Turdidae, Sturnidae	6	6	+4/animal	4 "
More than 2 birds requires a cage height of 6 feet.				
Corvidae	12	24	+12/animal	5 "
More than 2 birds requires a cage height of 6 feet.				
Falconiformes, Strigiformes				
Eagle, Hawkeagle, Vulture	100	150	+50/animal	7 "
Red–tailed hawk, Grt Horn Owl	64	96	+32/animal	7 "
Peregrine falcon, Barn owl	48	72	+24/animal	7 "
Sparrow hawk, Screech owl, Burrowing owl	36	54	+18/animal	6 "
CLASS MAMMALIA—Mammals				
PRIMATA				
NOTE: The cage size requirement for two primates also meets the cage size requirement for a pair and their progeny under the age of 2 years.				
Gorilla	300	500	+200/animal	8 Ceiling
Orangutans	200	400	+200/animal	10 "
Chimpanzees	200	300	+100/animal	8 "
Baboons	100	200	+100/animal	8 "
Gibbons, Langurs	100	200	+50/animal	9 "
Macaques	80	120	+40/animal	8 "
Woollys, Spiders, Howlers, Sakis, Capuchins	64	96	+32/animal	8 "
Marmosets	16	24	+8/animal	8 "
Squirrel, Titis, Owl	36	54	+18/animal	8 "
Tree Shrew	9	12	+3/animal	3 "
EDENTATA				
Sloth	30	40	+10/animal	8 Ceiling
Armadillo:				
(less than 15" length)	12	16	+3/animal	1.5 "
(15" to 36" length)	30	40	+10/animal	3 "
(greater than 36")	80	100	+20/animal	5 "
Tamandua	40	50	+10/animal	7 "
Giant Anteater	200	300	+100/animal	6 "
MARSUPIALIA				
Sm. Opossums	9	12	+3/animal	3 "
Lg. Opossums	20	30	+10/animal	5 "
Sm. Wallaby	60	90	+30/animal	5 Fence/Wall
Lg. Wallaby	200	300	+100/animal	6 Fence/Wall
Tree Kangaroo	80	100	+20/animal	8 Ceiling
Lg. Kangaroo	200	300	+100/animal	8 Fence/Wall
Wallaroo	200	300	+100/animal	6 Fence/Wall
INSECTIVORA				
Hedgehog, Shrew, Mole	3	6	+3/animal	1 Ceiling
DERMOPTERA				
Gliding Lemur	50	65	+15/animal	8 "
CHIROPTERA				
Bats	Use same cage dimensions as comparably sized finches, parrots, or hawks (see bird section).			
MONOTREMATA				
Spiny Anteater	25	35	+10/animal	5 Ceiling
Platypus	(See Monotremata details in subsection (b)(2)(G))			
PHOLIDOTA				
Scaly Anteater				
Terrestrial forms	Same as armadillos			
Arboreal forms	Same as sloth			
LAGOMORPHA				
Wild Rabbit or Hare	20	28	+8/animal	5 Ceiling
RODENTIA				
Squirrel, Flying	20	40	+10/animal	8 "
Squirrel, Tree	20	40	+10/animal	8 "
Squirrel, Ground	20 (Up to 4 animals may be held in 40 sq. feet)	40	+10/animal	5 "
Chipmunk	20 (Up to 3 animals may be held in 30 sq. feet.)	30	+10/animal	5 "
Prairie Dog (males)	20	30	+10/animal	5 "
Acushi	20	30	+10/animal	5 "

Type of Animal	*Floor Space (Sq. Feet)* *One Animal*	*Two Animals*	*Each Additional Animal*	*Interior Ceiling or Outside Fence Height (Feet)*
Agouti	30	40	+10/animal	5 "
Paca	30	40	+10/animal	5 "
Crested Porcupine	40	80	+40/animal	6 "
N.A. Porcupine	30	40	+10/animal	7 "
S.A. Porcupine	20	30	+10/animal	7 "
Muskrat	30	40	+10/animal	6 "
Beaver	80	120	+40/animal	5 "
Capybara	100	150	+50/animal	5 "
CARNIVORA				
Canidae				
Fennec or Kit Fox	80	100	+40/animal	6 Ceiling
Bat-eared Fox/Arctic Fox	80	100	+40/animal	6 "
Gray Fox	80	100	+40/animal	8 "
Red Fox	80	100	+40/animal	6 "
Jackal	150	200	+100/animal	6 "
Coyote	150	200	+100/animal	6 "
Wolf	200	300	+200/animal	6 "
Cape Hunting Dog	200	300	+100/animal	6 "
Ursidae				
Sun Bear	200	300	+100/animal	8 Ceiling
American Black Bear	300	450	+150/animal	8 "
Asiatic Black Bear	300	450	+150/animal	8 "
Sloth Bear	300	450	+150/animal	8 "
Spectacled Bear	300	450	+150/animal	8 "
Polar Bear	400	600	+200/animal	10 "
Grizzly Bear	400	600	+200/animal	8 "
Russian Brown Bear	300	450	+150/animal	8 "
Kodiak Bear	400	600	+200/animal	10 "
Procyonidae				
Kinkajou	40	50	+10/animal	7 Ceiling
Coatimundi	50	60	+10/animal	7 "
Raccoon	60	80	+20/animal	8 "
Mustelidae				
Weasel/Mink/Ferret	30	Up to 4 in 30 sq. feet	+10/animal	6 Ceiling
Tayra	40	50	+10/animal	6 "
Grison	30	40	+10/animal	6 "
Marten	40	50	+10/animal	7 "
Wolverine	100	200	+100/animal	6 "
Spotted Skunk	20	Up to 2 in 20 sq. feet	+10/animal	6 "
Striped Skunk	30	Up to 2 in 30 sq. feet	+10/animal	6 "
Otter	100	200	+100/animal	6 "
Badger	60	80	+30/animal	6 "
Viverridae				
Genet, Civet	40	50	+10/animal	7 Ceiling
Binturong	100	150	+50/animal	8 "
Mongoose	80	100	+40/animal	6 "
Hyaenidae				
Hyena	200	300	+100/animal	6 Ceiling
FELIDAE				
Lion, Tiger, Cheetah, Snow Leopard, and hybrids thereof	300	450	+150/animal	8 Ceiling
Black & Spotted Leopard, Jaguar, Clouded Leopard, Mountain Lion, European Lynx and hybrids thereof	200	300	+100/animal	8 "
Caracal, Bobcat, Canada Lynx, Golden Cat, Ocelot, Serval, Jungle Cat, Fishing Cat and hybrids thereof	80	120	+40/animal	8 "
Margay, Leopard Cat, Pallas Cat, Marble Cat, Geoffroy's Cat, African Wild Cat, European Wild Cat, Jaguarundi, Little Spotted Cat, African Black Footed Cat, Sand Cat, Flatheaded Cat, Pampas Cat and hybrids thereof	60	90	+30/animal	8 "
TUBULIDENTATA				
Aardvark	200	300	+100/animal	6 "
PROBOSCIDEA				
Elephant	1500	3000	+1500/animal	12 Barn height
HYRACOIDEA				
Hyrax	16	20	+4/animal	4 Ceiling
PERISSODACTYLA				
Tapir	300	500	+300/animal	6 Fence/Wall
Rhinoceros	1500	3000	+1500/animal	5 Fence/Wall
Wild Ass	900	1300	+400/animal	6 Fence/Wall

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Type of Animal	Floor Space (Sq. Feet) One Animal	Two Animals	Each Additional Animal	Interior Ceiling or Outside Fence Height (Feet)
ARTIODACTYLA				
Peccary	100	150	+50/animal	4 Fence/Wall
Wild Pig	150	200	+50/animal	4 Fence/Wall
Pigmy Hippopotamus	700	1000	+300/animal	6 Fence/Wall
Hippopotamus	1500	3000	+1500/animal	7 Fence/Wall
Giraffe	1500	3000	+1500/animal	18 Barn height
(The following Artiodactyla may have a 6 foot fence if the facility's perimeter fence is 8 foot.)				
White-tailed Deer	600	800	+200/animal	8 "
Fallow Deer	600	800	+200/animal	8 "
Elk/Red Deer	1000	1400	+400/animal	8 "
Bison, European	1000	1400	+400/animal	6 "
Buffalo	1000	1400	+400/animal	6 "
Impala, Eland	1000	1400	+400/animal	8 "
Other Antelope	600	800	+200/animal	6 "
Aoudad	600	800	+200/animal	6 "
Wild Goats & Sheep	600	800	+200/animal	6 "

(b) Specific Housing Requirements. Permittees shall comply with the following provisions except that material or construction may be substituted upon approval of the inspecting officer if the permittee produces written certification from a licensed civil or structural engineer that the material and/or construction is of equivalent strength.

(1) Class Aves—Birds

All birds, except indigenous birds and birds in the Orders Falconiformes and Strigiformes, listed in Section 671 shall be housed in cages having double doors so constructed that the exterior door must be closed before the interior door can be opened. Each door or gate shall be secured by a lock. Perches shall be large enough in diameter so that the bird's claws do not meet the toe or pad on the underside of the perch.

(A) Orders Falconiformes and Strigiformes. Noncompatible raptors shall be housed separately unless tethered. Birds of these orders held pursuant to a falconry license shall be maintained in accordance with Section 670, Title 14, CCR. Tethered raptors shall be provided with a perch designed for individual species of raptors. Tethered raptors shall be protected from predators and shall be provided with water for drinking and bathing. Tethers shall be constructed to allow the bird freedom of normal movement without becoming tangled; such tethers shall be of equal length (one on each leg). Raptors shall not be tethered continuously unless they are being flown on a daily basis or they are incapable of flying.

(2) Class Mammalia

(A) Order Primates

1. A shelter or a den box shall be provided. All primates shall be provided with natural or artificial sunlight.

2. Nocturnal primates shall be provided with privacy during their daytime hours.

3. Nest boxes shall be provided for species that use them (e.g., tamarins, marmosets, owl monkeys). Raised perches and roost sites shall be provided for arboreal or semi-arboreal species.

4. For brachiating species (gibbons and spider monkeys), sufficient vertical space must be provided for this activity which means perches shall be above the floor at a height that is at least equivalent to twice the length of an adult. The ceiling shall be high enough to allow room for the animal to stand erect on its perch with arms extended overhead.

5. Primates shall be provided with objects or exercise systems appropriate to the age and species to promote physical and psychological well-being. These may include sturdy ropes, bars, branches, and chains and rings.

6. New World Monkeys such as squirrel, titis, and owl, medium and large South American monkeys, such as spiders, woollys, howlers, capuchins, and sakis held prior to August 3, 1989 may be kept in the currently approved housing so that the prior social structure and environment of those animals may be maintained. All other housing requirements shall pertain to these animals.

7. Apes:

a. Gorilla, Orangutan and Chimpanzee

(i) The walls and top of the cage shall be constructed of either 6-inch reinforced concrete; or 8-inch reinforced concrete block; or 5/8-inch diameter steel bars spaced on not greater than 4-inch centers and welded to horizontal angle iron bars 1-1/4 inches x 1/4-inch thick which are spaced no greater than 3 feet apart; or 6-gauge chain link or welded wire attached to 1-5/8-inch schedule 40 steel pipe spaced on 5-foot centers with vertical bracing of 1-5/8-inch schedule 40 steel pipe spaced on 4-foot centers. The horizontal angle iron bars shall be welded to the corner posts. The bottom horizontal bar shall be no more than 3 inches above a concrete floor or footing. Welded wire shall be welded to the framework every foot. Chain link fencing shall be secured along all edges to the framework using tension bars which shall be bolted, not welded, to the framework at 12 inch intervals. All bolt attachments shall be further secured by spot welding. Walls shall be secured to a concrete footing deep enough below grade to preclude escape by digging. The framework for the walls and top of the cage shall be made of 1-5/8 inch outside diameter structural weight galvanized steel pipe or equivalent. Vertical support shall be set 2-1/2 feet in concrete.

(ii) Corner posts shall be either one 2-3/8 inch steel pipe or two 1-5/8 inch schedule 40 steel pipes bolted together with 3/8 inch steel bolts or equivalent.

b. Gibbon

(i) Construction shall be 9 gauge chain link or welded wire or equivalent.

8. Old World Monkeys

a. Baboon, mandrill, macaque, quenon, mangabey, langur, etc.

(i) 9 gauge wire or concrete construction.

9. New World Monkeys

a. Marmoset, squirrel, titis, owl and other similar-sized Monkeys.

(i) Cage mesh no greater than 1" x 2".

b. Spider, woolly, howler, capuchin, saki, other medium and large sized South American monkeys, etc.

(i) 11 gauge wire or concrete construction.

(B) Order Edentata—Sloth, Anteater, Armadillo, etc.

1. The floor of the pen shall be at least 50% natural substrate. The walls of the pen shall be secured to a concrete footing or, if they are constructed of 11 gauge non-rusting chain link or welded wire, they shall be buried in the dirt deep enough to prevent escape by digging.

2. The pens for sloths may have a concrete floor and shall have limbs for climbing. One limb shall provide them an opportunity to get to a heat source.

(C) Order Marsupialia—Marsupial or Pouched Animal

1. The floor of the cage shall either be constructed of wood, or it shall be natural substrate. The surface of the paddock shall be natural substrate. Walls of the cage shall be secured to buried concrete or, if walls are constructed of 11 gauge non-rusting chain link or welded wire, they shall be buried in the dirt deep enough to prevent escape by digging.

2. Tree kangaroos and other arboreal marsupials shall be provided with limbs for perching, climbing and resting, a raised nest box or similar structure for seclusion and a heat source.

3. Kangaroos and wallabies shall be provided with a refuge area.

(D) Order Insectivora—Shrew, Mole, Hedgehog, etc.

1. The bottom of the cage shall be dirt, wood shavings or similar material over an escape–proof flooring.

2. A hide box or other refuge and protection from strong light are required.

(E) Order Dermoptera—Gliding Lemur

1. Limbs for perching and climbing and a rectangular cage are required.

(F) Order Chiroptera—Bat

1. Perching or other material shall be provided for the animal to suspend itself.

2 Protection from strong light shall be provided.

(G) Order Monotremata—Spiny Anteater, Platypus.

1. The floor of the cage shall be natural substrate. The walls of the cage shall be constructed of 11 gauge non–rusting chain link or welded wire, secured to buried concrete, or they shall be buried at least one foot below the surface.

2. Nest boxes with dry bedding or a natural burrow shall be provided for spiny anteaters. A heat source shall be provided.

3. A pool measuring at least 4 times the length of the animal(s) by 1–1/2 times the width of the animal by 2–feet deep shall be provided for platypuses for swimming and feeding. Each adult shall be provided with a dry land area equal to the surface area of the pool.

4. Platypuses require at least a 6–foot long, tunnel–like entrance to the nest box where water from the pool can be shed.

5. Platypuses shall be kept singly with young or paired only when breeding.

(H) Order Pholidota—Pangolin, Scaly Anteater

1. The floor of the cage shall be natural substrate or 4 inch concrete covered with permeable soil. The walls of the cage shall be constructed of 11 gauge non–rusting chain link or welded wire, secured to buried concrete, or they shall be buried at least one foot below the surface.

(I) Order Lagomorpha—Rabbit and Hare

All require tooth–resistant restraining materials and bone, wood or fibrous food to gnaw on.

1. The floor of a pen shall be constructed of concrete at least 2 inches thick or of 16 gauge non–rusting chain link or welded wire. Dirt or wood may be placed over the flooring.

(J) Order Rodentia—Muskrats, Porcupine, Squirrel, Beaver, Prairie Dog

All require tooth–resistant restraining materials and bone, wood or fibrous food to gnaw on.

1. Porcupine

a. New World porcupines require climbing perches.

b. A box shelter for seclusion is required.

2. Squirrel and Chipmunk

a. Arboreal forms require climbing perches.

b. Nest boxes are required for each animal.

c. The cage shall be completely enclosed with a welded wire and have a concrete floor.

d. The floor shall be covered with natural substrate, wood shavings or similar material.

3. Muskrat and Beaver

a. A pool of fresh water with easy entry and exit shall be provided. Half of the required floor space shall be a pool of water 2–1/2 feet deep.

b. A nest box or retreat shall be provided for each animal.

c. The walls of the cages for beaver shall be constructed of 9 gauge chain link or welded wire or equivalent construction; 11 gauge for muskrats.

d. The floor of the cages shall be constructed of 4–inch concrete or non–rusting 9 gauge chain link or welded steel wire. Such floors are not required if the side walls are anchored to equivalent materials which have been buried deep enough underground to prevent the animal's escape by digging.

e. Not more than 2 compatible adults of the same species and their offspring of the year may be held in the same enclosure.

4. Prairie Dog

a. The floor of a pen shall be constructed of 4–inch concrete, or 16 gauge, non–rusting woven wire or similar non–rusting material with mesh 1–inch in diameter. At least 1/4–inch diameter reinforcement rods shall be used along the outer edge of a concrete floor to help support concrete or concrete block walls. To facilitate drainage, 6–inch floor drains shall be installed in a concrete floor at the rate of one per 16 square feet. Floor drains shall be covered with 9 gauge non–rusting woven wire or similar material to prevent animals from escaping. Floor drains are not required when wire is used for entire floor. The floor shall be a minimum of 3 feet below ground level and covered with permeable soil or other mixture to ensure adequate drainage.

b. The walls of the pen below ground level shall be anchored to the floor and shall be of 4 inch concrete or concrete blocks or 9 gauge non–rusting woven wire or similar material with 1–inch mesh attached to the framework of steel or cedar posts. Above ground level the wall shall be of 18 gauge fur–farm netting with 1–inch mesh, 4–inch concrete or concrete blocks or similar material. The top shall be covered or the walls shall be at least 3–1/2 feet high and provide a non–climbable escape–proof barrier.

5. Acushi, Agouti, Paca and Capybara

a. Gnawing logs shall be provided.

b. A pool shall be provided for capybara.

c. Walls or fencing shall be anchored far enough below ground level to prevent escape by digging. Dirt substrate or similar natural material shall be provided.

(K) Order Carnivora—Raccoon, Weasel, Skunk, Mongoose, Wolf, Lion, Bear, etc.

1. Procyonidae—Raccoon, Coatimundi and Kinkajou

a. Limbs shall be required.

b. A nest box or sheltered retreat shall be provided.

c. The floor of the pen shall be constructed of 4–inch concrete, wood, or natural substrate over concrete or 9 gauge non–rusting chain link or similar material, or the walls shall be buried deep enough to prevent escape by digging.

d. The walls of the pen shall be constructed of 11 gauge chain link or equivalent, 4–inch concrete or concrete block. If no top is provided, the walls shall be of sufficient height and shall be constructed in a manner which makes them non–climbable to prevent escape.

2. Mustelidae

a. Weasel, Ferret, Mink, Marten, Tayra, Grison, and Skunk

(i) Limbs shall be required (except skunk).

(ii) A nest box shall be provided for each animal, except neutered European ferrets may have a large communal nest box.

(iii) The floor of the cage shall be constructed of one inch square or one inch by two inch mesh, 4–inch concrete, wood, 11 gauge non–rusting chain link or equivalent material with a covering of dirt or similar natural substrate.

b. Wolverine and Badger

(i) A natural or artificial den area shall be provided for each animal.

(ii) The floor of the cage shall be constructed of two inch by six inch wood or 4–inch concrete or non–rusting 9 gauge chain link or welded wire covered with 3 feet of permeable soil. Six–inch floor drains shall be installed in the concrete floor at the rate of one per 16 square feet. Floor drains shall be covered with 9 gauge non–rusting woven wire or similar material to prevent animals from escaping.

(iii) Walls of the cage shall be constructed of 9 gauge chain link or welded steel wire, 4–inch concrete, or concrete block. If no top is provided, walls shall be of sufficient height and shall be constructed in a manner which makes them non–climbable to prevent escape.

c. River Otter. (Sea otters shall be housed according to 9 CFR Sections 3.100–3.118.)

(i) A den area shall be provided for each animal.

(ii) A pool with fresh running water covering at least 1/2 of the required floor space and at least 2–1/2 feet deep shall be provided.

(iii) The floor of the cage shall be constructed of 4 inch concrete or dirt over such concrete or 9 gauge chain link or welded steel wire or the side walls shall be anchored to equal materials deep enough underground to prevent escape by digging. If concrete floor is used, 6 inch floor drains shall be used and they shall be covered with 9 gauge non–rusting woven wire or similar material to prevent animals from escaping.

(iv) The walls of the cage shall be constructed of 11 gauge chain link or welded steel fabric or equivalent construction.

3. Viverridae—Genet, Civet and Mongoose, Binturong

a. Limbs shall be provided.

b. A nest box or platform is required. A heat source shall be provided for genet, civet and mongoose.

c. The floor of the cage shall be constructed of 4–inch concrete or for civets and binturongs, it may be 11 gauge non– rusting welded steel fabric with 2–inch mesh and the cage for genets and mongooses shall be of 16 gauge welded steel fabric with 3/4–inch mesh which is covered with soil.

d. The walls of the cage for civets and binturongs shall be of 11 gauge welded steel fabric with 2–inch mesh and the cage for genets and mongooses shall be of 16 gauge welded steel fabric with 3/4–inch mesh, 4–inch concrete or concrete block.

4. Hyaenidae—Hyena

a. The floor of the cage shall be constructed of 4–inch concrete, or 2 by 6 inch or larger wood flooring or buried non–rusting 9 gauge chain link or welded wire with mesh no larger than 2 inches by 4 inches.

b. The walls of the cage shall be constructed of 9 gauge chain link or welded wire with mesh no larger than 2 inches by 4 inches, or 6–inch concrete or concrete block. If an animal is kept in a large enclosure in lieu of a cage, the floor shall be of natural substrate and the walls shall be anchored and extend at least 5 feet underground. If no top is provided, the walls shall be at least 10 feet high and constructed to be non–climbable by the animal or the walls shall be 8 feet high and shall have, in addition, a 2–foot overhang angling 45 degrees inward at the top.

c. A sheltered retreat and either a den or elevated wood platform shall be provided.

5. Canidae—Wolf, Coyote, Fox and Other Members of the Dog Family

a. Limbs shall be provided for gray and red foxes.

b. The floor of the cage shall be either natural substrate or constructed of two inch by six inch wood or 4–inch concrete or buried non–rusting 9 gauge chain link or welded wire. In lieu of the above, either the walls shall be buried at least 8 feet deep to prevent escape by digging, or a buried 3–foot wide concrete, chain link, or welded wire apron shall be provided which shall be attached to the inside of the bottom of the perimeter walls to prevent escape by digging at the walls. All buried chain link or welded wire shall meet the gauge requirements for walls.

c. The walls of the cage shall be constructed of 6–inch concrete or concrete block, chain link or welded wire. If chain link is used, it shall be 9 gauge for wolves and 11 gauge for other canids. If an animal is kept in a large enclosure in lieu of a cage, the floor shall be of natural substrate and the walls of the cage shall be anchored and extend at least 5 feet underground or a buried 3–foot wide concrete, chain link or welded wire apron shall be provided which shall be attached to the inside of the bottom of the perimeter walls to prevent escape by digging at the walls. If no top is provided, the walls shall be at least 10 feet high and constructed to be non–climbable by the animal or the walls shall be 6 feet high (except that the walls for the gray fox shall be 8 feet high) and shall have, in addition, a 2–foot overhang angling 45 degrees inward at the top.

d. A sheltered retreat and either a den or elevated wood platform shall be provided.

6. Felidae—Cat Family

a. Dens shall be provided and shall be adequate in size to provide privacy and comfort for all animals in the enclosure.

b. An elevated wooden loafing platform or an elevated dry natural substrate loafing area, adequate in size for all animals within the enclosure, shall be provided. The top of the den or den box may be designed to meet this requirement.

c. A tree limb or other suitable scratch block shall be provided.

d. The floor of the cage shall be natural substrate or constructed of wood or 4 inches of concrete or welded wire or the walls shall be buried deep enough to prevent escape by digging. All buried chain link or welded wire shall be non–rusting and shall meet the gauge requirements for walls.

e. Group I—Lion, Tiger, Cheetah, Snow Leopard, and Hybrids Thereof:

(i) A minimum of 100 square feet shall be of concrete or wood planking as a sanitary area for feeding unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and top of the enclosure shall be constructed of at least 9 gauge chain link. The framework for the walls and top shall be constructed of 1–5/8 inch schedule 40 steel pipe. Vertical posts shall be bolted to or anchored in concrete 1–1/2 feet deep by 10 inches in diameter spaced no more than 10 feet apart. Horizontal pipe supports shall be spaced no more than 4 feet apart and welded at the ends to the vertical posts. The above chain link fencing shall be secured to the vertical and horizontal framing on all sides using tension bars which shall be welded or bolted to the framework every 18 inches. Welded wire shall be welded to the framework every 12 inches on all sides. The bottom horizontal cross bar shall be no more than 3 inches above the concrete floor. If a bottom horizontal cross bar is not used, the walls shall be secured against the natural substrate or a wooden flooring in a manner which precludes escape. Corner posts shall be two 1–5/8–inch schedule 40 steel posts or one 2–3/8–inch schedule 40 steel post. The top cross members shall be spaced no more than 5 feet apart.

f. Group II—Black and Spotted Leopard, Jaguar, Clouded Leopard, Mountain Lion, European Lynx and Hybrids Thereof:

(i) At least 70 square feet of the floor space must be of concrete or wood planking as a sanitary area for feeding unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and tops shall be the same as for Group I cats.

g. Group III—Caracal, Bobcat, Canada Lynx, Golden Cat, Ocelot, Serval, Jungle Cat, Fishing Cat and Hybrids Thereof:

(i) At least 25 square feet of floor space shall be concrete or wood planking as a sanitary area for feeding, unless a secured food receptacle which is cleaned daily is provided.

(ii) Walls and top of the enclosure shall be constructed of at least 12 gauge chain link or equivalent. Corner posts shall be either one 2–3/8–inch schedule 40 steel pipe or two 1–5/8–inch schedule 40 steel pipes and anchored as provided for Group I cats.

h. Group IV—Margay, Leopard Cat, Pallas Cat, Marble Cat, Geoffroy's Cat, African Wild Cat, European Wild Cat, Jaguarundi, Little Spotted Cat, African Black Footed Cat, Sand Cat, Flatheaded Cat, Pampas Cat and Hybrids Thereof:

(i) At least 20 square feet of floor space shall be concrete or wood planking as a sanitary area for feeding, unless a secured food receptacle which is cleaned daily is provided.

(ii) Wall and top of the enclosure shall be constructed of at least 12 gauge chain link or equivalent. Corner posts shall be either one 2–3/8–inch schedule 40 steel pipe or two 1–5/8–inch schedule 40 steel pipes and anchored as provided for Group I cats.

7. Ursidae–Bear Family

Bears shall be classified into 3 groups: Group I= Sun Bears, Asiatic Black bears, Sloth bears and Spectacled bears; Group II= American Black bears and European brown bears; and Group III= Polar bears and Brown bears.

(i) Floors of the enclosure shall be constructed of reinforced concrete 4 inches thick or they shall be of natural substrate or wood with the walls secured to a concrete footing deep enough below grade to preclude escape by digging (at least 5 feet for Group III).

(ii) Vertical corner posts shall be made of either one 2–3/8– inch schedule 40 steel pipe or two 1–5/8–inch schedule 40 steel pipe. Other vertical, horizontal, and top cross member supports shall be made of 1–5/8–inch schedule 40 steel pipe for Group I and 1–7/8–inch schedule 40 steel pipe for Groups II and III. All horizontal pipe supports shall be spaced no more than 5 feet apart for any group. The bottom horizontal pipe shall be no more than 3 inches above the concrete floor.

(iii) The framework for the walls and top of the cage shall be constructed of materials that are equal or greater in strength than the corner posts with all upright members set 2–1/2 feet in concrete and spaced no more than 10 feet apart for Group I and II or 5 feet apart for Group III. The cross members (stringers) forming the framework for the top shall be spaced no more than 5 feet apart for any group. Iron pipe shall be standard grade for Groups I and II and structural strength grade for Group III.

(iv) For groups I and II the walls of the cage shall be constructed of 9 gauge chain link or welded wire with mesh no greater than 2 inches in diameter. For Group III bears the walls of the cage shall be constructed of 5 gauge chain link or welded wire. Welded wire shall be welded to the framework every 4 inches.

Chain link fencing shall be secured along all edges to the framework using tension bars which shall be bolted to the framework every foot. The walls of the cage for groups I, II and III bears may also be constructed of vertical steel bars or rods of 5/8–inch diameter, spaced on 4–inch centers, and welded at the ends to 1–1/4 inch x 1/4–inch angle iron.

The horizontal angle iron supports shall be welded to the vertical posts. The bottom horizontal support shall be no more than 3 inches above the concrete floor and each horizontal support shall be spaced no more than 4 feet apart between floor and top.

(v) The top of the cage shall be constructed of material equal to the wall requirements for the particular group of bears enclosed. Shade shall be provided by covering 1/4 to 1/2 of the top with exterior grade plywood, fiberglass, or similar material.

(vi) A concrete or concrete block den at least 4 feet high by 4 feet wide by 6 feet long or an equivalent shall be provided for each animal; or one den at least 4 feet high by 6 feet wide by 8 feet long for 2 animals or for a female and her offspring of the year. The top of the den shall be constructed of concrete which may be covered on top with wood for laying. A den shall be provided with shavings, straw, or a wooden platform or flooring for reclining. The den shall be provided with adequate ventilation to prevent condensation of moisture. The den box may be of wood if the den is completely within the cage.

(vii) A bear shall be provided with a suitable scratching post.

(viii) A pool deep enough for complete immersion shall be required for polar bears and the pool surface area shall be in addition to the minimum cage size requirement.

(L) Order Tubulidentata–Aardvarks

1. The floor of the cage shall be dirt. The walls of the cage shall be constructed of 9 gauge non–rusting welded wire or concrete which has been buried to a depth of at least 5 feet to prevent escape by digging.

(M) Order Proboscidea–Elephant

1. A heated barn shall be provided in any geographical area where the ambient air temperature drops below 40 degrees Fahrenheit. The floor of the barn shall be constructed of at least 6 inches of reinforced concrete. All lights and other such objects and obstacles in the barn shall be kept outside the reach of the elephant.

2. Elephants shall be provided free exercise unchained on dirt for a minimum of 5 hours per each 24–hour period.

3. An enclosure constructed of 6–inch reinforced concrete, 2– inch diameter steel bars or 4–inch diameter schedule 40 galvanized steel pipe shall be provided. No roof is required.

4. Chaining requirements:

a. Chains shall be secured to a concrete floor, concrete "dead man," or other immovable anchor.

b. A covered chaining area shall be provided.

c. An elephant may be chained by only one rear leg and the opposite front leg and in such a manner as to restrict movement but still allow the animal to easily lay down and rise again. Chains shall be rotated to the other 2 legs daily.

d. Elephants chained for any extended period shall have their leg chains padded and shall be checked regularly to insure they are secure and to detect any injury to the leg.

e. Snaps and clips may be used only within a primary enclosure. A clevis or stronger type chain attachment shall be used outside the primary enclosure.

5. Either a pool shall be provided or the elephant shall be washed with water daily, as weather or temperature permit.

(N) Order Hyracoidea—Hyrax

1. Limbs shall be provided for arboreal species.

2. Nest box or sheltered retreat shall be provided.

3. The floor of the cage shall be constructed of 4 inch concrete which shall be covered with dirt or natural substrate.

4. The walls of the cage shall be constructed of 1/2 inch by 1 inch mesh welded wire.

(O) Order Sirenia—Dugongs and Manatees—These animals shall be maintained in a manner that complies with 50 CFR, Part 18, Section 18.13(c).

(P) Order Perissodactyla—Tapirs, Rhinoceroses, etc.

1. The floor of the pen shall be dirt or natural substrate.

2. The walls of the pen for tapirs shall be constructed of 9 gauge chain link, or equivalent material. The walls of the enclosure for rhinoceroses shall be constructed of 6–inch reinforced concrete, 2 inch diameter steel bars, or 6–inch heavy duty galvanized steep pipe.

(Q) Order Artiodactyla—Wild Pigs, Hippopotami, Deer, Giraffes, Wild Cattle, Antelope, etc.

1. Wild Pigs and Peccaries

a. A shelter with a roof and three walls shall be provided.

b. The floor of the pen shall be dirt or natural substrate.

c. The animals shall be precluded from escape by digging.

2. Hippopotami

a. A heated barn shall be provided in any geographical area where the ambient air temperature drops below 40 degrees Fahrenheit.

b. A pool shall be provided for the Nile hippopotamus which shall have surface area of at least 300 square feet and a 35–degree nonskid ramp. The pool shall be not less than 5 feet deep. For each additional animal there shall be a 25% increase in the required pool area.

c. A pool shall be provided for the pygmy hippopotamus which shall have a surface area of at least 100 square feet with a 35–degree nonskid ramp. The pool shall be not less than 3 feet deep. For each additional animal there shall be a 25% increase in the required pool area.

d. The walls of the corral or paddock enclosure shall be constructed of 5–inch reinforced concrete or 5–inch structural grade schedule 40 galvanized steel pipe.

3. Deer, Elk, Giraffes, Wild Cattle, Antelope, and Wild Goats and Sheep.

a. The floor of the pen shall be dirt or other natural substrate.

b. All animals shall be provided with a shelter which has a roof and three walls.

Shelters for giraffes shall provide at least 140 square feet of floor space for each giraffe. A heat source shall be provided for giraffes.

c. Fences for giraffe, elk and wild cattle shall be constructed of 9 gauge woven wire or chain link with mesh not more than 6 inches in diameter or equivalent. Posts shall be of structural grade schedule 40 quality steel pipe or structurally sound 4 x 4 wood, spaced not more than 12 feet apart. A 6–foot vertical fence, with or without overhang, shall be required; a 7–foot vertical fence is required for elk.

d. Fences for deer, antelope and wild goats and sheep shall be constructed of 11 gauge woven wire with mesh not more than 6 inches in diameter or equivalent. Posts shall be of structurally sound 4x4 wood or equivalent, spaced not more than 12 feet apart. A 7–foot vertical fence is required for elk, red deer, bison, buffalo, impala, eland, antelope, goats and sheep; a 6–foot vertical fence is required for white–tailed deer, fallow deer, auodad and sika deer.

(3) Class Amphibia—Frogs, Toads, Salamanders

(A) General Requirements:

1. The animal's enclosure shall be kept within a closed and locked room or building which has covers over all drains and openings to prevent escape of the amphibians from the building. All doors shall be equipped with sweeps. Containers or exhibits shall be labeled with the identification of current species and the number of animals contained inside.

2. The rock or aquarium substrate shall be non–abrasive and shall be kept clean.

3. Any transfer containers shall have locked tops and shall be constructed in a manner which shall prevent the likelihood of escape.

(B) Family Bufonidae

1. One ten–gallon standard commercial aquarium shall be provided for one animal and an additional three–fourths of a square foot (equivalent to one 5 gallon aquarium) shall be provided for each additional animal.

2. At least one–third of the bottom of the aquarium shall be covered with water and two–thirds shall be dry.

3. Animals shall be kept at a temperature of between 60–80 degrees Fahrenheit.

(C) Family Pipidae

1. One 10 gallon standard commercial aquarium shall be provided for one animal. The minimum floor space requirement shall be increased by 50 percent for each additional animal. Water at a minimum depth of 1 foot shall cover at least the minimum floor space requirement for the number of animals confined.

2. Animals shall be confined at a temperature of between 60–80 degrees Fahrenheit.

(4) Class Reptilia

(A) Order Crocodilia—Alligators, Caimans, Crocodiles, Gavials

1. The minimum cage length and width dimensions for one animal shall be equal to one and one–half times the length of the animal by one and one–half times the length of the animal. This space requirement shall be doubled for two animals and shall be increased by a factor of two–thirds for each additional animal thereafter.

2. One–third of the minimum cage space shall be water that is deep enough for the animal to immerse itself. If more than one animal is present in the pen, the pool shall be of sufficient size that all animals can immerse themselves simultaneously. Pool surfaces shall be made of non–abrasive material and the pool shall have a drain.

3. That portion of the pen not occupied by the pool shall be covered with non–abrasive material such as dirt or grass.

4. Crocodilians, except alligators and caimans less than 4 feet in length, shall be kept in a totally enclosed building or exhibit. Animals shall be confined in a manner which precludes their coming in contact with the public. The walls of an open pen for other crocodilians shall be equivalent to at least one foot in height for every one foot in length of the largest animal up to a maximum of 6 feet high. If any of the walls are made of a climbable material such as fencing, the top 1–1/2 feet of the wall shall be constructed of a slippery, nonclimbable material for all crocodilians except alligators. The walls for all species shall be buried deep enough to prevent escape by digging, or a buried apron shall be used. The walls of an open alligator pen shall be at least 4 feet high, and the corners shall be covered to prevent climbing. The upper one–half of the walls of the enclosure shall be constructed of either concrete or concrete block or 9 gauge chain link or welded wire with no greater than 2–inch x 4–inch size mesh. Concrete or concrete block shall be used for the bottom half of the enclosure. All chain link or welded wire edges shall be smoothly secured in a manner which will prevent injury to the animals.

5. Alligators may be kept outdoors if:

a. An external heat source is provided, and the pool temperature is maintained above freezing;

b. The pool is at least three feet deep; and

c. The nighttime temperature does not fall below freezing for more than 2 consecutive nights.

6. Crocodilians other than alligators may be confined outdoors between sunrise and sunset if:

a. The air temperature is above 65 degrees Fahrenheit.

7. Crocodilians other than alligators shall not be confined outdoors between sunset and sunrise.

(B) Family Chelydridae—Snapping turtles

1. The container or exhibit shall be labeled with the common and scientific name of the species and the subspecies, if known, and the number of animals contained inside.

2. Each turtle shall be provided with a minimum floor space that is equal to five times the size of the animal.

3. At least one–half of the minimum floor space shall be water which is deep enough to immerse the turtle.

(C) Snakes—Families Elapidae, Viperidae, Colubridae and Crotalidae

1. The container or exhibit for venomous snakes shall be labeled with the common and scientific name of the species and the subspecies, if known, and the number of animals contained inside. The label shall be legibly marked with the warning "Poisonous" or "Venomous."

2. The perimeter of the enclosure for snakes less than 6 feet shall be 1–1/2 times the length of the snake. The perimeter of the enclosure for snakes over 6 feet shall be twice the length of the snake.

3. All venomous snakes shall be kept in a locked exhibit or container which shall be located within a locked building, compound or enclosure.

4. The floor of the enclosure shall be constructed of non–abrasive material and hiding areas shall be provided.

5. At least two fully trained people shall be present when an occupied enclosure is opened or when one of these snakes is handled. The names of the trained handlers shall be listed with the department's Wildlife Protection Division in Sacramento.

6. Written animal escape "emergency procedures" shall be clearly and conspicuously posted in the building housing these snakes and shall be supplied to the department at the time the permit application is initially submitted.

7. A notice shall be clearly and conspicuously posted on the premises which shall provide the location of the nearest most readily available source of appropriate antivenin and a written plan from a hospital stating how a venomous bite should be treated. Each enclosure shall be clearly and conspicuously labeled with the appropriate antivenin to be used for the species in the cage.

8. If a snake is transported or removed from its primary enclosure for feeding or in order to clean the enclosure, the snake shall be kept in a fully enclosed container with a secure and locked lid which has air holes or other means of ventilation.

9. Snake hooks shall be present for caring for these snakes.

10. The permittee shall telephonically notify the department of any snake bite on humans or escapes of any snakes within 24 hours and shall provide a written report of the incident to the department's Wildlife Protection Division in Sacramento within one week.

(5) All other Classes, Orders, Families, Genera and species for which specific caging and/or enclosure requirements have not been provided in sections (b)(1)–(4) above shall be humanely confined in a manner which precludes escape.

(c) Incorporation by reference of the Federal Animal Welfare Regulations and Federal "Guide for the Care and Use of Laboratory Animals."

Except as otherwise provided in subsections (a) and (b) above, permittees shall follow the requirements of the Federal Animal Welfare Regulations contained in 9 Code of Federal Regulations (CFR), Sections 2.33; 2.40; 3.75–3.85; 3.101(a)(3); and 3.136–3.142, as amended from time

to time, as the United States Department of Agriculture adopts regulations pursuant to the Laboratory Animal Welfare Act and its Amendments as found at 7 United States Code (USC), Sections 2131–2157. The Commission hereby incorporates by reference the cited Federal Animal Welfare Regulations and the "Guide for the Care and Use of Laboratory Animals," (NIH Publication No. 86–23, Revised 1985) as if they were set out in full.

(d) Variances to Minimum Caging and Enclosure Requirements.

(1) The general requirements set forth in subsections (a) and (b) above are minimum standards for permanent facilities. Any deviation from these specifications because of the age of the animal being housed, the use of an unusual facility design, such as moats, islands, outdoor natural habitat enclosures, pits or barriers shall be subject to the approval of the inspecting officer with concurrence of the director. In granting any variance of the minimum caging and enclosure requirements, the inspecting officer and the director shall make a finding that the overall welfare of the animal(s) involved has been maintained.

(2) Those cat cages which substantially conform to the provisions of Section 671.3(b)(2)(K)6 on or before August 3, 1989, shall be "grandfathered in." Existing cages, except currently approved cat cages, will be given three calendar years or until February 25, 1995 to comply with the new caging requirement set forth herein. The department may approve nonstandard cages on a case by case basis, if they substantially conform to the spatial requirements. The Regional Manager shall make a recommendation to the Chief of Patrol who will make the department's final decision. The department's final decision may be appealed to the commission.

(3) These minimum facility and caging standards do not apply to wildlife temporarily maintained pursuant to Section 251.5(f) as provided by Fish and Game Code Section 3005.5.

(e) Care of Laboratory Animals. With the approval of the department, prohibited wild animals used for research purposes may be confined and cared for pursuant to the provisions of the "Guide for the Care and Use of Laboratory Animals" adopted by the U.S. Department of Health and Human Services (NIH Publication No. 86–23, Revised 1985).

(f) Regulations Manual. The facility and caging requirements specific to animals that may be lawfully possessed are provided in the DEPARTMENT OF FISH AND GAME MANUAL 671 (2/25/92)–IMPORTATION, TRANSPORTATION AND POSSESSION OF WILD ANIMALS, which is incorporated by reference herein. Copies are available from the department's Wildlife Protection Division, 1416 Ninth Street, Box 944209, Sacramento, CA 94244–2090. Facility and caging regulations of subsection 671.3(b) contained in DEPARTMENT OF FISH AND GAME MANUAL 671 (2/25/92) are hereby adopted and made part of this Title 14 and are thus incorporated by reference.

NOTE: Authority cited: 1002, 2116, 2116.5, 2118, 2120, 2122, 3005.9 and 3005.92 Fish and Game Code. Reference: 1102, 2116–2118, 2118.2, 2118.4, 2119–2155, 2185–2190, 3005.9 and 3005.92, Fish and Game Code.

HISTORY

1. Amendment filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
2. Amendment filed 5–11–79; effective thirtieth day thereafter (Register 79, No. 19).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. Renumbering and amendment of former section 671.3 to section 671.5 and new section filed 2–26–92; operative 2–26–92 (Register 92, No. 13).

§ 671.4. Transportation Standards for Exhibition of Live Restricted Animals.

(a) Responsibility of Permittee. Permittees shall provide a copy of these regulations to any carrier or intermediate handler transporting wild animals. Permittees shall not transport or possess wild animals within the state for periods exceeding their exhibiting itinerary unless they provide facilities which meet the caging standards of Section 671.3 for each animal listed on their permit.

(b) Requirements for Carriers and Intermediate Handlers. (Also see subsections (d) and (f) of this Section regarding holding and food and water requirements.)

(1) Carriers and intermediate handlers shall not accept any animal presented by any person for shipment more than four hours prior to the scheduled departure of the primary conveyance on which it is to be transported.

(2) Carriers or intermediate handlers shall accept wild animals for transportation only if the transport cages are constructed in accordance with the provisions of subsection 671.4 (e)(1) below.

(3) Carriers or intermediate handlers whose facilities fail to meet the minimum temperature allowed by these regulations may not accept for transportation any live animal consigned by any person unless the consignor furnishes to the carrier or intermediate handler a certificate executed by a licensed veterinarian on a date which shall not be more than 10 days prior to delivery of such animal for transportation, stating that such live animal is acclimated to air temperatures lower than 7.2° C. (45° F.). A copy of such certificate shall accompany the shipment to its destination. The certificate shall include at least the following information: Name and address of the consignor; the number of animals in the shipment; a certifying statement (e.g., "I hereby certify that the animal(s) in this shipment is (are), to the best of my knowledge, acclimated to air temperatures lower than 7.2° C (45° F)"; and the signature of the accredited veterinarian, assigned accreditation number, and date.

(4) Carriers and handlers shall not commingle animal shipments with inanimate cargo. All animal holding areas of any carrier, handler, or any mode of conveyance shall be cleaned and sanitized often enough to prevent an accumulation of debris or excreta, to minimize vermin infestation and to prevent a disease hazard. An effective program shall be provided and maintained by the owner or operator of the holding facility for the control of insects, ectoparasites, and avian and mammalian pests for all animal holding areas. All animal–holding areas containing live animals shall be provided with fresh air by means of windows, doors, vents or an air conditioning system to minimize odors and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be used for any animal–holding area containing live animals when the air temperature within such animal–holding area is not compatible with the health and comfort of the animal. The temperature shall be regulated to protect the animals from temperature extremes. Animals shall not be placed in a direct draft.

(5) Carriers and intermediate handlers shall attempt to notify the consignee at least once every two hours following the arrival of any live animals at the animal holding area of the terminal cargo facility. The time, date and method of each attempted notification and the final notification to the consignee and the name of the person notifying the consignee shall be recorded on the copy of the shipping document retained by the carrier or intermediate handler and on a copy of the shipping document accompanying the animal shipment.

(c) Conveyances (motor vehicle, rail, air, and marine).

(1) The cargo space of any conveyance used to transport live animals shall be designed and constructed to protect the health, and ensure the safety and comfort of the live animals contained therein at all times.

(2) The animal space shall be constructed and maintained to prevent the ingress of direct engine exhaust fumes and gases from the conveyance.

(3) No live animal shall be placed in any cargo space that does not have sufficient air for normal breathing for each animal contained therein, and the transport cages shall be positioned in the animal cargo space so that each animal has sufficient air for normal breathing.

(4) Transport cages shall be positioned in the conveyance so that the animals can be quickly removed in an emergency.

(5) The interior of the animal cargo space shall be kept clean and sanitary.

(6) Live animals shall not be transported with any material, substance, (e.g., dry ice) or device which may be injurious to their health and well-being unless proper precaution is taken to prevent such injury.

(d) Handling Provisions.

(1) Carriers and handlers shall move live animals from animal holding areas to conveyances and from the conveyances to animal holding areas as expeditiously as possible. Carriers and handlers holding live animals in an animal holding area or transporting live animals from the animal holding area to the primary conveyance and from the primary conveyance to the animal holding area, including loading and unloading procedures, shall provide the following:

(A) Shelter from sunlight. Shade shall be provided to protect the animals from the direct rays of the sun. Animals shall not be subjected to surrounding air temperatures which exceed 29.5° C. (85° F.). The temperature shall be taken outside of the primary enclosure at a distance not to exceed 3 feet from any one of the external walls and on a level parallel to the bottom of the enclosure at a point which approximates half the distance between top and bottom of the enclosure.

(B) Shelter from rain or snow. Protection shall be provided so animals remain dry during rain or snow.

(C) Shelter from cold weather. Transport cages shall be covered to provide protection for animals when the air temperature falls below 10° C. (50° F.) and animals shall not be subjected to surrounding air temperatures which fall below 7.2° C. (45° F.). The temperature shall be taken at a distance not to exceed 3 feet from any one of the external walls of the transport cage unless such animals are accompanied by a veterinarian's certificate of acclimation to temperatures lower than 7.2° C. (45° F.).

(2) The transport cage shall not be handled in a manner that may cause physical or emotional trauma to the animal contained therein. Transport cages with animals inside shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

(e) Transport Caging Provisions. No person shall offer for transportation any live animal in a cage which does not conform to the following requirements:

(1) Cages used to transport live animals shall be constructed in such a manner that:

(A) the structural strength of the cage shall be sufficient to contain the animal and to withstand the normal rigors of transportation;

(B) the interior of the cage shall be free from any protrusions that could injure the animal contained therein;

(C) the openings of such cages shall be easily accessible at all times for emergency removal of live animals;

(D) when a primary enclosure is permanently affixed within the animal cargo space of the primary conveyance so that the front opening is the only source of ventilation for such primary enclosure, the front opening shall open directly to the outside or to an unobstructed aisle or passageway within the primary conveyance. Such front ventilation opening shall be at least 90% of the total surface area of the front wall of the primary enclosure and covered with bars, wire mesh or smooth expanded metal.

If there are ventilation openings located on two opposite walls of the primary enclosure, the ventilation openings on each wall shall be at least 16 percent of the total surface area of each such wall; or, if there are ventilation openings located on all four walls of the primary enclosure, the ventilation openings on each such wall shall be at least 8 percent of the surface area of each such wall. At least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure. Projecting rims or other devices shall be placed on the exterior of the outside walls to prevent obstruction of ventilation openings and to provide a minimum air circulation space of 1.9 centimeters (.75 inch) between the primary enclosure and any adjacent cargo or conveyance wall; and

(E) adequate handholds or other devices for lifting shall be provided on the exterior of the cage to enable lifting of the enclosure without tilting and to ensure that the person handling the cage will not be in contact with the animal.

(2) Animals transported in the same cage shall be of the same species and maintained in compatible groups. Animals that have not reached puberty shall not be transported in the same cage with adult animals other than their dams. Socially dependent animals (e.g., sibling, dam, and other members of a family group) shall be allowed visual and olfactory contact. Any female animal in season (estrus) shall not be transported in the same cage with any male animal.

(3) Transport cages shall be as set forth below. In the event, however, the provisions of 9 CFR, Sections 3.85–3.91, Sections 3.112–3.118 and Sections 3.136–3.142 are met, the requirements of this subsection shall be deemed satisfied.

(A) All Animals Except Primates Traveling for Performances or Exhibition.

Minimum length: cages shall be at least 1–1/4 times the body length of quadruped (four-legged) animals, excluding the tail, or long enough for other animal species to lie down and get up normally.

Minimum height: cages shall be at least the full height of the animal plus 2 inches (antlers included in body height).

Minimum width: except for hoofstock, cages shall be at least 1–1/2 times the body width of the animal. For hoofstock, the width of the cages shall be consistent to the needs of the animal to ensure its safe delivery.

(B) Primates Traveling for Performance and Exhibition.

Minimum length: cages shall be at least equal to the length of the animal as measured from the buttocks to the top of the head.

Minimum height: cages shall be at least 1–1/2 times the height of the primate when it is in its natural posture.

Minimum width: cages shall be at least equal to the length of the animal as measured from the buttocks to the top of the head. The cage shall be large enough to allow the animal to lie down.

Notwithstanding the minimum requirements above, cages for adult chimpanzees and orangutans shall be at least 4′ long (L) x 4′ wide (W) x 4′ high (H) with one shelf or perch. When not traveling, an exercise cage of at least 6′ (L) x 4′ (W) x 6′ (H) shall be provided for a minimum of four hours per day. For adult small monkeys and baboons, cages shall be at least 3′ (L) x 3′ (W) x 4′ (H). When not traveling, an exercise cage of at least 4′ (L) x 4′ (W) x 6′ (H) shall be provided for a minimum of four hours per day. Primates less than one year of age shall be transported in a cage of such size and construction which ensures its safe delivery.

(C) Immediately upon arrival at a destination, animals traveling for performances or exhibition shall be placed in a space equal to 1/3 the minimum permanent space required for that species. Notwithstanding the foregoing, animals which are regularly exercised by exhibitors shall be permitted to remain in their transportation cages provided the permittee's veterinarian certifies that such cages provide sufficient space for the animal once it has arrived at a destination. The department shall bring to the immediate attention of the commission any circumstances where in the opinion of the department's officer, proper care is not being provided.

Animals not used in performances or exercised regularly shall be placed in a space equal to 1/2 the minimum permanent space required for that species. Elephants accompanied by an attendant may be staked out in a roped off area which excludes the public.

(4) Transport cages shall have solid bottoms to prevent leakage in shipment and shall be cleaned and disinfected pursuant to subsections 671.2(a)(4) and (5). Transport cages shall contain clean litter of a suitable absorbent material, which is safe and nontoxic to the animals, in sufficient quantity to absorb and cover excrement.

(5) Transport cages consigned to carriers and intermediate handlers shall be clearly marked on top and on all sides with the words "Live Wild Animal" in letters not less than 1 inch in height, and with arrows or other markings to indicate the correct upright position of the container.

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(6) Documents accompanying the shipment consigned to carriers and intermediate handlers shall be attached in an accessible location on the outside of one transport cage.

(f) Care in Transit.

(1) To minimize the distress to animals during surface transportation, the driver shall visually inspect the animals at least once every 4 hours to assure that the animals are not in obvious physical distress and to provide for any needed veterinary care as soon as possible. When transported by air, animals shall be observed if the cargo space is accessible during flight. If the cargo space is not accessible during flight, the carrier shall visually observe the animals whenever the cargo space is accessible to assure that all applicable standards are being complied with and to determine whether any of the live animals are in obvious physical distress.

(2) Animals shall not be taken from their cage except under extreme emergency.

(3) Food and water requirements while in transit.

(A) All live animals shall be offered potable water within 4 hours prior to being transported. Any person who transports live animals shall provide potable water to all animals being transported at least every 12 hours after such transportation is initiated except as directed by a veterinarian or in the case of hibernation. Animals requiring more water shall be treated appropriately.

(B) Each animal shall be fed at least once in each 24–hour period, except as directed by a veterinarian. Predators are to be separated when feeding. Animals requiring more food shall be treated appropriately.

(C) Any person who offers animals to any carrier or intermediate handler for transportation shall comply with the provisions of subsection 671.1(a)(4) and shall affix to the outside of the transportation cage written instructions pursuant to subsections 671.4(f)(3)(A) and (B) concerning the food and water requirements of each animal.

(D) No carrier or intermediate handler shall accept any live animals for transportation unless written instructions concerning the food and water requirements of each animal are affixed to the outside of the cage.

NOTE: Authority cited: Sections 2116.5 and 2120, Fish and Game Code. Reference: Sections 2116.5, 2120, 2150 and 2150.3, Fish and Game Code.

HISTORY

1. Amendment filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
2. Amendment filed 5–11–79; effective thirtieth day thereafter (Register 79, No. 19).
3. New subsection (d) filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Order of Repeal of subsection (d)(1)(f) filed 6–3–85 by OAL pursuant to Government Code section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).
5. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
6. Repealer and new section filed 2–26–92; operative 2–26–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 13).
7. Amendment of section heading and subsection (a) filed 8–27–98; operative 9–26–98 (Register 98, No. 35).

§ 671.5. Disposition of Violations Related to Possession of Wild Animals.

(a) Any live bird or mammal that is (1) designated as a furbearer, game, nongame, fully protected, threatened, or endangered animal or is of a species native to California, and (2) possessed in violation of Fish and Game Code section 3005.5 or regulations adopted pursuant thereto, shall be seized by the department. An animal that is seized may be taken to another location by the department or seized in place.

(b) Any person who, in violation of the provisions of the Fish and Game Code or regulations adopted pursuant thereto, brings into this state or transports or possesses within this state any live wild animal other than those specified in subdivision (a) may, upon written notice from an enforcing officer, be authorized to exercise one of the following options within the time and by the method specified by the enforcing officer, to have the animal (1) transferred to an appropriately permitted facility, (2) transferred out of the state, or (3) humanely destroyed. The exercise of any such option shall be under the direction and control of the enforcing officer and at the expense of the owner or possessor. If the owner or possessor fails to exercise such option within the time specified by the enforcing officer, the department shall thereafter seize the animal. An animal that is seized may be taken to another location by the enforcing officer or seized in place.

(c) Once an animal is seized pursuant to subsection (a) or (b), the enforcing officer may: (1) transfer the animal to an appropriate facility, (2) transfer the animal out of the state, (3) humanely destroy the animal, or (4) for animals specified in subsection (a) only, release the animal to the wild. Costs associated with the seizure, care, holding, transfer and destruction of the animal will, at the discretion of the department, be at the expense of the owner or possessor. Failure to pay these costs may result in an action for cost recovery and civil penalties pursuant to Fish and Game Code section 2125.

NOTE: Authority cited: Section 2122, Fish and Game Code. Reference: Sections 1002, 2116–2118, 2118.2, 2118.3, 2118.4, 2119–2155, 2185–2190, 3005.5, 3005.9 and 3005.92, Fish and Game Code.

HISTORY

1. Amendment filed 1–24–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 4).
2. Amendment filed 5–11–79; effective thirtieth day thereafter (Register 79, No. 19).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. Renumbering and amendment of former section 671.3 to section 671.5 and renumbering and amendment of former section 671.5 to section 671.6 filed 2–26–92; operative date 2–26–92 (Register 92, No. 13).
6. Amendment of section and NOTE filed 2–23–2007; operative 3–25–2007 (Register 2007, No. 8).

§ 671.6. Release of Animals into the Wild.

(a) No person shall release into the wild without written permission of the commission any wild animal (as defined by Section 2116 of the Fish and Game Code), including domestically reared stocks of such animal, which:

(1) is not native to California;

(2) is found to be diseased, or there is reason to suspect may have the potential for disease;

(3) may be genetically detrimental to agriculture or to native wildlife; or

(4) has not been successfully introduced prior to 1955.

(b) no permission will be granted to any person to release to the wild state turkeys that have been domestically reared for propagation or hunting purposes, except as provided in subsection 600(i)(4) of these regulations. Only wild trapped turkeys trapped from the wild by the Department may be released into the wild.

(c) Every person who releases Barbary partridges, Turkish or Greek chukar partridges; French, Spanish or Arabian red–legged partridges; and/or bobwhite or coturnix quail into the wild shall have a valid permit signed by the director of the department before making such a release. Persons desiring to release such birds shall submit an application showing the number and sex of birds to be released, the location of the proposed release, and the proposed date of such release.

At the time of release of such birds, the department may require that they shall be banded by the permittee with appropriate bands furnished by the department. The department may require a report giving the age, sex and number of the individual birds released.

(d) Application for the introduction of all non–native birds or animals, except those birds cited in subsection 671.6(c), shall be made to the commission on forms supplied by the department.

NOTE: Authority cited: Section 2120, Fish and Game Code. Reference: Sections 2116, 2116.5, 2118, 2118.2, 2118.3, 2118.4, 2120 and 2121, Fish and Game Code.

HISTORY

1. Amendment filed 1–23–78; effective thirtieth day thereafter (Register 78, No. 4). For prior history, see Register 75, No. 23.
2. New NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Amendment filed 4–6–87, operative 5–6–87 (Register 87, No. 15).
5. Repealer and renumbering and amendment of former section 671.5 to section 671.6 filed 2–26–92; operative 2–26–92 (Register 92, No. 13).

§ 671.7. Permits for Aquaculture Purposes.

The Department of Fish and Game may issue permits for importation, possession, and transportation of aquatic animals listed in Section 671 for aquaculture purposes.

NOTE: Authority cited: Sections 2118, 2120, Fish and Game Code. Reference: Sections 1050, 2116–2118, 2118.5–2123, 2125, 2150–2190, 15200–15202, 15400 and 15600, Fish and Game Code.

HISTORY

1. New section filed 7–21–93; operative 7–21–93 pursuant to section 202, Fish and Game Code (Register 93, No. 30). For prior history, see Register 85, No. 38.

§ 672. Shooting Exotic Resident and Nonresident Game Birds.

NOTE: Authority cited: Sections 200 and 3516, Fish and Game Code. Reference: Sections 200 and 3516, Fish and Game Code.

HISTORY

1. New section filed 4–21–60; effective 30th day thereafter (Register 60, No. 9).
2. Amendment filed 6–30–66 as an emergency; effective upon filing. Certificate of Compliance included (Register 66, No. 20).
3. Amendment filed 6–8–72; effective thirtieth day thereafter (Register 72, No. 24).
4. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
5. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
6. Amendment of undesignated first paragraph and subsection (i) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).
7. Amendment of heading, subsections (c), (d) and NOTE filed 10–26–92; operative 10–26–92 (Register 92, No. 44).
8. Repealer filed 6–30–95; operative 7–1–95 pursuant to Fish and Game Code section 3270 (Register 95, No. 26).

§ 673. Importation of Resident Game Birds.

Every person who brings or causes to be brought into this state live domestically reared resident game birds shall have such birds inspected for disease and health conditions by the Department of Fish and Game unless the shipment is accompanied by a certificate from a licensed veterinarian at the point of origin stating that the birds are disease free. Written notice shall be given ten days in advance of all shipments, to the director, showing the date and place of arrival and stating whether or not the birds will be accompanied by a certificate of inspection. Game birds will be rejected for release if found diseased or altered in any manner which would, in the opinion of the department, render them incapable of surviving in the wild. Any birds rejected for release will be kept, destroyed, or returned to the place of origin by the importer at his sole cost and responsibility.

NOTE: Authority cited: Sections 2120 and 3516, Fish and Game Code. Reference: Sections 2120, 3500 and 3516, Fish and Game Code.

HISTORY

1. New section filed 4–9–64; effective thirtieth day thereafter (Register 64, No. 8).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).

§ 674. Permits to Possess Desert Tortoises (Gopherus).

(a) Desert tortoises may be possessed only under the authority of a permit issued by the department. The department may issue a permit for the possession of a desert tortoise provided the tortoise was legally acquired and possessed prior to March 7, 1973. The department may require an applicant for a permit to submit proof of the legal acquisition of any desert tortoise.

(b) Applications for a tortoise permit shall be submitted on forms furnished by the department and may be filed with the department at any time. Upon approval of the application, the department shall provide a tag which shall be affixed to the desert tortoise as directed by the department.

(c) No desert tortoise may be transferred to any other person without prior department approval.

(d) Possession of a desert tortoise, regardless of subspecies, except under the authority of a department permit is in violation of this section. Untagged desert tortoises shall be seized by the department.

NOTE: Authority cited: Sections 200, 202, 1002 and 5002, Fish and Game Code. Reference: Sections 200–202, 203.1, 5000–5002, 5060 and 5061, Fish and Game Code.

HISTORY

1. New section filed 10–11–73; effective thirtieth day thereafter (Register 73, No. 41).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).

§ 675. Importation and Sale of Domesticated Reindeer Meat.

Any domesticated reindeer meat imported into this state shall be accompanied by a bill of lading, a copy of which shall be forwarded to the Department of Fish and Game, Sacramento, within 24 hours after such importation. The bill of lading shall indicate the number of carcasses or pieces of reindeer meat, the total weight of the shipment, the country of origin and the name of the importer.

(a) No domesticated reindeer carcass or portion thereof shall be transported for sale or sold by an importer or wholesaler unless each quarter and each loin or each piece of the carcass of each reindeer is tagged with a domesticated game breeders tag or seal as provided in sections 3206 and 3207 of the Fish and Game Code.

(b) Tags or seals must be affixed to reindeer meat at the point of origin or by the importer before the meat is distributed for storage or sale in California.

(c) No tag or seal so affixed shall be used again.

(d) No tag or seal shall be sold by the department to anyone other than a person who is legally in possession of domesticated reindeer, reindeer carcasses or portions thereof.

(e) The keeper of a hotel, restaurant, boarding house, or club may sell portions of a quarter or loin of a domesticated reindeer to a patron or guest for actual consumption on the premises only.

(f) A retail meat dealer may sell portions of a quarter or loin of a domesticated reindeer carcass to a customer for actual consumption. All packages containing such portions shall be marked to indicate the origin, place of sale, amount contained in each package and date of sale. This marking shall be kept with the reindeer meat until such meat is consumed.

(g) The premises of such importers, wholesalers and retailers, together with the premises of such hotels, restaurants, boarding houses and clubs shall be open to inspection by the department at all times.

NOTE: Authority cited: Section 3219, Fish and Game Code. Reference: Sections 1006 and 3219, Fish and Game Code.

HISTORY

1. New section filed 7–2–65, effective thirtieth day thereafter (Register 65, No. 11).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. Amendment of undesignated first paragraph filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 676. Fallow Deer Farming.

(a) General Provisions. Fallow deer farming is defined as the rearing of fallow deer for commercial sale of meat and other parts or for sale of live fallow deer pursuant to these regulations. No person shall engage in any deer farming activity except as provided by the Fish and Game Code and regulations provided herein. Only fallow deer (*Dama dama*) may be possessed for deer farming purposes.

(b) Permit Information.

(1) Application. Application for a fallow deer farming permit shall be made on Fallow Deer Farming Application, LRB 1676 (3/97), which is incorporated by reference herein. Application forms are available from the Department of Fish and Game, License and Revenue Branch, 3211 S Street, Sacramento, CA 95816. A new applicant shall complete the application form in its entirety, including information on the plan of operation, source of fallow deer, testing protocol and contingency plans for recapture of escaped fallow deer.

(2) Residency Requirement. Applicants shall be at least 18 years old and be residents of California.

(3) Inspection of Facility. No new fallow deer farming permit shall be issued until the applicant's facility is inspected and approved by the department. The department shall charge a fee pursuant to Section 2150.2 of the Fish and Game Code in an amount sufficient to cover the cost of the inspection.

(4) Term of a New Fallow Deer Farming Permit. Nontransferable, new fallow deer farming permits issued under the provisions of this section shall be valid for a term of one year. A permanent permit number shall be issued to the permittee for marking slaughtered fallow deer for transport.

(5) Fallow Deer Farming Permit Renewal. Fallow deer farming permits must be renewed by January 1 of each year. An inspection is required for the renewal of a fallow deer farming permit and may be accomplished by the department pursuant to the provisions of subsection (b)(3) above. In lieu of a department inspection, the department may approve a renewal application when a veterinarian, or other person who has obtained a degree in veterinary medicine from a college or university accredited by the American Veterinary Medical Association, certifies in writing that he/she has inspected the facility and found it to be in compliance with this section. If a veterinarian inspects the facility, he/she must certify that each of the permittee's fallow deer have been observed at least once during the prior year and that they have been appropriately cared for and appear healthy. No person shall falsely certify that the facility has been inspected and that such facility is in compliance.

(6) Terminating a Fallow Deer Farming Permit. Any fully or partially certified fallow deer farm permitted pursuant to this section shall notify the department within 45 days of its intended termination of fallow deer farming operations. The permittee shall identify the number of fallow deer under his/her possession and the disposition of fallow deer upon termination of operations. Upon termination of operations, fallow deer shall be slaughtered for meat consumption or, with proper health certifications, sold to another permitted fallow deer operation in California or sold and transported out of state.

(7) Denial. The department may deny the issuance of a fallow deer farming permit for failure to comply with the terms and conditions of a permit or the provisions of this section. Any person denied a permit under these regulations may request a hearing before the commission to show cause why their permit should not be denied.

(8) Revocation. Any fallow deer farming permit issued pursuant to these regulations may be revoked or suspended at any time by the commission for failure to comply with the terms and conditions of the permit or for failure to comply with these regulations, after notice and opportunity to be heard, or without a hearing upon conviction of a violation of these regulations by a court of competent jurisdiction.

(9) Fees. Pursuant to sections 2150 and 2150.2 of the Fish and Game Code, the following fees have been established to offset costs of administering and enforcing the associated laws and regulations.

(A) Application Fee. The application fee for a new fallow deer farming permit shall be $30.00 and shall be annually adjusted pursuant to Section 713 of the Fish and Game Code to offset the department's administrative costs of processing an application.

(B) Permit Fee. The fallow deer farming permit fee shall be $200.00. This fee shall be annually adjusted (base year 1997) pursuant to Section 713 of the Fish and Game Code.

(C) Inspection Fee. The annual fallow deer farming inspection fee shall be an amount sufficient to cover the department's cost of inspection. If, in lieu of a department inspection, a qualified veterinarian performs the inspection pursuant to subsection (b)(5) above, the annual fallow deer farming inspection fee shall be waived.

(c) Certification. All new fallow deer farming facilities shall be fully certified by the department. Fallow deer farms allowed to operate under partial certification when the fallow deer regulations were initially adopted in 1994 may satisfy the requirements for full certification set forth in this section.

(1) Full Certification. Fully certified fallow deer farms shall comply with the following requirements:

(A) Marking. All fallow deer shall be marked in such a manner that they are individually identifiable as stock of the permittee.

(B) Testing. All fallow deer six months of age or older shall undergo two tests, at least 12 months apart, for tuberculosis and one test for brucellosis within three years of the owner being granted a fallow deer farming permit, unless the fallow deer were obtained from a fully certified herd in the state. Tests shall be administered and interpreted by a U.S. Department of Agriculture accredited veterinarian approved by the department.

(C) Negative Herd Status. Full certification will not be granted unless negative herd status (not having a significant possibility of being infected) is determined by the department.

(D) Movement of Live Fallow Deer. Only fully certified fallow deer farms in full compliance with the provisions of subsection (f) of this section may serve as sources within California for stock for new fallow deer farms. Fully certified fallow deer farms may sell, trade or transport live fallow deer to any person in California in possession of a valid fallow deer farming permit issued by the department. Permittees shall maintain records of such transactions, including the number of fallow deer transferred, identification of individual fallow deer and the name and address of the person receiving the fallow deer. The provisions of subsection (e) of this section shall be complied with when importing fallow deer stock from outside of California.

(2) Existing Partially Certified Fallow Deer Farms. Existing partially certified fallow deer farms must comply with the following requirements:

(A) Marking. All fallow deer should be marked in such a manner that they are individually identifiable as stock of the permittee.

(B) Prohibition on Movement of Live Fallow Deer. Partially certified fallow deer farmers shall not sell, trade or transport, except to slaughter, live fallow deer in California.

(d) Sale of Meat. Fallow deer farmers may sell the meat of slaughtered fallow deer to persons within or outside of California. A receipt shall be

prepared and included with each shipment of meat. This receipt shall show the date of the transaction, identify the quantity of meat sold and bear the name and permit number of the fallow deer farmer selling the meat. A copy of the receipt shall be retained by the permittee for a period of one year after the date of transaction. Any person may obtain meat from a fallow deer farmer and sell it to the ultimate consumer. No permit is required of persons reselling meat obtained from fallow deer farmers. (Note: Fallow deer shall be humanely slaughtered in compliance with Penal Code Section 597.)

(e) Importation of Fallow Deer for Farming. Fallow deer shall not be imported into California for the purposes of farming. except as provided by these regulations.

(1) Importation Application Requirement. A Fallow Deer Farming Importation Application, LRB 1676A (3/97), which is incorporated by reference herein, shall be completed in its entirety by permittees wishing to obtain fallow deer stock from outside California. This application and documentation identified below shall be submitted to the Department of Fish and Game, Wildlife Investigations Laboratory, 1701 Nimbus Road, Suite D, Rancho Cordova, California 95670. Application forms are available at this address. The approved Fallow Deer Farming Importation Application form must accompany the imported fallow deer stock.

(2) Health Certificate Requirement. A health certificate issued by a U.S. Department of Agriculture accredited veterinarian or other person who has obtained a degree in veterinary medicine from a college or university accredited by the American Veterinary Medical Association in the state from which the fallow deer stock is being shipped shall accompany the imported fallow deer stock. This health certificate shall contain the methods used for testing, the results of the testing and be correlated to identifying markings on fallow deer tested.

(3) Copy of Official Test Results Required. A copy of the official results from tests conducted in the state of origin shall be submitted with the Fallow Deer Farming Importation Application form. Information on the test methods used and the results for each fallow deer tested shall be included.

(4) Disease Tests Required.

(A) Bovine Tuberculosis Testing. The herd of origin shall have undergone official testing for bovine tuberculosis within 24 months of importation of fallow deer, using a Single Cervical Tuberculin (SCT) Test or a Blood Tuberculosis (BTB) Test. All fallow deer six months of age or older shall be tested for tuberculosis within 120 days prior to entry into California and shall have been classified negative for tuberculosis based upon an official test. (Note: It is recommended that imported fallow deer be tested 90–120 days after importation.)

(B) Brucellosis. The veterinarian issuing the health certificate shall attest that the fallow deer to be imported into California are not known to be infected with brucellosis and that the animals have not been in contact with animals of unknown brucellosis status. Fallow deer six months of age or older shall be tested for brucellosis within 30 days of entry into California.

(C) Other Disease Testing. The department shall reserve the right to require additional testing prior to importation when there is reason to believe other diseases, parasites or other health risks are present. The department shall provide written notification if such testing is required.

(f) Disease Prevention and Control.

(1) Herd Testing for Bovine Tuberculosis. Testing is not required if no fallow deer have been added to the herd except by birth and if imported fallow deer have been properly tested.

(2) Issuance of Hold Order if Herd Test is Positive. If a herd is found positive for bovine tuberculosis, a hold order will be issued by the State Animal Health Official, (the chief veterinarian or official for a state animal disease control program), and an epidemiologic evaluation of all fallow deer in the herd must be conducted by a State or USDA veterinarian. If the epidemiologic evaluation indicates a negative herd status, the hold order shall be removed. If the epidemiologic evaluation indicates a positive herd status (having a significant possibility of being infected), the herd shall be classified as infected. Positive status fallow deer shall be identified, and the department shall issue a hold order for the herd. The permittee shall immediately prepare a written plan for eliminating bovine tuberculosis from the herd. When this plan is approved by the department it shall constitute a memorandum of understanding between the permittee, the state and appropriate federal agencies to eliminate bovine tuberculosis from the infected herd. The department shall make every reasonable effort to minimize economic loss to the impacted permittee. (Note: The state has no indemnification for depopulation of an infected herd).

(3) Other Disease Testing. The department shall reserve the right to additional testing when there is reason to believe other diseases, parasites or other health risks are present. The department shall notify the permittee in writing if such testing is required.

(4) Retention of Health Records. The permittee shall maintain all health records of individual fallow deer for a minimum of three years.

(g) Facility and Maintenance Requirements. The following general housing and maintenance provisions shall be complied with in rearing fallow deer for fallow deer for farming:

(1) An enclosure shall provide no less than 800 square feet of area for one animal and another 200 square feet for each additional fallow deer.

(2) Perimeter fences shall be eight feet in height and shall be constructed of a minimum of 12.5 gauge woven wire or equivalent. Posts shall be of structurally sound 4 x 4 wood or equivalent.

(3) Natural or artificial shelter from the elements shall be provided for all animals.

(4) Potable water shall be provided for fallow deer at all times.

(5) Fallow deer shall be observed every day by the person in charge of the care of the animals or by someone working under his/her direct supervision. Sick or diseased, stressed, injured or lame fallow deer shall be provided with veterinary care or humanely destroyed.

(h) Availability of Records and Inspection of Facility by Department. Any person holding a fallow deer farming permit authorized under this section shall allow the department's employees to enter his/her premises upon request at a reasonable hour, to inspect facilities, fallow deer restraining equipment and fallow deer possessed by the permittee, or to inspect records required to be maintained by these regulations or federal regulations relating to fallow deer farming.

NOTE: Authority cited: Sections 1002, 2120, 2150 and 2150.2, Fish and Game Code. Reference: Sections 2116.5, 2120, 2124, 2150, 2150.2, 2150.4, 2150.5, 2151, 2185, 2186, 2187, 2189, 2190, 2350 and 2355, Fish and Game Code.

HISTORY

1. New section filed 12–7–94; operative 12–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 49).
2. Amendment filed 5–20–97; operative 5–20–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 21).

§ 677. Dog Training and Field Trials.

(a) Dog Training When No Wild Birds Are Captured, Injured, or Killed. Notwithstanding Section 265 of these regulations, a person may train dogs to retrieve, or to point or flush game birds, or may train for or participate in field trails or similar events related to these activities, at any time of year from sunrise to sunset if no wild birds are captured, injured, or killed. Domestically reared birds may be released and taken for dog training or field trials only as provided in Section 677(b). Dogs shall not be trained on or otherwise be allowed to pursue any birds that have special protection under California or federal law, including but not limited to fully protected birds (Section 3511 of the Fish and Game Code) and endangered, threatened or candidate species (Section 670.5 of these regulations and Code of Federal Regulations, Title 50, Section 17.11).

(b) Release and Take of Birds. Notwithstanding Section 671.6 of these regulations, bobwhite and coturnix quail, domestic pigeons, and the following domestically reared game birds may be released and/or taken during dog training or organizational field trials in accordance with subsections (b)(1) through (b)(5) of this section, general resident game bird regulations, or licensed game bird club regulations: pheasants (*Phasianus colchicus*), including all ring–necked pheasant races, chukar, Hungarian partridge and captive–reared mallard ducks.

(1) Hunting License Required. Each person taking domestically reared game birds must possess a valid California hunting license. In

addition, each person, except holders of junior hunting licenses, taking Hungarian partridge, ring-necked pheasant, and chukar must possess a valid Upland Game Bird Stamp.

(2) Prior Notification Required. Persons releasing and/or taking game birds in accordance with this section during organized field trials or hunt tests shall provide the Department's regional office in the region where the birds will be released and/or taken the following information at least three business days prior to the activity. This notification shall be in letter form, by fax, or by internet. The information required includes:

(A) The name, address, and telephone number of the person providing the information.

(B) The location that birds will be released and/or taken.

(C) The approximate number of each species of bird that will be released and/or taken.

(D) The approximate number of persons who will be involved in the release and/or take.

(E) The date and time that birds will be released and/or taken.

For any event where more than one person may be taking birds, only a single notification is required.

(3) Restrictions On Daily Take.

(A) Domestically reared game birds may be taken only on the day they are released, except when taken pursuant to general resident game bird regulations.

(B) Bobwhite quail and coturnix quail released for dog training or field trial purposes may be taken on any day.

(4) Marking of Birds.

(A) Prior to Release. If the Department determines that there is a need to distinguish domestically reared game birds used for dog training or field trials from other game birds at a particular location or event, the Regional Manager may require that some or all species of domestically reared game birds used for dog training or field trials be marked with streamers, coloring, or other conspicuous material prior to their release.

(B) Carcass. The carcass of each pheasant and chukar shall be tagged with a seal as provided by Section 3206 of the Fish and Game Code. The carcasses of bobwhite quail and coturnix quail need not be tagged. While in the field, all birds must be in a condition that the species can be identified.

(5) Inspection of Birds. The department may inspect all birds prior to their release and no birds may be released if the department determines that such releases may have significant potential to transmit diseases to wild bird populations.

NOTE: Authority cited: Sections 200, 202, 203, 3508 and 3516, Fish and Game Code. Reference: Sections 86, 203, 2080, 3500, 3502, 3508, 3511 and 3513–3516, Fish and Game Code.

HISTORY

1. New section filed 4–15–68; effective thirtieth day thereafter (Register 68, No. 16).
2. Amendment filed 7–11–73; effective thirtieth day thereafter (Register 73, No. 28).
3. Amendment of subsection (c)(1) filed 6–11–79; effective thirtieth day thereafter (Register 79, No. 24).
4. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
5. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
6. Change without regulatory effect amending NOTE filed 8–21–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 34).
7. Amendment of section heading, section and NOTE filed 6–15–2004; operative 7–15–2004 (Register 2004, No. 25).

§ 678. Captive Raptor Breeding.

(a) General Provisions. No person shall engage in any activity related to the propagation of raptors except as provided by the Fish and Game Code and regulations provided herein. Applicable regulations adopted by the U.S. Secretary of the Interior pursuant to the Migratory Bird Treaty Act and published in Title 50, Code of Federal Regulations (CFR), Part 21 (Revised 9/14/89) are hereby incorporated and made available upon request from the Department of Fish and Game, Wildlife Protection Division, 1416 Ninth Street, Box 944209, Sacramento, CA 94244–2090.

(b) Department Inspections. The department may enter the premises of any permittee at any reasonable hour to inspect all housing, equipment, or raptors possessed by the permittee, or to inspect, audit, or copy any permit, book, or record required to be kept by these regulations.

NOTE: Authority cited: Sections 200 and 395, Fish and Game Code. Reference: Sections 200 and 395, Fish and Game Code.

HISTORY

1. New section filed 1–10–80; effective thirtieth day thereafter (Register 80, No. 2).
2. Repealer and new section filed 10–23–81; effective thirtieth day thereafter (Register 81, No. 43).
3. Amendment of subsection (a)(8) filed 10–15–85; effective upon filing (Register 85, No. 42).
4. Amendment of subsection (b) filed 7–28–88; operative 8–27–88 (Register 88, No. 32).
5. Amendment of subsection (a)(17) and (b) filed 6–6–90; operative 6–6–90 pursuant to Government Code section 11346.2(d) (Register 90, No. 30).
6. Amendment filed 7–7–93; operative 7–7–93 (Register 93, No. 28).
7. Change without regulatory effect amending subsection (a) filed 9–8–93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 37).

§ 679. Possession of Wildlife and Wildlife Rehabilitation.

(a) General Prohibition on Possession of Wildlife. Except as provided in subsection (b) below or as otherwise authorized, it is unlawful for any person to possess any live game mammal or bird, nongame mammal or bird, furbearer, reptile or amphibian.

(b) Temporary Confinement of Wildlife. Except for big game mammals listed in Section 350, Title 14, CCR, injured, diseased or orphaned animals may be temporarily confined by persons if they notify the nearest regional office of the department within forty-eight (48) hours of finding or confining such wildlife. Notification shall include name and address; the species of wildlife and a description of its injury, disease or condition; the date and location the wildlife was found; and the location where the wildlife is confined. Confined animals must be disposed of pursuant to department direction, which may include placement in a department-approved wildlife rehabilitation facility. (Department offices: Northern Region (Redding), North Central Region (Rancho Cordova), Bay Delta Region (Yountville), Central Region (Fresno), South Coast Region (San Diego), Inland Deserts Region (Ontario), and Marine Region (Monterey).)

(c) Prohibition on Possession of Big Game Mammals or Fully Protected, Threatened or Endangered Species Except Under Department Permit. No person or wildlife rehabilitation facility may possess any big game mammal listed in Section 350, Title 14, CCR, or any fully protected, endangered or threatened bird, mammal, fish, reptile or amphibian without specific written authorization from the department.

(d) Prohibition on Picking up Disabled Wildlife in a Department Designated Oil/Toxic Spill Area. No person may enter a department designated oil/toxic spill area for the purpose of picking up disabled wildlife or transport or possess wildlife disabled by an oil spill or other spilled toxic substance unless that person has completed the training required by subsections 817.02(i) and (j), Title 14, CCR, and has authorization from the department. Designated oil/spill areas shall be clearly posted by the department.

(e) Wildlife Rehabilitation Facilities.

(1) Wildlife Rehabilitation Facility Defined. For the purposes of these regulations, a wildlife rehabilitation facility is defined as a site where activities are undertaken to restore to a condition of good health, for the purpose of release to the wild, animals occurring naturally and not normally domesticated in this state.

(2) Approval of Wildlife Rehabilitation Facility.

(A) The department may approve and issue a permit in the form of a Memorandum of Understanding (MOU) to only those wildlife rehabilitation facilities which meet the wildlife care standards set forth in the Minimum Standards for Wildlife Rehabilitation, 2000, Third Edition manual published jointly by the International Wildlife Rehabilitation Council and the National Wildlife Rehabilitators Association; or as provided in the MOU. The above wildlife care standards are hereby adopted and

made a part of this Title 14. All wildlife rehabilitation facilities, regardless of when established, shall comply with the wildlife care standards.

(B) A person seeking a MOU with the department for operating a new wildlife rehabilitation facility shall submit to the department two letters from permitted facilities in the nearby vicinity (the permitted facilities will be identified by the department), stating that they believe there is a need for a new facility. Within 30 days of receiving the letters, the department will provide a written determination stating whether such a facility is needed. If the department determines that there is not a need for a new facility the applicant may request a hearing before the commission to show cause why their permit request should not be denied. If the department determines that a new wildlife rehabilitation facility is needed, that person shall submit, along with this written determination, an application packet to the department that contains all of the following:

1. A complete application form "Wildlife Rehabilitation Permit Application/Renewal form," FG 542 (Rev 03/07) which is hereby incorporated by reference;

2. Documentation of the applicant's experience working (paid or unpaid) at a permitted wildlife rehabilitation facility. The applicant must document four hundred hours within a two year period of experience working with a permitted wildlife rehabilitation facility in California, or experience that the department determines is equivalent, to be eligible for a permit.

3. A letter from a veterinarian who agrees to sponsor the applicant by overseeing diagnoses, medication and surgical procedures by the proposed facility.

4. Pictures or diagrams of the proposed facility's caging or proposed caging sufficient to demonstrate that the caging will be appropriate for the types of animals the facility is planning to rehabilitate and will comply with the standards identified in subsection (e)(2)(A).

5. A statement of general intent that includes a list of the species and number of animals that the applicant proposes to rehabilitate and hold at the proposed facility; and plans describing the proposed facility's record–keeping system, animal intake process, euthanasia protocol, plan for carcass disposal, protocol for handling public phone calls, volunteer training protocol, animal diets, and disinfectant and disease control protocols. Plans provided as part of this statement must be consistent with the requirements of subsection (f) and the standards identified in subsection (e)(2)(A).

6. Payment of a non–refundable application processing fee of $41.00 and an inspection fee of $114.54 to be determined by the department pursuant to Fish and Game Code Section 2150.2 and adjusted annually pursuant to Fish and Game Code Section 713.

(C) The department shall determine whether the application is complete and request any additional information it believes is necessary to evaluate the proposal. The department may enter into a MOU with the California Council for Wildlife Rehabilitators (CCWR) for the purpose of obtaining CCWR's assistance with processing and evaluating applications. Such assistance may include but is not limited to helping review and evaluate applications, inspecting proposed facilities, and preparing recommendations to the department. Any MOU between the department and CCWR may also provide for payment by the department from revenue generated by the application and inspection fees collected under subsection (e)(2) to reimburse CCWR's expenses in providing assistance to the department. Within sixty days of receiving the application, the department shall make a determination that the applicant and the proposed facilities meet the requirements in subsection (e)(2). If the department determines that the application is incomplete or that the applicant or the proposed facilities do not meet the requirements in subsection (e)(2), the department shall deny the permit and will return the inspection fee.

(D) If the department determines that the application is complete and that the applicant and the proposed facilities meet the requirements in subsection (e)(2), the proposed facility shall be inspected by the department, CCWR or another designee. Failure to cooperate with inspectors provided by the department, CCWR or another designee may result in application denial.

(E) After inspection of the proposed facility, the department shall approve a MOU to permit a new wildlife rehabilitation facility only if the applicant and facility meets all applicable standards specified above. The department may deny a permit if the applicant has failed to allow an inspection of the proposed facility by the department or its designee or it is found that the facility does not meet the minimum standards. An applicant has one year to build the proposed facility from the time the MOU is signed by both parties. If the applicant has not built the proposed facility within one year of when the MOU was signed the permit will be revoked. Any person denied a permit under these regulations may request a hearing before the commission to show cause why their permit request should not be denied. MOU will be valid for three years. At the end of three years if a permittee wishes to renew a wildlife rehabilitation permit, a permit renewal form FG 542 (Rev 03/07) will be submitted along with a processing fee of $41.00 pursuant to Fish and Game Code Section 2150.2 and adjusted annually pursuant to Fish and Game Code 713.

(f) Provisions Related to the Operation of a Wildlife Rehabilitation Facility.

(1) Responsibility for Costs Incurred. The operator of a wildlife rehabilitation facility shall be responsible for any and all costs incurred in connection with the treatment, confinement or transportation of wildlife.

(2) Liability. The operator of a wildlife rehabilitation facility shall indemnify, defend and save harmless the State, its officers, agents, and employees from any and all claims and losses occurring or resulting to any person or property in connection with the treatment, confinement or transportation of wildlife.

(3) Restrictions Related to Holding Wildlife. Wildlife temporarily held for rehabilitation must be maintained separate from domestic animals and shall not be displayed to the public. Such wildlife shall have minimal direct human contact. Every effort shall be made to prevent imprinting.

(4) Department Approval Requirement for Release of Wildlife Back into the Wild. Rehabilitated wildlife may be released back into the wild only as directed by the department. The department may provide bands and tags for rehabilitated wildlife when deemed necessary by the department. If any animal cannot be released, it shall be transferred to a zoological garden, museum, college, university or other educational/research institution or wildlife exhibitor. If it cannot be released or transferred, it shall be humanely euthanized. These regulations do not authorize any person, facility or organization to accept, possess or relocate nuisance wildlife. Any healthy wildlife trapped in towns or cities or removed from under buildings or otherwise taken or trapped in accordance with Section 4152 or 4180, Fish and Game Code shall be immediately released in the area where trapped or disposed of as directed or authorized by the department. Any such wildlife that has been determined by a veterinarian to be so seriously ill that it cannot be treated shall be euthanized and tested as directed by the appropriate county public health agency or the department.

(5) Notification Requirement for Dead or Diseased Animals. The operator of a wildlife rehabilitation facility shall notify the nearest department region office within twenty–four (24) hours if any animal dies of a disease specified in the facility's permit or is suspected to have died from one of those diseases and shall make the dead animal available for delivery to the department or other facility as directed by the department.

(6) Written Record Requirement. The operator of a wildlife rehabilitation facility shall maintain a written record for each animal being cared for. This record shall include the name and address of the person finding the animal, the location where the animal was found (when available), a description of its condition and treatment, the dates it was received and transferred from the facility and the location of its final disposition.

(7) Availability of Records. The operator of a wildlife rehabilitation facility shall make all records, wildlife being rehabilitated and any materials used for the confinement, treatment, or care of wildlife, available for inspection by department employees or employees of the Department of Food and Agriculture or Department of Health Services or any other person authorized to enforce these regulations.

(8) All wildlife rehabilitation facility personnel, professional and volunteer, shall satisfactorily complete one department-approved wildlife rehabilitation training session each year. Training may include sessions of wildlife identification, wildlife capture and restraint, wildlife laws and regulations, veterinary medical and other subjects approved by the department. The training shall be a minimum of two hours.

(g) Compliance With Other Restrictions. These regulations, or any permit issued pursuant thereto, do not authorize possession of any wild animal in violation of any other Federal, state, city, or county law, ordinance or regulation, including but not limited to any California Department of Health Services Rabies Control regulations.

NOTE: Authority cited: Sections 200, 1050, 2000, 2127, 2150.2, 3005.5, 3800 and 4150, Fish and Game Code. Reference: Sections 200, 713, 1008, 2000, 2001, 2150.4, 2192, 3005.5, 3511, 3800, 4150, 4190 and 4800, Fish and Game Code; and Section 8670.61.5, Government Code.

HISTORY

1. New section filed 8-8-94; operative 9-7-94 (Register 94, No. 32).
2. Editorial correction of subsections (a) and (f)(1) (Register 2007, No. 12).
3. Amendment of section and NOTE filed 4-2-2007; operative 4-2-2007 pursuant to Government Code section 11343.4 (Register 2007, No. 14).

§ 680. Propagation, Sale, Transportation and Release of Birds or Mammals by Domestic Game Breeders, Licensed Pheasant Clubs, or Domestic Migratory Game Bird Shooting Areas.

(a) For the purpose of this section, a diseased bird or mammal is one that carries a disease which is detrimental to wild populations.

(b) No birds or mammals, designated by the department to be diseased, shall be propagated, sold, transported, released, or otherwise disposed of without a free written permit issued by the department.

NOTE: Authority cited: Sections 2120, 3302, 3303 and 3516, Fish and Game Code. Reference: Sections 2116, 2118.2, 2118.4, 2119-2155, 2185-2191, 3270.5, 3274, 3281-3283, 3287-3300, 3302-3305, 3307, 3311 and 3500-3517, Fish and Game Code.

HISTORY

1. New section filed 7-19-76 as an emergency; effective upon filing (Register 76, No. 30).
2. Certificate of Compliance filed 10-19-76 (Register 76, No. 43).
3. Amendment of NOTE filed 7-16-81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9-20-85; effective thirtieth day thereafter (Register 85, No. 38).
5. Amendment of subsection (b) filed 4-18-91; operative 5-18-91 (Register 91, No. 21).

§ 690. Captive Breeding of Albino Native Reptiles and Amphibians.

NOTE: Authority cited: Sections 5061 and 6896, Fish and Game Code. Reference: Sections 5061 and 6896, Fish and Game Code.

HISTORY

1. New section filed 10-1-82; effective thirtieth day thereafter (Register 82, No. 40).
2. Repealer filed 4-23-92; operative 5-25-92 (Register 92, No. 20).

§ 695. Taxidermists.

(a) Records: Every person who prepares, stuffs or mounts the skin or any part of any fish, reptile, bird or mammal for another person shall keep an accurate record of all fish, reptile, bird or mammal carcasses, skins or parts thereof received, acquired, stored or possessed for taxidermy purposes. Such record shall include the following:

(1) The name and address of the person from whom each specimen is received;

(2) The name and address of the owner of each specimen received, including the hunting or fishing license number and license tag number (if applicable);

(3) A description of each specimen, including the species of fish, reptile, bird or mammal, and the part of the animal received;

(4) The name and address of the person to whom each processed specimen is delivered;

(5) The date each specimen is received, and the date the processed specimen is delivered;

(6) A copy of the declaration of entry or the bill of lading accompanying all fish, reptile, bird or mammal carcasses, skins or parts thereof which are received or delivered from out of state required pursuant to section 2353 of the Fish and Game Code shall be retained.

(b) Immediate Recording: Upon receiving a fish, reptile, bird or mammal or part thereof, the information required in this regulation shall be immediately recorded.

(c) Inspection and Retention of Records: The records required by this regulation shall be open for inspection by department employees upon request. The records shall be retained for a period of one year, except that such record shall be retained permanently for any unclaimed or unredeemed specimen.

(d) Sale of Unclaimed or Unredeemed Specimens: Every person who prepares, stuffs or mounts the skin or any part of fish, reptiles, bird or mammal for another person and who keeps the records provided in (a) may sell unclaimed or unredeemed skins under the following conditions:

(1) A notice shall be posted where it is visible to all persons who bring skins to a taxidermist for preparation, stuffing, or mounting, stating that the skins will be sold pursuant to chapter 6 (commencing with section 3046) of part 4 of division 3 of the Civil Code if unclaimed or unredeemed by the owner.

(2) The department shall, upon request, be provided with the name and address of any person who has failed to claim or redeem any skin or part thereof.

(3) The sale price of any prepared, stuffed, or mounted skin or part thereof, shall not exceed the actual cost of labor, preparation and advertising costs relating to the sale, less any amount already paid by the owner of the skin for its preparation, stuffing, or mounting.

(4) No skin or part of any fully protected, rare, or endangered species of fish, reptile, bird or mammal may be sold.

(5) No skin or part of any migratory bird covered by the federal Migratory Bird Treaty Act or Bald Eagle Act may be sold without approval of the U.S. Fish and Wildlife Service.

(6) The notice to customers required in (1) above shall include a copy of subdivision (d) of this regulation.

NOTE: Authority cited: Section 3087, Fish and Game Code. Reference: Section 3087, Fish and Game Code.

HISTORY

1. New section filed 7-31-75; effective thirtieth day thereafter (Register 75, No. 31).
2. Amendment filed 3-16-77; effective thirtieth day thereafter (Register 77, No. 12).
3. Amendment of subsection (a), renumbering of subsection (a)(5) to subsection (b), subsection (a)(6) to subsection (c), and prior subsection (b) to subsection (d) and changes without regulatory effect pursuant to section 100, title 1, California Code of Regulations, in new subsections (b), (c) and (d) filed 4-18-91; operative 5-18-91 (Register 91, No. 19).

§ 696. Fur Dealer and Fur Agent Licenses.

(a) Fur Dealer License. Every person engaging in, carrying on, or conducting, wholly or in part, the business of buying, selling, trading or dealing in raw furs of furbearing mammals or nongame mammals shall first procure a fur dealer license.

Each licensed fur dealer shall submit, not later than July 1, to the department at 1416 Ninth Street, Sacramento, California 95814, an annual report on forms provided by the department.

(b) Fur Agent License. Any person employed by a licensed fur dealer to engage in the business of buying, selling, trading or dealing in raw furs only on behalf of the fur dealer, and not on his own behalf, shall first procure a fur agent license, providing that the fur dealer employing that person has submitted the annual report required in (a) above. Such licenses shall be valid for a term of one year from July 1, or if issued after the beginning of such term, for the remainder thereof.

(c) It shall be unlawful for any fur dealer or fur agent to purchase the raw fur of any furbearing mammal or nongame mammal from any person who does not hold a valid trapping license, fur dealer license, or fur agent license.

NOTE: Authority cited: Sections 4009.5, 4042 and 4150, Fish and Game Code. Reference: Sections 4009.5, 4030–4043 and 4150, Fish and Game Code.

HISTORY

1. New section filed 1–10–80 as an emergency; effective upon filing (Register 80, No. 2). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 5–10–80.
2. Certificate of Compliance filed 2–7–80 (Register 80, No. 6).
3. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

§ 699. Fees.

Pursuant to the provisions of section 1050 of the Fish and Game Code, and in compliance with the provisions of section 713 of said Code, the Department shall annually adjust the fees of all licenses, certificates, permits and license tags, or other entitlement required by regulations set forth in this title 14.

(a) Base Year. Unless otherwise specified by the Fish and Game Code, or regulations adopted pursuant thereto, the base year for establishment of fees shall be 1991, or the year in which the license, certificate, permit or license tag was established after 1991.

(b) Permit Fees: Unless otherwise provided in this title 14 or in the Fish and Game Code, the Department shall charge a fee of thirty dollars ($30.00) for any permit issued pursuant to these regulations.

NOTE: Authority cited: Sections 240, 713 and 1050, Fish and Game Code. Reference: Sections 240, 713 and 1050, Fish and Game Code.

HISTORY

1. New section filed 11–27–89 as an emergency; operative 11–27–89 (Register 90, No. 4). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 3–27–90.
2. New section filed 7–3–90; operative 7–3–90 (Register 90, No. 35).
3. Amendment of subsection (a) including renumbering of first sentence to undesignated introductory paragraph, repealer and new subsection (b) filed 4–18–91; operative 5–18–91 (Register 91, No. 21).

§ 699.5. Fees for Lake and Streambed Alteration Agreements.

(a) Definitions.

(1) For purposes of this section, the following definitions apply:

(A) "Activity" means any activity that by itself would be subject to subdivision (a) of section 1602 of the Fish and Game Code.

(B) "Agreement" means a lake or streambed alteration agreement issued by the department.

(C) "Agreement for routine maintenance" means an agreement that: (1) covers only multiple routine maintenance projects that the entity will complete at different time periods during the term of the agreement; and (2) describes a procedure the entity must follow for any maintenance projects the agreement covers.

(D) "Agreement for timber harvesting" means an agreement of five years or less that covers one or more projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection.

(E) "Department" means the California Department of Fish and Game.

(F) "Extension" means either a renewal of an agreement executed prior to January 1, 2004, or an extension of an agreement executed on or after January 1, 2004.

(G) "Master agreement" means an agreement with a term of greater than five years that: (1) covers multiple projects that are not exclusively projects to extract gravel, sand, or rock; not exclusively projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection; or not exclusively routine maintenance projects that the entity will need to complete separately at different time periods during the term of the agreement; and (2) describes a procedure the entity must follow for construction, maintenance, or other projects the agreement covers.

An example of a project for which the department would issue a master agreement is a large–scale development proposal comprised of multiple projects for which specific, detailed design plans have not been prepared at the time of the original notification. The master agreement will specify a process the department and entity will follow before each project begins and may identify various measures the entity will be required to incorporate as part of each project in order to protect fish and wildlife resources. As a general rule, the process specified in the master agreement will require the entity to notify the department before beginning any project the agreement covers and submit a fee based on the cost of the project. After the department receives the notification, it will confirm that the master agreement covers the project and propose measures to protect fish and wildlife resources in addition to any included in the master agreement, if such measures are necessary for the specific project. A master agreement will typically, but not always, encompass one or more watersheds and/or relate to a habitat conservation plan or natural community conservation plan. By contrast, if the large–scale development proposal is comprised of, for example, multiple residences, golf courses, and associated infrastructure projects for which specific, detailed design plans have been prepared by the time the entity notifies the department and the entity is ready to begin those projects, the department would issue the entity a standard agreement.

(H) "Master agreement for timber operations" means an agreement with a term of greater than five years that: (1) covers timber operations on timberland that are not exclusively projects to extract gravel, sand, or rock; not exclusively projects that are included in a timber harvesting plan approved by the California Department of Forestry and Fire Protection; or not exclusively routine maintenance projects that the entity will need to complete separately at different time periods during the term of the agreement; and (2) describes a procedure the entity must follow for construction, maintenance, or other projects the agreement covers. For the purposes of this definition, "timberland" and "timber operations" have the same meaning as those terms are defined in sections 4526 and 4527 of the Public Resources Code, respectively.

(I) "Project" means either of the following as determined by the department:

1. One activity. An example of such a project is one that is limited to the removal of riparian vegetation at one location along the bank of a river, lake, or stream that will substantially change the bank.

2. Two or more activities that are interrelated and could or will affect similar fish and wildlife resources. An example of such a project is the construction of one bridge across a stream that requires the removal of riparian vegetation, the installation of abutments in or near the stream, and the temporary de–watering of the stream using a diversion structure. Each of those three activities together would constitute one project for the purpose of calculating the fee under this section because they are all related to the single purpose of constructing one bridge at one location. By contrast, the construction of three bridges and two culverts across a stream at five different locations would not constitute one project, but instead would constitute five projects, even if each structure were to provide access to a common development site and/or were physically connected to each other by a road.

"Project" does not mean project as defined in section 21065 of the Public Resources Code or section 15378 of title 14 of the California Code of Regulations.

(J) "Standard agreement" means any agreement other than an agreement for gravel, rock, or sand extraction, an agreement for timber harvesting, an agreement for routine maintenance, a master agreement, or a master agreement for timber operations.

(b) Standard Agreement.

(1) Fee if the term of the agreement is 5 years or less:

(A) $200 if the project costs less than $5,000.

(B) $250 if the project costs from $5,000 to less than $10,000.

(C) $500 if the project costs from $10,000 to less than $25,000.

(D) $750 if the project costs from $25,000 to less than $100,000.

(E) $1,100 if the project costs from $100,000 to less than $200,000.

(F) $1,500 if the project costs from $200,000 to less than $350,000.

(G) $2,250 if the project costs from $350,000 to less than $500,000.

(H) $4,000 if the project costs $500,000 or more.

(2) Fee if the term of the agreement is longer than 5 years:

(A) $2,400 base fee, plus the fee specified in subdivision (b), paragraph (1).

(3) For the purpose of this subdivision, project cost means the cost to complete each project for which notification is required.

(4) As a general rule, a notification for a standard agreement should identify only one project. If an entity chooses to identify more than one project in a single notification, the department may require the entity to separately notify the department for one or more of the projects included in the original notification based on their type or location. If the notification includes more than one project, the fee shall be calculated by adding the separate fees for each project. For example, if a notification identifies three projects, one of which will cost less than $5,000 to complete, one of which will cost $7,500 to complete, and one of which will cost $17,500 to complete, the fee for the first project would be $200, the fee for the second project would be $250, and the fee for the third project would be $500. Hence, the total fee the entity would need to submit with the notification that identifies those three projects would be $950.

(5) An entity may not obtain a standard agreement for any project identified in the notification that qualifies for an agreement for gravel, rock, or sand extraction, an agreement for timber harvesting, an agreement for routine maintenance, a master agreement, or a master agreement for timber operations unless the department agrees otherwise.

(6) Fee submittal:

(A) If the entity requests an agreement with a term of 5 years or less, the fee specified in paragraph (1) must be submitted with the notification.

(B) If the entity requests an agreement with a term longer than 5 years, the fee specified in paragraph (2) must be submitted with the notification.

(c) Agreement for Gravel, Sand, or Rock Extraction.

(1) Fee if the term of the agreement is 5 years or less:

(A) $500 if the annual extraction volume identified in the notification is less than 500 cubic yards.

(B) $1,000 if the annual extraction volume identified in the notification is 500 to less than 1,000 cubic yards.

(C) $2,500 if the annual extraction volume identified in the notification is 1,000 to less than 5,000 cubic yards.

(D) $5,000 if the annual extraction volume identified in the notification is 5,000 or more cubic yards.

(2) Fee if the term of the agreement is longer than 5 years:

(A) $10,000 base fee, plus an annual fee of $1,000.

(3) Fee submittal:

(A) If the entity requests an agreement with a term of 5 years or less, the fee specified in paragraph (1) must be submitted with the notification.

(B) If the entity requests an agreement with a term longer than 5 years, the base fee specified in paragraph (2) must be submitted with the notification.

(d) Agreement for Timber Harvesting.

(1) Fee:

(A) $1,200 base fee, plus $100 for each project.

(2) Fee submittal:

(A) The fee specified in paragraph (1) must be submitted with the notification.

(e) Agreement for Routine Maintenance.

(1) Fee if the term of the agreement is 5 years or less:

(A) $1,200 base fee, plus $100 for each maintenance project completed per calendar year.

(2) Fee if the term of the agreement is longer than 5 years:

(A) $2,400 base fee, plus $100 for each maintenance project completed per calendar year.

(3) Fee submittal:

(A) If the entity requests an agreement with a term of 5 years or less, the base fee specified in paragraph (1) at a minimum must be submitted with the notification.

(B) If the entity requests an agreement with a term longer than 5 years, the base fee specified in paragraph (2) at a minimum must be submitted with the notification.

(f) Master Agreement.

(1) Fee:

(A) $30,000 base fee, plus:

1. An annual fee of $2,500, unless the department specifies otherwise.

2. $250 for each project the agreement covers, unless the department specifies otherwise.

(2) Fee submittal:

(A) The base fee specified in paragraph (1) at a minimum must be submitted with the notification.

(g) Master Agreement for Timber Operations.

(1) Fee:

(A) $7,500 base fee, plus:

1. An annual fee of $1,000, unless the department specifies otherwise.

2. $100 for each project the agreement covers, unless the department specifies otherwise.

(2) Fee submittal:

(A) The base fee specified in paragraph (1) at a minimum must be submitted with the notification.

(h) If an entity chooses to identify more than one project in a single notification, the total fee may exceed $5,000 regardless of the term of the agreement.

[The next page is 190.3.]

(i) Extensions for Agreements.

(1) Fee:

(A) $200.

(2) Fee submittal:

(A) The fee specified in paragraph (1) must be submitted with the request for an extension.

(3) For the purpose of this subdivision and subdivisions (j) and (k), an extension is not an amendment.

(j) Minor Amendments.

(1) Fee:

(A) $150.

(B) For the purpose of this subdivision, a minor amendment is one that would not significantly modify the scope or nature of any project covered by the agreement or any measure included in the agreement to protect fish and wildlife resources.

(k) Major Amendments.

(A) $500.

(B) For the purpose of this subdivision, a major amendment is one that would significantly modify the scope or nature of any project covered by the agreement or any measure included in the agreement to protect fish and wildlife resources, or require additional environmental review pursuant to section 21000 *et seq.* of the Public Resources Code or section 15000 *et seq.* of title 14 of the California Code of Regulations.

(C) A project may not be added to an agreement by amendment unless the agreement specifies otherwise.

(*l*) California Environmental Quality Act ("CEQA").

(1) When the department is required to act as lead agency in administering or enforcing sections 1600–1616 of the Fish and Game Code, the department may charge and collect a reasonable fee from the entity to recover its estimated CEQA–related costs in accordance with section 21089 of the Public Resources Code. The department may recover its estimated CEQA–related costs by collecting from the entity one or more deposits. The amount of the first deposit shall be at least $1,500. The department shall refund any unused deposit to the entity.

(m) Payment of Fees.

(1) The department may refuse to process a notification or a request for an extension or amendment until the department receives the proper fee or fees.

(n) Refunds.

(1) If an entity requests an agreement with a term longer than 5 years and the department denies the entity's request, the department will return the fees paid and instruct the entity to submit the applicable fee for an agreement with a term of 5 years or less.

(2) If after receiving a notification the department determines that notification is not required because the project is not subject to subdivision (a) of section 1602 of the Fish and Game Code, the department shall refund to the entity any fees submitted with the notification.

NOTE: Authority cited: Section 1609, Fish and Game Code; and Section 21089, Public Resources Code. Reference: Section 1609, Fish and Game Code; and Section 21089, Public Resources Code.

HISTORY

1. New section filed 7–1–91; operative 7–1–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 40).
2. Amendment of subsections (a)–(f) filed 4–14–92; operative 5–14–92 (Register 92, No. 18).
3. Amendment filed 2–23–2000; operative 3–24–2000 (Register 2000, No. 8).
4. Repealer and new section filed 10–13–2005; operative 11–12–2005 (Register 2005, No. 41).

§ 700. Hunting and Fishing Licenses, Possession and Display Of.

(a) Display of Sport Fishing License: Every person, while engaged in taking any fish, amphibian or reptile, shall display their valid sport fishing license by attaching it to their outer clothing at or above the waistline so that it is plainly visible, except when diving as provided in Section 7145 of the Fish and Game Code.

(b) Possession of Hunting License: Every person, while engaged in taking any bird or mammal must have on their person or in their immediate possession a valid hunting license.

NOTE: Authority cited: Sections 200, 202, 203, 205, 215, 1050 and 3050. Fish and Game Code. Reference: Sections 200–205, 215, 220, 221, 1050, 1052, 1053, 2012, 3007, 3031, 3037, 3055, 3060–3063 and 7145–7150.5, Fish and Game Code.

HISTORY

1. New section filed 6–24–66 as an emergency; designated effective 7–2–66; Certificate of Compliance included (Register 66, No. 19).
2. Amendment filed 6–4–70; designated effective 7–1–70 (Register 70, No. 23).
3. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
5. Amendment of section heading, text and NOTE filed 2–25–94; operative 2–25–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 8).

§ 700.4. Automated License Data System.

(a) Defined:

For the purposes of the Title 14, Division 1, California Code of Regulations, the "Automated License Data System" or "ALDS" is an automated system that will replace the Department's current paper–based licensing. The ALDS enables license items to be printed instantly using point of sale equipment and will be available at license agents and Department offices located throughout the state. The ALDS also allows for licensing via the telephone and/or Internet.

NOTE: Authority cited: Section 1050, Fish and Game Code. Reference: Section 1050, Fish and Game Code.

HISTORY

1. New section filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).

§ 700.5. Applications and Reports.

(a) For any license, permit, tag, reservation or other entitlement issued by the department where a specific form or application is specified, the department may accept the submission of equivalent information identified on the application or form via alternative media, such as the Internet, an Automated License Data System (ALDS) Point of Sale terminal or the telephone.

(b) For any license, permit, tag, reservation or other entitlement provided by the department where a specific location is specified, the department may accept the submission at alternative locations, such as other department offices, license agent locations or the Internet.

(c) For any license, permit, tag, reservation or other entitlement issued by the department where a report is required and a specific reporting methodology or report form is specified, the department may accept the submission of equivalent information identified on the report form via alternative media, such as the Internet, an Automated License Data System (ALDS) Point of Sale terminal or the telephone.

NOTE: Authority cited: Section 1050, Fish and Game Code. Reference: Section 1050, Fish and Game Code.

HISTORY

1. New section filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).

§ 701. Sport Fishing Forms and Fees.

(a) Declaration for Multi–Day Fishing Trip (FG 935 (rev. 09/07)), incorporated by reference herein $ 5.00

(b) 2008 Klamath–Trinity Salmon Report Card (FG 684 (Rev. 9/07)), incorporated by reference herein $5.00

(c) 2008 Sturgeon Fishing Report Card (FG 683 (Rev. 9/07)), incorporated by reference herein $0.00

(d) 2008 Spiny Lobster Report Card (FG 685 (New 9/07)), incorporated by reference herein $7.50

(e) 2008 Replacement Card Fee for a 2008 Abalone Report Card (FG 2915 (Rev. 09/07)), incorporated by reference herein $8.25

(f) 2008 Replacement Card Fee for a 2008 Sturgeon Fishing Report Card $0.00

(g) 2008 Replacement Processing Fee for a 2008 Abalone Report Card $7.50

(h) 2008 Replacement Processing Fee for a 2008 Sturgeon Fishing Report Card $7.50

(i) 2008 Steelhead Fishing Report and Restoration Card (FG 682 (Rev. 09/07)), incorporated by reference herein (per Section 7380(b) Fish and Game Code)

(j) Pursuant to the provisions of Section 699, Title 14, the department shall annually adjust the fees of all licenses, stamps, permits, tags, or other entitlement required by regulations set forth in this section.

NOTE: Authority cited: Sections 200, 202, 205, 220, 713, 1050, 1053, 7149.8 and 7380, Fish and Game Code. Reference: Sections 200, 202, 205, 206, 220, 713, 1050, 1053, 1055, 7149.8 and 7380, Fish and Game Code.

HISTORY

1. New section filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
2. Repealer of subsections (b) and (c) and subsection relettering filed 1–18–2007; operative 1–18–2007 pursuant to Government Code section 11343.4(c) (Register 2007, No. 3).
3. Amendment filed 2–28–2007; operative 2–28–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 9).
4. Amendment of section and NOTE filed 3–14–2008; operative 4–1–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 11).

§ 702. Hunting Applications, Tags, Seals, Permits, Reservations and Fees.

(a) Private Wildlife Management Areas

(1) License Application (Initial — FG WPB 538 (Rev. 02/08), Annual Renewal — FG WPB 539 (Rev. 02/08), 5–Year Renewal — FG WPB 537 (Rev. 02/08), incorporated by reference herein)

(A) less than 5000 acres	$1,530.50
(B) 5,001 to 10,000 acres	$2,204.25
(C) 10,001 to 15,000 acres	$2,571.50
(D) greater than 15,001 acres	$2,938.75

(2) Tags and Seals

(A) 2008 Antelope Tag (Buck)	$ 183.50
(B) 2008 Antelope Tag (Doe)	$ 110.25
(C) 2008 Bear Tag	$ 51.50
(D) 2008 Deer Tag (Antlerless)	$ 58.75
(E) 2008 Deer Tag (Buck)	$ 58.75
(F) 2008 Deer Tag (Either–sex)	$ 58.75
(G) 2008 Elk Tag (Antlerless)	$ 367.50
(H) 2008 Elk Tag (Bull)	$ 514.00
(I) 2008 Pig Tag	$ 51.50
(J) 2008 Turkey Tag	$ 22.25
(K) 2008/2009 Upland Game seals	$ 01.05

(b) Reservation Drawings and Permits to Hunt on State and Federal Areas

(1) Reservation Drawings

(A) 2008–2009 Per Hunt Choice	$ 1.25

(2) Passes and Permits

(A) 2008/2009 Type A Season Pass	$124.50
(B) 2008/2009 Type B Season Pass	$ 41.50
(C) 2008/2009 Type A Two–Day Pass	$ 26.75
(D) 2008/2009 One–Day Entry Permit	$ 16.50

(c) Hunting Tags and Applications

(1)		*Tag/Application Fees*	*Processing Fees*
(A)	2008/2009 California Resident First–Deer Tag Application (LRB 1371A (Rev. 4/2008), incorporated by reference herein)	$ 21.00	$ 3.75
(B)	2008/2009 California Nonresident First–Deer Tag Application (LRB 1371B (Rev. 4/2008), incorporated by reference herein)	$214.00	$ 3.75
(C)	2008/2009 California Resident Second–Deer Tag Application (LRB 1371C (Rev. 4/2008), incorporated by reference herein)	$ 27.00	$ 3.75
(D)	2008/2009 California Nonresident Second–Deer Tag Application (LRB 1371D (Rev. 4/2008), incorporated by reference herein)	$214.00	$ 3.75
(E)	2008/2009 California Resident Bear Tag Application (LRB 1365A (Rev. 4/2008), incorporated by reference herein)	$ 32.50	$ 3.75
(F)	2008/2009 Nonresident Bear Tag Application (LRB 1365B (Rev. 4/2008), incorporated by reference herein)	$225.75	$ 3.75
(G)	2008 Antelope Drawing Application (Per hunter) (LRB 1363 (Rev. 4/2008), incorporated by reference herein)		$ 7.50
(H)	2008 Elk Drawing Application (Per Hunter) (LRB 1364 (Rev. 4/2008), incorporated by reference herein)		$ 7.50
(I)	2008 Nelson Bighorn Sheep Drawing Application (Per Hunter) (LRB 1362 (Rev. 4/2008), incorporated by reference herein)		$ 7.50
(J)	2008 Resident Antelope Tag	$ 118.00	
(K)	2008 Nonresident Antelope Tag	$ 365.00	
(L)	2008 Resident Elk Tag	$ 354.00	
(M)	2008 Nonresident Elk Tag	$1,094.75	
(N)	2008 Resident Bighorn Sheep Tag	$ 333.75	
(O)	2008 Nonresident Bighorn Sheep Tag	$ 500.00	
(P)	2008 Bobcat Tags (Five)	$ 13.25	
(Q)	2008 Deer Tag — Exchange		$ 8.25

(d) Pursuant to the provisions of Section 699, Title 14, the department shall annually adjust the fees of all licenses, stamps, permits, tags, or other entitlement required by regulations set forth in this section.

NOTE: Authority cited: Sections 200, 202, 203, 215, 220, 331, 332, 713, 1050, 1055, 1055.1, 1572, 4331, 4336 and 10502, Fish and Game Code. Reference: Sections 200, 202, 203, 203.1, 207, 210, 215, 219, 220, 331, 332, 713, 1050, 1055, 1570, 1571, 1572, 1573, 3950, 3951, 4302, 4330, 4331, 4332, 4333, 4336, 4340, 4341, 4652, 4653, 4654, 4655, 4657, 4750, 4751, 4752, 4753, 4754, 4755, 4902, 10500 and 10502, Fish and Game Code.

HISTORY

1. New section filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
2. Amendment filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
3. Change without regulatory effect amending section filed 7–28–2008 pursuant to section 100, title 1, California Code of Regulations; effective 30 days after filing (Register 2008, No. 31).

§ 704. Miscellaneous Forms, Permits and Fees.

All licenses, tags, permits, reservations or other entitlements purchased via the Automated Data License System (ALDS) will be subject to a three percent nonrefundable surcharge, not to exceed seven dollars and fifty cents ($7.50) per item, to pay the department's costs for issuing that license, tag, permit, reservation or other entitlement.

NOTE: Authority cited: Section 1050, Fish and Game Code. Reference: Section 1050, Fish and Game Code.

HISTORY

1. New section filed 2–13–2008; operative 3–14–2008 (Register 2008, No. 7).

§ 705. Hunting and Fishing Licenses, Application for.

The following procedure shall be followed in issuing hunting or sport fishing licenses:

(a) A hunting or sport fishing license, except as provided in subsections 705 (b) and (c), Title 14, CCR, shall contain the following information about the licensee before being issued:

(1) True name
(2) Residence address
(3) Date of Birth
(4) Height
(5) Color of eyes
(6) Color of hair
(7) Weight
(8) Sex

(b) A sport fishing license issued pursuant to subsections 7149(a)(5) or 7149.05(a)(5) of the Fish and Game Code shall contain the name of the angler and the date of validity before being issued to the licensee.

(c) For licenses issued via the current paper license system. Notwithstanding the provisions of Fish and Game Code Section 1053, any person may purchase a hunting or sport fishing license for another person, as long as the application contains the licensee's true name and residence address. Prior to using any license, the licensee shall complete the license so that it contains all of the information required in subsection (a) above.

(d) For licenses issued via the Automated License Data System (ALDS) (see Section 700.4). Notwithstanding any provisions of Fish and Game Code, Section 1053, any person may purchase a hunting or sport fishing license for another person, as long as the licensee's customer identification number issued from the ALDS and date of birth are provided.

(e) For licenses issued via the ALDS. Pursuant to Fish and Game Code Section 1061, any person who wishes to purchase an annual hunting license or annual sport fishing license for another person but does not have available the information required for that purchase may be allowed to purchase a voucher for said license.

NOTE: Authority cited: Sections 1050 and 4331, Fish and Game Code. Reference: Sections 1050, 1053, 1061, 3031, 4331, 7145, 7149, 7149.05, 7149.2 and 7150, Fish and Game Code.

HISTORY

1. New section filed 4–13–73; effective thirtieth day thereafter (Register 86, No. 27).
2. Amendment filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

[The next page is 190.5.]

3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
4. New subsection filed 7–1–86; effective upon filing (Register 86, No. 27).
5. Amendment of subsections (a) and (b) filed 6–5–87; operative 7–5–87 (Register 87, No. 24).
6. Amendment filed 4–24–90; operative 5–24–90 (Register 90, No. 20).
7. Amendment of subsection (b) filed 2–1–93; operative 3–3–93 (Register 93, No. 6).
8. New subsection (a)(9) and amendment of section heading, subsection (c) and NOTE filed 3–3–94; operative 4–4–94 (Register 94, No. 9).
9. Amendment of subsection (a), repealer of subsection (a)(9), and amendment of subsection (c) filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).
10. Amendment of subsections (a) and (b)–(c), new subsections (d)–(e) and amendment of NOTE filed 12–14–2007; operative 1–13–2008 (Register 2007, No. 50).

§ 706. Hunting and Fishing License, Validation of.

Except as provided in subsection 705(b) above, every hunting or sport fishing license to be valid shall contain the information required in section 705 above, and it shall be signed by the licensee and the license shall show the date of issue.

NOTE: Authority Cited: Section 200, 202, 203 and 205, Fish and Game Code.Reference: Sections 70, 200–205, 220, 221, 1050–1110, 2012, 3007, 3031, 3031.5, 3034, 3037, 3038, 3049, 3050, 3052, 3053, 3055, 3060–3063 and 7145–7150.5, Fish and Game Code.

HISTORY

1. New section filed 4–13–73; effective thirtieth day thereafter (Register 73, No.15).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No.29).
3. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38)
4. Amendment filed 4–24–90; operative 5–24–90 (Register 90, No. 20).
5. Amendment filed 12–27–96; operative 12–27–96 pursuant to Fish and Game Code sections 202 and 215 (Register 96, No. 52).

§ 707. Licenses, Certificates, Permits and License Tags, Dating of.

Except as provided in subsection 705(b) above, every person who issues any license, certificate, permit or license tag authorized by the Fish and Game Code, shall enter in the space provided on the license, certificate, permit or license tag the date it was issued, and when required by the department, shall maintain a record of the date issued in the manner prescribed by the department. Any license agent who issues a permit or license tag shall immediately enter the tag number in the space provided on the appropriate current license.

NOTE: : Authority cited: Sections 200, 202, 203 and 205, Fish and Game Code. Reference:Sections 1050–1054.5, 1056, 1059–1110, 3034, 3037, 3038, 3050, 3053, 3055, 3060, 3063, 7146, 7149 and 7150, Fish and Game Code.

HISTORY

1. New section filed 5–4–76; effective thirtieth day thereafter (Register 76, No. 19).
2. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Amendment filed 8–18–82; effective upon filing pursuant to Government Code section 11346.2(d) (Register 82, No. 34).
4. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No.38).
5. Amendment filed 4–24–90; operative 5–24–90 (Register 90, No. 20).

§ 708. Big Game License Tag, Application, Distribution and Reporting Procedures.

(a) Deer License Tag Procedures and Requirements

(1) Deer License Tags.

No person shall hunt deer without a valid deer license tag in possession for that particular area as defined in sections 360 and 361. Deer shall be tagged only with a valid deer license tag for the area (as defined in sections 360 and 361) in which the deer is killed. Except as otherwise provided in the Fish and Game Code, no person shall take more than two deer during any license year.

(2) Deer License Tag Application and Distribution Procedures.

(A) Distribution of License Tags:

1. Premium deer hunt tags for X zones, additional hunts, and area–specific archery hunts shall be distributed by drawing, as described in subsection 708(g)(1) and (2), unless otherwise authorized. Applicants shall submit their deer tag application to the department at the address specified on the application. Applications must be received by the department by 5:00 p.m. on the first business day after June 1. Successful applicants will be selected by drawing within 10 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible. Successful and unsuccessful applicants will be notified by mail.

2. Except as noted in subsection 708(a)(2)(E) below, deer tags for A, B, C, and D zones and leftover drawing tags shall be issued upon request until each tag quota fills. If, on any given day, the number of applications received for any zone or hunt exceeds the number of available tags, the department may conduct a drawing for that zone or hunt.

(B) Application Forms: Except for permits and deer tags issued pursuant to sections 4181.5, 4188, and 4334 of the Fish and Game Code, applications for deer tags, as specified in Section 702, may be made available to the public at designated license agents and department offices.

(C) Application Procedures:

1. Applicants must be at least 12 years of age on or before July 1 of the license year for which they are applying or at the time of application if they are applying after July 1 and possess a California resident or nonresident hunting license valid for the deer hunting season for which they are applying, except applicants for additional apprentice deer hunts, who must possess a California junior hunting license. Two–day nonresident hunting licenses shall not be used to apply for deer tags.

2. No more than six persons may apply together as a party. To be considered as a party, all applications must be stapled together with the party leader's application on top and mailed in one envelope. All party members' applications must show the same tag choices in the same order of preference, the total number of persons in the party, and the party leader's name and identification number. All party members shall be awarded tags according to the choices listed on the party leader's application. Party applications for premium deer hunts shall not be split to meet the tag quota if the number of party members exceeds the number of available tags. Party applications which exceed the number of available tags shall be bypassed until the quota is reached. Incorrect or incomplete party applications will be separated and awarded tags on an individual basis.

3. Incomplete, incorrect, late or ineligible applications will be rejected.

(D) Application Fee: The department shall require that the specified fee for a deer tag, as specified in Section 4332 of the Fish and Game Code, be paid as a prerequisite to obtaining a deer tag application. In addition to the tag fee, the department shall also charge a nonrefundable processing fee, as specified in Section 702, for each deer tag application.

(E) Application Restrictions:

1. First–Deer Tag Application:

a. Any person may use a first–deer tag application to apply for any premium deer hunt tag (X zone, additional hunt, or area–specific archery hunt) issued by drawing as specified in subsection 708(a)(2)(A)1.

b. Any person may use a first–deer tag application to apply for an A, B, C, or D zone tag or archery–only tag issued upon request.

c. Any person may use a first–deer tag application to apply for any premium deer hunt tag (X zone, additional hunt, or area–specific archery hunt) remaining on the first business day after July 1. Applications must be submitted to the department's License and Revenue Branch in Sacramento, unless otherwise specified by the department.

2. Second–Deer Tag Application:

a. Any person may use a second–deer tag application to apply for an A or B zone tag or archery–only tag issued upon request.

b. Any person may use a second–deer tag application to apply for any area–specific archery tag remaining on the first business day following July 1. Applications must be submitted to the department's License and

Revenue Branch in Sacramento, unless otherwise specified by the department.

c. Any person may use a second-deer tag application to apply for any D zone tag or additional hunt tag, except an additional apprentice hunt tag, remaining on the first business day following August 1. Applications may be submitted before that date to the License and Revenue Branch in Sacramento.

d. Any person in possession of a valid junior hunting license, who has not used a first-deer tag application to apply for an additional apprentice hunt, may use a second-deer tag application to apply for an additional apprentice hunt tag issued by drawing as specified in subsection 708(a)(2)(A)1., and 708(g)(2)(A). An apprentice hunter may not submit more than one application for additional apprentice hunts.

e. No person shall submit more than one first-deer tag application and one second-deer tag application to the department during any one license year. Any person in violation of this subsection may be denied deer tags for the current and following license year.

(F) Deer Tag Exchange Fee: The department shall charge a nonrefundable processing fee, as specified in Section 702, for exchanging a deer tag for a different zone or hunt.

(3) Tagging Requirements:

Immediately upon killing a deer, both portions of the deer license tag must be completely filled out and the date of kill permanently marked on the deer license tag. The deer license tag must be attached to the antlers of an antlered deer or to the ear of any other deer and kept attached during the open season and for 15 days thereafter. Except as otherwise provided, possession of any untagged deer shall be a violation (refer to Fish and Game Code, Section 4336).

(4) Tag Validation and Countersigning Requirements, and Transporting for the Purpose of:

Any person legally killing a deer in this state shall have the deer license tag validated and countersigned by a person authorized by the commission as described below in subsection 708(a)(8) before transporting such deer, except for the purpose of taking the deer to the nearest person authorized to countersign the license tag, on the route being followed from the point where the deer was taken (refer to Fish and Game Code, Section 4341).

(5) Deer Head Retention Requirements and Production Upon Demand:

Any person taking any deer in this state shall retain in their possession during the open season thereon and for 15 days thereafter, that portion of the head which in adult males normally bears the antlers, and shall produce the designated portion of the head upon the demand of any officer authorized to enforce the provisions of this regulation (refer to Fish and Game Code, Section 4302).

(6) Deer Tag Reporting Requirements:

Every person to whom a deer tag is issued shall return the completed report card portion to the department within thirty days of taking a deer.

(7) Deer Violations, Tag Forfeiture:

Any person who is convicted of a violation involving deer shall forfeit their current year deer license tags and no new deer license tags may be issued to that person during the then current hunting license year, and that person may not apply for a deer tag for the following license year (refer to Fish and Game Code, Section 4340).

(8) Deer and Elk Tags, Persons Authorized to Validate.

The following persons are authorized to validate or countersign deer and elk tags:

(A) State:

1. Fish and Game Commissioners
2. Employees of the Department of Fish and Game
3. Deputy Foresters
4. Assistant Deputy Foresters
5. Forest Rangers
6. Park Rangers—Grades 1, 2, 3, and 4
7. Supervising Plant Quarantine Inspectors
8. Junior, Intermediate and Senior Plant Quarantine Inspectors
9. Foresters
10. Fire Prevention Officers—Grades 1, 2, 3, and 4
11. Fire Captains
12. Fire Apparatus Engineers

(B) Federal: (FS = U.S. Forest Service, FWS = U.S. Fish & Wildlife Service, BLM = Bureau of Land Management)

1. Range Technicians (BLM)
2. Forest Supervisors (FS)
3. Assistant Forest Supervisors (FS)
4. District Forest Rangers (FS)
5. Foresters (FS, BLM)
6. Range Conservationists (FS, BLM)
7. Forest Engineers (FS, BLM)
8. Forestry Aides (FS)
9. Fire Control Officers or Aides (FS, BLM)
10. Clerks (FS, FWS, BLM) while on duty at their headquarters
11. Game Management Agents (FWS)
12. Wildlife Management Biologists (FS, FWS, BLM)
13. District Managers (BLM)
14. Information Specialists (BLM)
15. Area Managers (BLM)
16. Realty Specialists (BLM)
17. Natural Resource Specialists (BLM)
18. Engineers (BLM)
19. Engineering Technicians (BLM)
20. Recreation Resource Specialists (BLM)
21. Geologists (BLM)
22. Recreation Aides (BLM)
23. All Uniformed Personnel of the National Park Service
24. Commanding officers of any United States military installation or their designated personnel for deer taken on their reservation.
25. Postmasters
26. Post Office Station or Branch Manager for deer brought to their post office.

(C) Miscellaneous:

1. County firemen at and above the class of foreman for deer brought into their station.
2. Judges or Justices of all state and United States courts.
3. Notaries Public
4. Peace Officers
5. Nonsalaried police officers or deputy sheriffs while on scheduled duty in a city or county of appointment for deer brought to a police station or sheriff's office
6. Officers authorized to administer oaths
7. Owners, corporate officers, managers or operators of lockers or cold storage plants for deer brought to their place of business.

(D) No person may validate or countersign their own tag.

(b) Distribution of Bighorn Sheep License Tags:

(1) Fund-raising Nelson bighorn ram license tags: Fund-raising license tags for the taking of mature Nelson bighorn rams shall be sold for the purpose of raising funds to manage bighorn sheep. The department may designate a nonprofit organization to sell this fund-raising tag. Any resident or nonresident is eligible to buy the tag. The purchaser of a fund-raising license tag shall complete a required hunter orientation program conducted by the department and meet the hunter education requirements for a hunting license. The fund-raising license tags are defined as follows:

(A) Open-zone fund-raising license tags: These fund-raising license tags are valid in any of the areas described in subsection 362(a).

(2) General Nelson bighorn ram license tags: The application form, as specified in Section 702, may be made available to the public at designated license agents and department offices. Applicants must be California residents or nonresidents, at least 16 years of age on or before July 1 of the license year for which they are applying, possessing a California hunting license valid during the bighorn ram season for which they are applying, and must not have been previously issued a bighorn license tag

in California. Two–day nonresident hunting licenses shall not be used to apply for Nelson bighorn sheep tags. Applicants must apply for only one designated zone. No person shall submit more than one application. Applicants shall submit the application with a nonrefundable processing fee, as specified in Section 702, to the department at the address specified on the application. Applications must be received before 5:00 p.m. on the first business day after June 1. Incomplete, late and ineligible applications and applications submitted without the appropriate processing fee will not be included in the drawing and the hunter will not earn a preference point. Successful applicants and a list of alternates for each zone shall be determined by drawing within 10 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible. No more than one nonresident shall be selected to receive a general license tag. Unsuccessful applicants will not be notified. Successful applicants will be mailed notification as soon as practical. Upon receipt of the notification, the applicant shall submit the appropriate tag fee, as specified in Section 702, to the department's License and Revenue Branch in Sacramento. The tag fee shall be received by the department by 5:00 p.m. on the Monday following the second Saturday in July. Should the quota for each zone remain unfilled after that date, the alternate lists shall be used. Successful applicants shall be issued tags only after successfully completing the required hunter orientation program conducted by the department.

(3) Tagholder Responsibilities:

(A) Only persons possessing valid Nelson bighorn sheep license tags are entitled to hunt bighorn sheep. Tags shall not be transferable and are valid only in the zone or zones specified.

(B) Individuals awarded a fund–raising license tag and all successful applicants for general license tags shall attend and successfully complete a mandatory hunter orientation program. Licensed guides employed by successful applicants and the fund–raising license tag buyer shall accompany their clients to this orientation program.

(C) All successful bighorn sheep tagholders shall have their tags validated. All tags must be returned to the department within 10 days after the close of the season, even though the tagholder may not have killed a Nelson bighorn ram.

(D) Tags must be completed and attached to the carcass of a bighorn ram immediately after the animal is killed. All successful bighorn sheep tagholders shall have their tags validated.

(E) All tagholders will be notified by mail as to whether they will be required to report to the department before hunting and upon completion of hunting. The notification shall contain procedures for reporting, including appropriate methods of contacting the department.

(F) The tagholder shall surrender his tag to an employee of the department for any or all of the following reasons:

1. Any act on the part of the tagholder which violates any of the provisions of the Fish and Game Code, or any regulations of the commission.

2. Any act on the part of the tagholder which endangers the person or property of others. The decision of the department in such respects shall be final and binding upon the tagholder.

(c) Distribution of Pronghorn Antelope License Tags:

(1) The pronghorn antelope license tags shall be issued by drawing, as described in subsection 708(g)(5)(A) and (B). Not more than one nonresident shall be selected to receive a general license tag. Application forms, as specified in Section 702, may be made available to the public at designated license agents and department offices. Each applicant must be at least 12 years of age on or before July 1 of the license year for which they are applying, and possess a California hunting license valid during the pronghorn antelope season for which they are applying. Applicants for the apprentice pronghorn antelope hunts must possess a junior hunting license valid during the pronghorn antelope season for which they are applying. Two–day nonresident hunting licenses shall not be used to apply for pronghorn antelope tags. No person shall submit more than one application for a pronghorn antelope license tag. No more than two persons shall apply together as a party. To be considered as a party, both persons must be residents and apply on the same application for the same tag choice. Nonresidents shall not apply as a party for pronghorn antelope tags. Incomplete, late and ineligible applications and applications submitted without the appropriate processing fee will not be included in the drawing and the hunter shall not earn a preference point.

(2) Applicants shall submit the application with a nonrefundable processing fee, as specified in Section 702, to the department at the address specified on the application. Applications must be received before 5:00 p.m. on the first business day after June 1. Successful applicants and a list of alternates for each hunt shall be determined by drawing within 10 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible. Except as provided in subsection 708(g)(5)(A)5., party applications drawn for the last tag available for a hunt will be split and the party leader (first person listed) as indicated on the application form shall be awarded the pronghorn antelope license tag. The party member shall become the first alternate for that hunt. Unsuccessful applicants will not be notified. Successful applicants will be mailed notification as soon as practical. Upon receipt of the notification the applicant shall submit the appropriate tag fee, as specified in Section 702, to the department's License and Revenue Branch in Sacramento. The tag fee shall be received by the department by 5:00 p.m. on the Monday following the second Saturday in July. Should the quota for each zone remain unfilled after that date, the alternate list shall be used. In the event only one pronghorn antelope license tag is available to an alternate, party applications will be split and the alternate tag shall be awarded to the party leader as indicated on the application form. Undistributed tags will be issued after the drawing. Any tags unclaimed by successful applicants after that date shall be awarded to alternates for that zone, on an individual basis, in the order drawn. Any remaining tags may be issued to alternates for other zones.

(3) Fund–raising License Tags: Fund–raising license tags for the taking of buck pronghorn antelope shall be offered for sale to raise funds for the management of pronghorn antelope. Any resident or nonresident is eligible to buy one of the fund–raising license tags. The sale price of a fund–raising license tag includes the fee for processing and issuing a hunting license. The purchaser shall be issued the fund–raising license tag only after meeting the hunter education requirements for a hunting license.

(4) Tagholder Responsibilities:

(A) Only persons possessing valid pronghorn antelope license tags are entitled to hunt pronghorn antelope during these hunts. Tags shall not be transferable and are valid only in the area, season, and period specified on the tag.

(B) All tagholders must return the report card portion of their license tag to the department within one week after the close of the pronghorn antelope season, even though the tagholder may not have killed a pronghorn antelope.

(C) The holder of a pronghorn antelope license tag, immediately after killing a pronghorn antelope, shall fill out both parts of the tag and mark permanently the date of kill. The tag portion shall be immediately attached to a horn of buck pronghorn antelope or to an ear of doe pronghorn antelope and kept attached for 15 days after the close of the open season.

(D) The tagholder shall surrender his license tag to an employee of the department for any of the following reasons:

1. Any act on the part of the tagholder which violates any of the provisions of the Fish and Game Code, or any regulations of this commission.

2. Any act on the part of the tagholder which endangers the person or property of others. The decision of the department in such respects shall be final and binding upon the tagholder.

(d) Distribution of Elk License Tags:

(1) Three fund–raising license tags for the taking of elk bulls shall be offered for sale to raise funds for the management of elk. The department may designate a nonprofit organization or organizations to sell the fund–raising tags. Any resident or nonresident is eligible to buy one of the license tags. The purchase of fund–raising tags shall complete required

hunter orientation programs conducted by the department and meet the hunter safety requirements for a hunting license.

(2) Application forms for elk tags, as specified in Section 702, may be made available to the public at designated license agents and department offices. Each applicant must be at least 12 years of age on or before July 1 of the license year for which they are applying, and possess a California hunting license valid during the elk season for which they are applying. Two-day nonresident hunting licenses shall not be used to apply for elk tags. No person shall submit more than one application for an elk license tag. No more than two persons shall apply together as a party. To be considered as a party, both persons must be residents and apply on the same application for the same tag choice. Nonresidents shall not apply as a party for elk tags. Incomplete, late and ineligible applications and applications submitted without the appropriate processing fee will not be included in the drawing and the hunter shall not earn a preference point.

(3) The elk hunting license tags shall be issued by drawing, as described in subsection 708(g)(4)(A) and (B). Not more than one nonresident shall be selected to receive a general license tag. Applicants shall submit the application with a nonrefundable processing fee, as specified in Section 702, to the department at the address specified on the application. Applications must be received before 5:00 p.m. on the first business day after June 1. Except as provided in subsection 708(g)(4)(A)5., party applications drawn for the last tag available for a hunt will be split and the party leader (first person listed) as indicated on the application form shall be awarded the elk tag. The party member shall become the first alternate for that hunt. Successful applicants and a list of alternates for each hunt will be determined by drawing within 10 business days following the application deadline date. If the drawing is delayed due to circumstances beyond the department's control, the department shall conduct the drawing at the earliest date possible. Unsuccessful applicants will not be notified. Successful applicants and alternates will be mailed notification as soon as practical. Upon receipt of the notification, the applicant shall submit the tag fee, as specified in Section 702, to the department's License and Revenue Branch in Sacramento. The tag fee shall be received by the department by 5:00 p.m. on the Monday following the second Saturday in July. Any tags unclaimed by successful applicants after that date shall be awarded to alternates for that hunt, on an individual basis, in the order drawn. Any remaining tags may be issued to alternates for other zones.

(4) Tagholder Responsibilities:

(A) All tagholders must return their license tags to the department within one week after the close of the elk season, even though the tagholder may not have killed an elk.

(B) License tags must be attached to the antler of an antlered elk, or to the ear of antlerless elk immediately after killing.

(C) Persons authorized to validate or countersign elk tags are listed in Section 708(a)(8). Elk tags must be countersigned before transporting such elk, except for the purpose of taking it to the nearest person authorized to countersign the license tag on the route being followed from the point where the elk is taken.

(D) Only persons possessing valid elk license tags are entitled to take elk. Tags are not transferable and are valid only for the area and period specified.

(E) The tagholder shall surrender his tag to an employee of the department for any or all of the following reasons:

1. Any act on the part of the tagholder which violates any of the provisions of the Fish and Game Code, or any regulations of the commission made pursuant thereto.

2. Any act on the part of the tagholder which endangers the person or property of others. The decision of the department shall be final.

(F) Elk may be taken on Santa Rosa Island pursuant to a permit issued by the department. For methods of take, see sections 353 and 354.

(e) Bear License Tags.

(1) Application for Bear License Tags:

(A) With the exception of permits and tags issued pursuant to section 4181 of the Fish and Game Code, all bear license tag applications shall be submitted on forms provided by the department.

(B) The department shall require that the specified fee provided for in section 4751 of the Fish and Game Code for such bear license tags be paid as a prerequisite to obtaining a bear license tag application.

(C) The department shall charge a nonrefundable processing fee, as specified in Section 702, for each bear tag application.

(D) Only one bear license tag application may be submitted to the department during any one license year. Any person who submits more than one bear license tag application may be denied bear license tags for the current license year.

(2) Distribution of bear tags: Applications for bear tags, as specified in Section 702, may be available to the public at designated license agents and department offices. Tags will be issued at designated department offices.

(3) Use of Guides: Any holder of a bear license tag who utilizes the services of a guide or guides shall verify that the guide is in possession of a valid guide's license and shall place the guide's license number on the bear license tag in the space provided.

(4) Use of Dogs: Any holder of a bear license tag who utilizes dogs to take bear shall so indicate on his bear license tag in the space provided.

(5) Validation of Bear Tags: Only department employees may validate bear tags (This provision supersedes section 4755 of the Fish and Game Code). Bear tags must be countersigned before transporting such bear except for the purpose of taking it to the nearest person authorized to countersign the license tag, on the route being followed from the point where the bear is taken.

(6) Return of Bear License Tags:

(A) Every person who takes a bear shall immediately return the report card portion of the bear license tag, after having the tag countersigned as required in (e) above. The tag may be presented to a department office/officer or returned through the United States Mail.

(B) Every person who is unsuccessful in taking bear shall return the report card portion of the bear license tags by February 1 of the current license year. The tag may be presented to a department office/officer or returned through the United States Mail.

(f) Application For and Use of Wild Pig License Tags:

(1) Any person, 12 years of age or older, who possesses a valid hunting license may procure wild pig license tags as specified in Section 4654 of the Fish and Game Code.

(2) Resident and nonresident wild pig license tags will be sold individually.

(3) Wild pig license tags are valid only during that portion of the current hunting license year in which wild pigs may be legally harvested as provided in subsection 368(a).

(4) Any person hunting wild pigs shall carry a wild pig license tag while hunting wild pigs, and upon the killing of any wild pig shall immediately fill out both parts of the tag, clearly mark the date of the kill and attach the tag to the carcass of the wild pig. The report card portion shall be immediately returned to the department.

(g) Big Game Drawing System

(1) General Conditions

(A) Except as otherwise provided, the department shall award license tags for premium deer (X zones, additional hunts, and Area-specific archery hunts), bighorn sheep, elk and pronghorn antelope hunts, as described in sections 360(b) and (c), 361, 362, 364 and 363, using a Modified-Preference Point drawing system.

(B) Except as otherwise provided, the Modified-Preference Point drawing system shall award proportions of hunt tag quotas, as specified for each species, using the following drawing methods:

1. Preference Point Drawings. Tags are awarded based on the following order of priority: an applicant's hunt choice (first choice only for

deer), accumulated point totals by species (highest to lowest), and computer-generated random number (lowest to highest).

2. Draw-By-Choice Drawings. Tags are awarded according to an applicant's hunt choice and computer-generated random number (lowest to highest), without consideration of accumulated points.

(C) Except as otherwise provided, applicants unsuccessful in receiving a tag for premium deer (based on first choice selection), bighorn sheep, elk or pronghorn antelope hunts shall earn one (1) preference point for use in future Big Game Drawings.

(D) To earn and accumulate a point for any species, a person must comply with all application requirements for that species as specified in subsections 708(a), (b), (c) and (d), including the following conditions:

1. Applicants must be at least 12 years of age on or before July 1 of the license year for which they are applying (16 years of age for bighorn sheep applications).

2. Applicants must possess a California hunting license valid for the hunting season requested (applicants for apprentice deer hunts must possess a junior hunting license). Applicants must provide evidence of such license at the time of application.

3. Applications for bighorn sheep, pronghorn antelope and elk hunts must include the appropriate nonrefundable processing fees.

4. Applications must be received by the department's License and Revenue Branch in Sacramento by 5:00 p.m. on the first business day after June 1.

5. Except for apprentice deer hunt applicants, applicants shall not submit more than one drawing application for each species during the same license year.

(E) No applicant shall earn more than one (1) preference point per species, per drawing, for use in future drawings. Preference points are accumulated by species and shall not be transferred to another species or another person. Preference points are not zone or hunt specific.

(F) Except as otherwise provided, successful applicants receiving tags for their first choice premium deer, bighorn sheep, elk or pronghorn antelope hunts shall lose all preference points for that species.

(G) For party applications, the department shall use the average preference point value of all party members (total preference points for the party divided by number of party members) as the basis for consideration in the drawing for that species. Point averages shall not be rounded.

(H) Except as otherwise provided, persons who do not wish to apply for an antelope, elk, bighorn sheep or premium deer tags may earn one (1) preference point for any or all of these species, by submitting the appropriate application(s), as specified in subsections 708 (a), (b), (c) and (d), and writing the point code number for that species, as defined by the department, in the hunt choice box (first choice only for deer). Persons applying for a preference point in this manner shall be subject to the same application requirements as regular drawing applicants as specified in subsection 708(g)(1)(D).

(I) The department shall maintain records of preference points earned by individual applicants based on the hunter identification number provided on each application (driver's license number, Department of Motor Vehicles identification number, or hunter identification number assigned by the department). Applicants shall notify the department's License and Revenue Branch in Sacramento in writing, of any changes or corrections regarding name, mailing address, date of birth or hunter identification number.

(J) Persons not applying for premium deer, bighorn sheep, elk, or pronghorn antelope hunts through the department's Big Game Drawings for five (5) consecutive years shall have their preference points for that species reduced to zero (0). For the purposes of this subsection, persons whose applications are disqualified from drawing shall be considered the same as persons not applying. Applying for preference points as described in (H) above, will keep an applicant's file active.

(K) Any person may appeal incomplete, late and ineligible applications or applications submitted without the appropriate processing fee that were not included in the department's big game drawing and the hunter did not earn a preference point. The appeal must be in writing and describe the basis for the appeal. The appeal shall be received by the department's License and Revenue Branch in Sacramento, or if mailed, postmarked on or before May 31 of the following year.

(2) Premium Deer Hunts

(A) Except for apprentice deer hunt applicants, as specified in subsection 708(a)(2)(E), persons must use a first-deer tag application to apply for premium deer hunts through the department's Big Game Drawing.

(B) License tags for premium deer hunts (except apprentice deer hunts) shall be awarded based on the following:

1. Ninety percent (90%) of the individual zone or hunt tag quota shall be awarded using a Preference Point drawing. Tag quota splits resulting in decimal fractions of a tag shall be rounded to the next higher whole number.

2. Ten percent (10%) of the individual zone or hunt tag quota shall be awarded using a Draw-By-Choice drawing. Tag quota splits resulting in decimal fractions of a tag shall be rounded to the next lower whole number.

3. For zones or hunts with quotas less than ten (10) tags, one (1) tag shall be awarded using a Draw-By-Choice drawing. Remaining tags shall be awarded using a Preference Point drawing.

4. Tags awarded to applicants for second or third choice zones or hunts shall be through a Draw-By-Choice drawing and shall not result in loss of accumulated points.

(C) License tags for apprentice deer hunts (J Hunts) as described in subsection 360(c) shall be awarded based on the following:

1. Fifty percent (50%) of the hunt tag quota shall be awarded through a Preference Point drawing. Tag quota splits resulting in decimal fractions of a tag shall be rounded to the next higher whole number.

2. Fifty percent (50%) of the hunt tag quota shall be awarded through a Draw-By-Choice drawing. Tag quota splits resulting in decimal fractions of a tag shall be rounded to the next lower whole number.

(D) An apprentice hunter applying for premium deer hunts (X zones, Area-specific archery hunts, and additional hunts) on a first-deer tag application and a second-deer tag application shall:

1. Receive a point only if he/she is unsuccessful in the big game drawing with his/her first choice on both applications.

2. Lose all preference points for deer if he/she receives his/her first choice on either application.

(3) Bighorn Sheep Hunts

(A) Successful bighorn sheep tag applicants shall be determined as follows, based on tag quotas for each hunt.

1. For quotas of one, the tag shall be awarded using a Draw-By-Choice drawing.

2. For quotas of two, one tag shall be awarded using a Preference Point drawing, and one tag shall be awarded using a Draw-By-Choice drawing.

3. For quotas of three, two tags shall be awarded using a Preference Point Drawing, and one tag shall be awarded using a Draw-By-Choice drawing.

4. For quotas of four or more, seventy-five percent (75%) of the quota shall be awarded using a Preference Point drawing. Any resulting fractional tag shall be rounded to the next higher whole number. The remaining portion of the quota shall be awarded using a Draw-By-Choice drawing.

(B) Alternates shall be selected for each hunt using a Preference Point Drawing.

(4) Elk Hunts

(A) Successful elk tag applicants shall be determined as follows, based on tag quotas for each hunt or hunt period.

1. For quotas of one, the tag shall be awarded using a Draw-By-Choice drawing.

2. For quotas of two, one tag shall be awarded using a Preference Point drawing, and one tag shall be awarded using a Draw-By-Choice drawing.

3. For quotas of three, two tags shall be awarded using a Preference Point drawing, and one tag shall be awarded using a Draw–By–Choice drawing.

4. For quotas of four or more, seventy–five percent (75%) of the quota shall be awarded using a Preference Point drawing. Any resulting fractional tag shall be rounded to the next higher whole number. The remaining portion of the quota shall be awarded using a Draw–By–Choice drawing.

5. Party applications shall be split as described in Section 708(d)(3) to fill the last tag available through the Preference Point drawing. Party applications shall not be split to fill the last tag available through the Draw–By–Choice drawing.

(B) Alternates shall be selected for each hunt or hunt period using a Preference Point drawing.

(5) Pronghorn Antelope Hunts

(A) Successful pronghorn antelope tag applicants shall be determined as follows, based on tag quotas for each hunt or hunt period.

1. For quotas of one, the tag shall be awarded using a Draw–By–Choice drawing.

2. For quotas of two, one tag shall be awarded using a Preference Point drawing, and one tag shall be awarded using a Draw–By–Choice drawing.

3. For quotas of three, two tags shall be awarded using a Preference Point drawing, and one tag shall be awarded using a Draw–By–Choice drawing.

4. For quotas of four or more, seventy–five percent (75%) of the quota shall be awarded using a Preference Point drawing. Any resulting fractional tag shall be rounded to the next higher whole number. The remaining portion of the quota shall be awarded using a Draw–By–Choice drawing.

5. Party applications shall be split as described in Section 708(c)(2) to fill the last tag available through the Preference Point drawing. Party applications shall not be split to fill the last tag available through the Draw–By–Choice drawing.

(B) Alternates shall be selected for each hunt or hunt period using a Preference Point drawing.

NOTE: Authority cited: Sections 200, 202, 203, 215, 219, 220, 331, 332, 1050, 1572, 4302, 4331, 4336, 4340, 4341 and 10502, Fish and Game Code. Reference: Sections 200–203.1, 207, 210, 215, 219, 220, 331, 332, 713, 1050, 1570–1572, 3950, 3951, 4302, 4330–4333, 4336, 4340, 4341, 4652–4655, 4657, 4750–4756, 4902, 10500 and 10502, Fish and Game Code.

HISTORY

1. New section filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).
2. Amendment of section and NOTE filed 3–27–2003; operative 4–26–2003 (Register 2003, No. 13).
3. Change without regulatory effect amending subsections (a)(2)(B), (b)(2), (c)(1)–(2), (d)(2)–(3) and (e)(2) filed 7–14–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 29).
4. Amendment of subsections (a)(2)(A)1., (a)(2)(B), (a)(2)(F), (b)(2), (c)(1)–(2), (d)(2)–(3), (e)(2) and (f)(2) filed 7–7–2004; operative 7–7–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 28).
5. Amendment filed 7–19–2005; operative 7–19–2005 pursuant to Government Code section 11343.4 (Register 2005, No. 29).
6. Amendment filed 8–4–2006; operative 8–4–2006 pursuant to Government Code section 11343.4 (Register 2006, No. 31).
7. Amendment filed 5–29–2007; operative 5–29–2007 pursuant to Government Code section 11343.4 (Register 2007, No. 22).
8. Amendment of subsections (a)(2)(C)1., (a)(2)(E)2.c.–d., (c)(1), (g)(1)(D)2., (g)(1)(D)5., (g)(2)(A)–(B), (g)(2)(C) and (g)(2)(D) filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 710. Hunter Education Training Equivalency.

(a) The department may evaluate the quality and coverage of hunter education courses offered by other countries, their political subdivision, or by the Armed Forces of the United States. Upon satisfactory evidence that a course fully meets or exceeds the requirements of the California hunter education course, the department may issue to graduates of such courses a California Certificate of Equivalency. (NOTE: See section 3050 (a)(3) of the Fish and Game Code regarding hunter safety certificates from other states.)

(b) The department shall prepare a comprehensive hunter education equivalency examination, to be administered to qualified applicants. Pass/fail criteria will be established by the department. Qualification to take the equivalency examination must include affirmation that the applicant has not previously taken and failed the examination.

Applicants who successfully pass the equivalency examination will be issued a hunter education certificate of equivalency.

NOTE: Authority cited: Sections 1050, and 3050, Fish and Game Code. Reference: Sections 711, 1050, and 3049–3055, Fish and Game Code.

HISTORY

1. New section filed 3–17–71; designated effective 6–1–71 (Register 71, No. 12).
2. Repealer filed 4–7–76; effective thirtieth day thereafter (Register 76, No. 15).
3. New section filed 8–31–79 as an emergency; designated effective 9–1–79 (Register 79, No. 35). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 12–29–79.
4. Certificate of Compliance filed 11–9–79 (Register 79, No. 45).
5. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
6. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
7. Amendment of subsection (b) filed 2–5–86; effective thirtieth day there after (Register 86, No. 6).
8. Amendment of subsection (a) and (b) and new subsection (c) filed 10–18–90; operative 11–17–90 (Register 90, No. 47).
9. Change without regulatory effect amending section heading and subsections (a) and (b) filed 3–28–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 13).

§ 711. Cold Storage/Frozen Food Locker Plant Records.

(a) Any person operating a cold storage plant or frozen food locker plant where game birds or game mammals, or parts thereof, taken pursuant to a hunting license are processed, preserved or stored, shall prepare and maintain the following records:

(1) name and address of residency of the individual who delivers the game bird or game mammal to the facility;

(2) name, address of residency and hunting license number, and tag number if applicable, of the individual who took the game bird or game mammal;

(3) location of kill—State_____ County_____ Deer Zone or Special Hunt Number_____;

(4) species; and

(5) date received.

(b) The records required by this section shall be maintained at the facility for a period of one year for each game bird or game mammal retained, and shall be open for inspection by wardens of the Department.

NOTE: Authority cited: Section 200, Fish and Game Code. Reference: Sections 200 and 3086, Fish and Game Code.

HISTORY

1. New section file 9–8–88; operative 9–8–88 (Register 88, No. 38). For history of former Section 711, see Registers 81, No. 29 and 73, No. 30.
2. Amendment of subsection (a)(4), repealer of subsection (a)(5), subsection renumbering and amendment of subsection (b) filed 6–28–2002; operative 6–28–2002 pursuant to Fish and Game Code sections 202 and 215 (Register 2002, No. 26).

§ 712. Restriction of Importation of Hunter–Harvested Deer and Elk Carcasses.

It is unlawful to import, or possess any hunter harvested deer or elk (cervid) carcass or parts of any cervid carcass imported into the State, except for the following body parts:

(a) portions of meat with no part of the spinal column, brain or head attached (other bones, such as legs and shoulders, may be attached).

(b) hides and capes (no spinal column, brain tissue or head may be attached).

(c) clean skull plates (no brain tissue may be present) with antlers attached.

(d) antlers with no meat or tissue attached, except legally harvested and possessed antlers in the velvet stage are allowed, if no meat, brain or other tissue is attached.

(e) finished taxidermy mounts with no meat or tissue attached (antlers in the velvet stage are allowed if no meat, brain or other tissue is attached).

(f) upper canine teeth (buglers, whistlers, ivories).

NOTE: Authority cited: Sections 200, 203, 240 and 2355, Fish and Game Code. Reference: Sections 200, 203 and 2355, Fish and Game Code.

HISTORY

1. New section filed 9–9–2002 as an emergency; operative 9–9–2002 (Register 2002, No. 37). A Certificate of Compliance must be transmitted to OAL by 1–7–2003 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2003, No. 23).
3. New section filed 6–5–2003; operative 6–5–2003 pursuant to Government Code section 11343.4 (Register 2003, No. 23).
4. Amendment filed 6–20–2008; operative 6–20–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 25).

§ 720. Designation of Waters of Department Interest.

For the purpose of implementing Sections 1601 and 1603 of the Fish and Game Code which requires submission to the department of general plans sufficient to indicate the nature of a project for construction by or on behalf of any person, governmental agency, state or local, and any public utility, of any project which will divert, obstruct or change the natural flow or bed of any river, stream or lake designated by the department, or will use material from the streambeds designated by the department, all rivers, streams, lakes, and streambeds in the State of California, including all rivers, streams and streambeds which may have intermittent flows of water, are hereby designated for such purpose.

NOTE: Authority cited: Sections 1601 and 1603, Fish and Game Code. Reference: Sections 1601 and 1603, Fish and Game Code.

HISTORY

1. New section filed 4–5–71; effective thirtieth day thereafter (Register 71, No. 15).
2. Amendment filed 1–18–77 as an emergency; effective upon filing (Register 77, No. 4).
3. Certificate of Compliance filed 3–16–77 (Register 77, No. 12).

§ 721. Temporary Reduction of Flows from Grizzly Valley Dam During Rotenone Treatment of Lake Davis and Its Tributaries (Plumas County) for the Eradication of Northern Pike.

Temporary Reduction of Flows from Grizzly Valley Dam During Rotenone Treatment of Lake Davis and Its Tributaries (Plumas County) for the Eradication of Northern Pike. Fish and Game Code Section 5937 is superseded for the limited and specific purpose of implementation of a project using rotenone to eradicate northern pike from Lake Davis and its tributaries to protect fish, wildlife, and other natural resources under the jurisdiction of the Commission. The outlet valve at Grizzly Valley Dam may be closed for a period of up to 45 days, notwithstanding Fish and Game Code Section 5937.

NOTE: Authority cited: Sections 215, 219, 220 and 315, Fish and Game Code. Reference: Sections 215 and 220, Fish and Game Code.

HISTORY

1. New section filed 6–11–2007; operative 7–11–2007 (Register 2007, No. 24). Section 721 was adopted pursuant to Fish and Game Code section 219. Section 219 requires that "A regulation adopted pursuant to this section shall remain in effect for not more than 12 months from its effective date."

[The next page is 191.]

§ 730. Camping Near or Occupying Wildlife Watering Places.

(a) Camping/Occupying Defined. For purposes of this Section, camping/occupying is defined as establishing or inhabiting a camp; resting; picnicking; sleeping; parking or inhabiting any motor vehicle or trailer; hunting; or engaging in any other recreational activity for a period of more than thirty (30) minutes at a given location.

(b) Wildlife Watering Places Defined. For purposes of this Section, wildlife watering places are defined as waterholes, springs, seeps and man–made watering devices for wildlife such as guzzlers (self–filling, in–the–ground water storage tanks), horizontal wells and small impoundments of less than one surface acre in size.

(c) Prohibitions.

(1) Camping/Occupying is prohibited within 200 yards of the following:

(A) Any guzzler or horizontal well for wildlife on public land within the State of California.

(B) Any of the wildlife watering places on public land within the boundary of the California Desert Conservation Area as depicted on the Bureau of Land Management maps of "Calif. Federal Public Lands Responsibility," "Calif. Desert Conservation Area" and the new "Desert District, B.L.M."

(2) Camping/Occupying is prohibited within one–quarter mile of the following wildlife watering places:

(A) Butte Well—T31N, R14E, Section 28, NE1/4, M.D.B.M., Lassen County.

(B) Schaffer Well—T31N R14E, Section 25, Center, M.D.B.M., Lassen County.

(C) Tableland Well—T31N, R14E, Section 17, SE1/4, M.D.B.M., Lassen County.

(D) Table Mountain Well—T31N, R14E, Section 32, SE1/4, M.D.B.M., Lassen County.

(E) Timber Mountain Well—T44N, R6E, Section 33, M.D.B.M., Modoc National Forest, Modoc County.

(F) Belfast Well—T31N, R14E, Section 31, NE1/4, M.D.B.M., Lassen County.

NOTE: Authority cited: Section 308.5, Fish and Game Code. Reference: Section 308.5, Fish and Game Code.

HISTORY

1. New section filed 8–3–71; effective thirtieth day thereafter (Register 71, No. 32).
2. Amendment of subsection (a) filed 1–28–76; effective thirtieth day thereafter (Register 76, No. 5).
3. Amendment of subsections (b)(1) and (b)(5) filed 6–13–78; effective thirtieth day thereafter (Register 78, No. 24).
4. Amendment of subsection (b)(4) filed 11–9–79; effective upon filing (Register 79, No. 45).
5. Repealer and new section filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
6. New subsection (a)(6) filed 1–26–84; effective thirtieth day thereafter (Register 84, No. 4).
7. Amendment of subsection (c) filed 7–13–94; operative 7–13–94 pursuant to sections 202 and 215, Fish and Game Code (Register 94, No. 28).
8. Amendment of section heading and repealer and new section filed 8–31–98; operative 8–31–98 pursuant to sections 202 and 215, Fish and Game Code (Register 98, No. 36).

§ 740. Oil Sumps Hazardous to Wildlife.

(a) Definitions:

(1) (Reserved)

(2) "Oil sump" means any open depression or basin in the ground, whether manmade or natural, which contains oil or a combination of oil and water.

(3) "Hazardous" means a condition within an oil sump where over ten percent of the surface area, or over 100 square feet is covered with a coating of oil.

(b) Notification to State Oil and Gas Supervisor: Within five (5) days after finding an oil sump hazardous or of immediate and grave danger to wildlife, the department shall notify the State Oil and Gas Supervisor. The notification shall clearly specify one of the following:

(1) The oil sump is hazardous to wildlife but does not constitute an immediate or grave danger to wildlife.

(2) The oil sump constitutes an immediate and grave danger to wildlife.

(c) Exceptions:

(1) Oil sumps which are adequately screened or eliminated pursuant to Section 1016 of the Fish and Game Code and Sections 3780–3784 of the Public Resources Code are excepted from the provisions of this section.

(2) Oil sumps that are an integral part of refinery operations shall be excepted from subsection (a)(2) above.

NOTE: Authority cited: Section 1016, Fish and Game Code. Reference: Section 1016, Fish and Game Code.

HISTORY

1. New section filed 1–18–74 as an emergency; effective upon filing (Register 74, No. 3).
2. Certificate of Compliance filed 3–12–74 (Register 74, No. 11).
3. Amendment filed 11–4–74 as an emergency; effective upon filing (Register 74, No. 45).
4. Certificate of Compliance filed 2–19–75 (Register 75, No. 8).
5. Amendment filed 2–20–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 8).
6. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
7. Order of Repeal of subsection (a)(1) filed 6–3–85 by OAL pursuant to Government Code Section 11349.7; effective thirtieth day thereafter (Register 85, No. 26).

§ 744. Limitations on Public Benefits for Aliens.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Sections 2536, 3200, 3201, 3240.5, 3300, 3401, 3406, 4030, 4032, 6650, 7850, 7920, 8030 and 8460, Fish and Game Code; and 8 U.S.C. Sections 1621, 1641 and 1642.

HISTORY

1. New section filed 3–9–98 as an emergency; operative 3–9–98 (Register 98, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–7–98 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 98, No. 46).

§ 745. Guide Licenses.

Revocable guide licenses may be issued as follows:

(a) License Application. Applications shall be submitted on forms furnished by the department. Applications shall be accompanied by the required license fee and proof that the applicant possesses a surety bond in the amount of $1,000 to insure faithful performance of the applicant and the applicant's agents or employees in fulfilling their responsibilities to their clients.

(1) In addition to other information requested, applicant shall certify that he has not been convicted of any fish and game violation or forfeited bail in connection with any such violation in the preceding 24 months.

(b) License Year. Guide licenses shall be valid from February 1 through January 31 of the following year. Guide licenses issued after the beginning of the license year shall be valid for the remainder thereof.

(c) License Revocation. Upon the conviction of a licensed guide for violation of any provision of the Fish and Game Code or any regulation adopted pursuant thereto, or upon the violation of any such law or regulation by any client of such guide when the violation has been knowingly permitted by the guide or an employee or assistant of such guide, the department shall inform the commission of such violation. The commission may thereafter revoke the guide license. The licensee shall be notified of the revocation proceedings and shall be provided an opportunity to be heard.

Any person who has had his guide license revoked shall not act as a guide or assist any guide during the period of revocation.

(d) Notice to Clients. Prior to guiding any person to a place where such person intends to take any bird, mammal, fish, amphibian, or reptile, a licensed guide shall furnish a written statement to the person to be guided. Such statement must contain information describing the services which the guide agrees to perform, the cost of those services, and the guide's license number. A copy of such statement shall be available to the department or its representatives upon request.

(e) Records. Each guide, when guiding for big game mammals or fish, shall make a record of each guided trip on forms furnished by the department. The record shall contain the name, address, and license number of each person being guided and the purpose of the trip. The guide record shall be in the field with the guide and client during the trip and shall be shown on demand to any department representative. If big game mammals or fish are taken on the trip, the record shall show the number of animals, species, location taken (section, township, and range), and tag number if a tag is required.

Such records shall be completed immediately upon returning to the vehicle, camp, or headquarters, whichever is closest to the site where the animals were taken. Such records shall be accurate, legible, and complete.

The completed original record of guided hunting or fishing trips during the month shall be received by the department no later than the 10th day of the following month and all records for the preceding month shall be included in one mailing.

The duplicate copy of the record shall be retained by the licensed guide for a period of one year. The records shall be shown on demand to any department representative.

Failure of a guide to comply with subsection (e) shall be sufficient cause for the department to refuse to issue a new license to such guide or to revoke a current license.

NOTE: Authority cited: Sections 2535–2546, Fish and Game Code. Reference: Sections 2535–2546, Fish and Game Code.

HISTORY

1. New section filed 3–21–75; effective thirtieth day thereafter (Register 75, No. 12).
2. Amendment filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
3. Amendment of subsections (d) and (i) filed 6–7–82; effective thirtieth day thereafter (Register 82, No. 24).
4. Amendment filed 8–7–85; effective thirtieth day thereafter (Register 85, No. 32).
5. Editorial correction of NOTE filed 9–20–85; effective thirtieth day thereafter (Register 85, No. 38).
6. Amendment of subsection (e) filed 11–21–86; effective upon filing pursuant to Fish and Game Code Section 215 (Register 86, No. 47).

§ 745.5. Revocation or Suspension of Hunting or Sport Fishing Privileges.

(a) The commission may suspend or revoke a person's hunting or sport fishing license or permit privileges, provided that:

(1) in a court of law the person is convicted of a violation of any provision of the California Fish and Game Code; any provision of Title 14, California Code of Regulations; or any other provision of law intended to protect fish and wildlife of the State of California; and

(2) the commission complies with the procedures set forth in section 746, Title 14, California Code of Regulations.

(3) the hearing officer determines the person committed the offense intentionally, knowingly, or recklessly.

(b) A person whose license or permit privileges have been suspended or revoked pursuant to Fish and Game Code Section 12154, 12155, or 12156 may appeal the revocation to the commission, and the commission shall comply with the procedures set forth in subdivision (a) of section 746, Title 14, California Code of Regulations.

(c) The procedures set forth in section 746, Title 14, California Code of Regulations shall not apply to a person described in subdivision (a) of Fish and Game Code Section 4340 and 4754.

(d) As used in this section, "license or permit privileges" means the privilege of applying for, purchasing, and exercising the benefits conferred by a license or permit issued by the Department of Fish and Game.

(e) Any person whose license or permit privileges have been suspended or revoked shall be subject to the terms of the Wildlife Violator Compact as set forth in Fish and Game Code Section 716.

NOTE: Authority cited: Section 12155.5, Fish and Game Code. Reference: Sections 4340, 4754, 12154, 12155, 12155.5 and 12156, Fish and Game Code.

HISTORY

1. New section filed 3–25–2005; operative 4–24–2005 (Register 2005, No. 12).

§ 746. Procedures for License or Permit Revocations, Suspensions, Reinstatements, Transfers or Waivers of Renewal Requirements Including Hunting and Sport Fishing License or Permit Privileges.

Except where revocation, suspension, transfer, reinstatement or waiver of renewal requirement procedures are specifically provided for by the Fish and Game Code or regulations made pursuant thereto, the commission, pursuant to the provisions of Section 309 of the Fish and Game Code, shall comply with the following minimum safeguards to afford each applicant, licensee or permittee procedural and substantive due process when the commission considers revocation, suspension, transfer, reinstatement or waiver of renewal requirements for a license or permit including hunting and sport fishing license or permit privileges.

(a) In the case where the applicant, licensee or permittee has already been convicted of a violation of the Fish and Game Code or any regulation pertaining to the activity licensed or permitted by said code, the commission shall comply with the following:

(1) The commission's president may appoint a commissioner, the commission's legal counsel, a former Executive Director of the commission, or a member of the State Bar of California with at least ten years' experience in the active practice of law and determined qualified by the president, to serve as a hearing officer.

(2) The hearing shall be held at such time and location determined by the hearing officer with due consideration for the convenience of the parties and the ends of justice. The hearing officer may engage in exparte communications with the parties for the purpose of setting a time and place of hearing.

(3) The commission shall notify the applicant, licensee or permittee, by certified letter, of the commission's intent to consider the revocation or suspension of his or her license or permit privileges. The certified letter shall include the following information:

(A) Name of applicant, licensee or permittee and last known address the Department of Fish and Game has on file.

(B) Date, time and place of scheduled hearing.

(C) Reason for potential commission action, including a statement as to the date and fact of conviction.

(D) A copy of Section 746, Title 14, California Code of Regulations.

(E) A statement that the applicant, licensee or permittee has the right to appear and to be represented by counsel.

(F) A statement that any continuance of the scheduled hearing date may be obtained only through compliance with subsection (d) of Section 746, Title 14, California Code of Regulations.

(4) The proceedings of the hearing shall be recorded by a court reporter or an electronic tape recording system.

(5) The hearing shall be conducted by the hearing officer who shall control the nature and order of the proceedings.

(6) At the hearing, the hearing officer shall read the conviction documents. The department shall provide the hearing officer with the background information regarding the violation and conviction and shall submit into the record a copy of a document which includes the facts of the conviction of a violation of regulation or statute.

(7) The applicant, licensee or permittee shall make his or her statement regarding the violation and conviction, and may argue that extenuating circumstances were such as to not warrant the loss of his or her license or permit privileges.

(8) The hearing officer may examine any party or witness.

(9) Within 30 days of the conclusion of the hearing, the hearing officer shall prepare and submit to the executive director a proposed decision which shall include proposed findings or reasons for the commission's action.

(10) Upon receipt of the proposed decision, the commission shall provide counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the hearing officer's proposed decision.

(11) At a meeting of the commission, no later than 60 days following receipt of the hearing officer's proposed decision, the commission shall

consider adoption of the proposed decision. The commission may by order adopt, revise or reject the proposed decision. The commission shall serve counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the commission's order and decision. The order is final.

(12) The applicant, licensee or permittee may request judicial review by filing a petition for writ of mandate in accordance with provisions of the Code of Civil Procedure within 30 days from the date of service (postmark) of the order. The record of the proceedings as designated by the petitioner shall be prepared by the commission and delivered to petitioner's counsel or, if appearing pro se, the petitioner within 30 days after petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

(b) In the case where the applicant, licensee or permittee has not been convicted of a violation of the Fish and Game Code or any regulation pertaining to the activity licensed or permitted by said code, but has been cited by the department, the commission shall comply with the following:

(1) The commission's president may appoint a commissioner, the commission's legal counsel, a former Executive Director of the commission, or a member of the State Bar of California with at least ten years experience in the active practice of law and determined qualified by the president, to serve as a hearing officer.

(2) The hearing shall be held at such time and location determined by the hearing officer with due consideration for the convenience of the parties and the ends of justice except that any hearing requested by the holder of a commercial lobster permit, pursuant to Section 8254.7 of the Fish and Game Code, shall be held within the time specified therein. The hearing officer may engage in exparte communications with the parties for the purpose of setting a time and place of hearing.

(3) The commission shall notify the applicant, licensee or permittee, by certified letter, of the commission's intent to consider the revocation or suspension of his or her license or permit privileges. The certified letter shall include the following information:

(A) Name of applicant, licensee or permittee and last known address the Department of Fish and Game has on file.

(B) Date, time and place of scheduled hearing.

(C) Reason for potential commission action, including a concise statement of the alleged acts or omissions of the applicant, licensee or permittee which constitute a violation of the Fish and Game Code and regulations made pursuant thereto with specific citations of the code sections alleged to have been violated.

(D) A copy of Section 746, Title 14, California Code of Regulations.

(E) A statement that the applicant, licensee or permittee has the right to appear and to be represented by legal counsel.

(F) A statement that any continuance of the scheduled hearing date may be obtained only through compliance with subsection (d) of Section 746, Title 14, California Code of Regulations.

(4) The proceedings of the hearing shall be recorded by a court reporter or an electronic tape recording system.

(5) The hearing shall be conducted by the hearing officer who shall control the nature and order of the proceedings.

(6) The applicant, licensee, permittee and the department have the right to present evidence at the scheduled hearing as follows:

(A) Oral evidence shall be taken on oath or affirmation.

(B) The parties may submit affidavits by adhering to the procedure set out for the submission of affidavits in lieu of testimony in judicial arbitration proceedings, California Rules of Court, Rule 1613, subdivision (b)(2), and may submit transcripts of depositions by adhering to the procedure set out for the submission of depositions in judicial arbitration proceedings, California Rules of Court, Rule 1613, subdivision (b)(3).

(C) Each party may call and examine witnesses, cross-examine opposing witnesses on any relevant matter, may rebut evidence against him or her, and may orally argue the matter.

(D) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons would rely in the conduct of serious affairs.

(7) The hearing officer may examine any party or witness.

(8) Within 30 days of the conclusion of the hearing, the hearing officer shall prepare and submit to the executive director a proposed decision based on the evidence presented at the hearing. The decision shall contain proposed findings and reasons for the commission's action.

(9) Upon receipt of the proposed decision, the commission shall provide counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the hearing officer's proposed decision.

(10) At a meeting of the commission, no later than 60 days following the receipt of the hearing officer's proposed decision, the commission shall consider adoption of the proposed decision. The commission may by order adopt, revise or reject the proposed decision. The commission shall serve counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the commission's order and decision. The order is final.

(11) The applicant, licensee or permittee may request judicial review by filing a petition for writ of mandate in accordance with provisions of the Code of Civil Procedure within 30 days from the date of service (postmark) of the order. The record of the proceedings as designated by the petitioner shall be prepared by the commission and delivered to petitioner's counsel or, if appearing pro se, the petitioner within 30 days after petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

(c) In the case where the applicant, licensee or permittee has neither been convicted nor cited by the department for a violation of the Fish and Game Code, but is appealing department denial of issuance, transfer, reinstatement or requesting waiver of renewal requirements for any permit or license, including a hunting or sport fishing license or permit, the commission shall comply with the following:

(1) The commission's president may appoint a commissioner, the commission's legal counsel, a former Executive Director of the commission, or a member of the State Bar of California with at least ten years experience in the active practice of law and determined qualified by the president, to serve as a hearing officer.

(2) The hearing shall be held at such time and location determined by the hearing officer with due consideration for the convenience of the parties and the ends of justice. The hearing officer may engage in exparte communications with the parties for the purpose of setting a time and place of hearing.

(3) The commission shall notify the applicant, licensee or permittee, by certified letter, of the commission's intent to consider the request for issuance, reinstatement or waiver of renewal requirements for the license or permit. The certified letter shall include the following information:

(A) Name of applicant, licensee or permittee and last known address the Department of Fish and Game has on file.

(B) Date, time and place of scheduled hearing.

(C) A copy of Section 746, Title 14, California Code of Regulations.

(D) A statement that the applicant, licensee or permittee has the right to appear and to be represented by legal counsel.

(E) A statement that any continuance of the scheduled hearing date may be obtained only through compliance with subsection (d) of Section 746, Title 14, California Code of Regulations.

(4) The proceedings of the hearing shall be recorded by a court reporter or an electronic tape recording system.

(5) The hearing shall be conducted by the hearing officer who shall control the nature and order of the proceedings.

(6) The applicant, licensee or permittee and the department have the right to present evidence at the hearing as follows:

(A) Oral evidence shall be taken on oath or affirmation.

(B) The parties may submit affidavits by adhering to the procedure set out for the submission of affidavits in lieu of testimony in judicial arbitration proceedings, California Rules of Court, Rule 1613, subdivision (b)(2), and may submit transcripts of depositions by adhering to the pro-

cedure set out for the submission of depositions in judicial arbitration proceedings, California Rules of Court, Rule 1613, subdivision (b)(3).

(C) Each party may call and examine witnesses, cross-examine opposing witnesses on any relevant matter, may rebut evidence against him or her, and may orally argue the matter.

(D) The hearing need not be conducted according to the technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons would rely in the conduct of serious affairs.

(7) The hearing officer may examine any party or witness.

(8) Within 30 days of the conclusion of the hearing, the hearing officer shall prepare and submit to the executive director a proposed decision based on the evidence presented at the hearing. The decision shall contain proposed findings and reasons for the commission's action.

(9) Upon receipt of the proposed decision, the commission shall provide counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the hearing officer's proposed decision.

(10) At a meeting of the commission, no later than 60 days following the receipt of the hearing officer's proposed decision, the commission shall consider adoption of the proposed decision. The commission may by order adopt, revise or reject the proposed decision. The commission shall serve counsel or, if appearing pro se, the applicant, licensee or permittee, by certified mail, a copy of the commission's order and decision. The order is final.

(11) The applicant, licensee or permittee may request judicial review by filing a petition for writ of mandate in accordance with provisions of the Code of Civil Procedure within 30 days from the date of service (postmark) of the order. The record of the proceedings as designated by the petitioner shall be prepared by the commission and delivered to petitioner's counsel or, if appearing pro se, the petitioner within 30 days after petitioner's request and upon payment of the fee specified in Section 69950 of the Government Code.

(d) Requests or applications to continue a hearing shall be made in writing to the hearing officer or the Executive Director of the commission. The hearing officer or the Executive Director must receive the request no less than two business days prior to the scheduled date of the hearing. A copy of the request shall also be sent to the department. The application shall include the case name and the date, time, and place of the scheduled hearing. The application shall identify any previous requests to continue the matter. The application shall also contain a statement of all facts the applicant contends constitute good cause to continue the matter. The hearing officer or the Executive Director has the discretion to waive the requirement for written application upon a showing of additional good cause. In cases where the licensee or permittee is appealing department denial of issuance, transfer, reinstatement or requesting waiver of renewal requirements for any permit or license pursuant to subsection (c), above, failure to appear as scheduled or to comply with this provision shall be deemed a withdrawal of the appeal.

NOTE: Authority cited: Sections 309 and 12155.5, Fish and Game Code. Reference: Sections 309, 7852.2, 8254.7, 8280.4, 8422, 8423.5, 8562, 8569, 12154, 12155, 12155.5 and 12156, Fish and Game Code.

HISTORY

1. New section filed 1-26-87; effective upon filing pursuant to Fish and Game Code Section 215 (Register 87, No. 5).
2. Amendment of section heading, section and NOTE filed 1-6-2000; operative 1-6-2000 pursuant to Fish and Game Code sections 202 and 215 (Register 2000, No. 1).
3. Amendment of section heading, section and NOTE filed 3-25-2005; operative 4-24-2005 (Register 2005, No. 12).
4. Amendment of subsections (a)(1), (b)(1) and (c)(1) and new subsections (a)(3)(F), (b)(3)(F), (c)(3)(E) and (d) filed 6-8-2006; operative 7-8-2006 (Register 2006, No. 23).

§ 747. Guidelines for Imposing Civil Penalties.

(a) Purpose and Scope.

The provisions of this section shall be applicable for the purposes of imposing civil liability and civil penalties under Fish and Game Code sections 500 and 2580-2589 for violations described therein.

(b) Definitions.

Definitions in the Fish and Game Code and regulations adopted pursuant thereto shall apply to this section unless otherwise provided herein.

For purposes of this section, the following definitions shall apply:

(1) The term "act done for profit or personal gain" shall mean an act done for the purpose of improving or which results in an improved financial, material, possessory or other position for the person. To establish that an act was done for profit or personal gain, the department need not establish that the value or benefit received from the act exceeded the costs of accomplishing the act.

(2) "Code" is defined as the Fish and Game Code.

(3) "Regulations" are defined as Title 14, Division 1, California Code of Regulations.

(4) "Civil penalty" shall mean both civil liability for prohibited acts as outlined in Section 2582 of the Code and civil penalty for prohibited acts as outlined in Section 2583 of the Code.

(5) "Item" shall mean an animal or its carcass in its entirety, or if the carcass is no longer maintained in its entirety, any part or product thereof.

(c) Imposition of Civil Penalties.

(1) In determining the amount of the civil penalty to be proposed in the complaint pursuant to sections 2582 and 2583 of the Code, and in determining the final civil penalty to be imposed pursuant to sections 2582 and 2583 of the Code, the Director shall consider the same factors, penalties and considerations as set forth for use by the qualified referee or hearing board (see subdivision (B) of section 2584 of the Fish and Game Code).

(2) If a violator has been previously put in jeopardy for the same act or conduct for which an action for a civil penalty is brought, the penalty established by the qualified referee or hearing board shall bear a rational relationship to compensating the State for its loss and will not be based upon the penalty criteria set forth below. In determining the loss to the State, the qualified referee or hearing board shall consider, among other things, investigation and prosecution fees and costs and reasonable liquidated damages, in addition to the impact that the violation had upon the resources.

(3) If the violation involves birds, mammals, amphibians, reptiles, or fish with a value in the aggregate of less than four hundred dollars ($400) and involves only the transporting, taking or receipt of fish or wildlife taken or possessed in violation of the Code, the civil penalty shall not exceed the maximum criminal fine provided by law for the violation in the Code or ten thousand dollars ($10,000), whichever is less.

(4) Civil penalties shall be imposed on a per item basis unless:

(A) Any of the aggravating factors specified in subsection (c)(8) of this section are found by the qualified referee or hearing board to be present. If any of the aggravating factors are found, the qualified referee or hearing board can impose the penalties as set forth in that subsection;

(B) The qualified referee or hearing board determines that it is impracticable to use a per item basis. In this case, the qualified referee or hearing board can determine a reasonable unit of measure and may impose a penalty based on that, but in no case can the cost per unit exceed the maximum per item penalty set forth below; or

(C) A mitigating factor is found by the qualified referee or hearing board to be present.

(5) The qualified referee or hearing board shall use the following considerations in assessing civil penalties within the ranges set forth below:

(A) The gravity of the violation, imposing lesser penalties for acts which have little significant effect upon the resources, and greater penalties for acts which may cause serious injury to the resources;

(B) The particular nature, extent, and circumstances of the violation; and

(c) The characteristics of the violator, including the violator's assets and other resources so as to ascertain the appropriate penalty level to deter future violations. This assessment shall also include a review of the violator's degree of culpability and involvement in the activity.

(6) In setting the civil penalties for acts set forth in sections 2582 and 2583 of the Code, the qualified referee or hearing board will base the penalty upon the fair market value of the item(s) plus the amounts for the items listed below. If no fair market value exist for the item, the Department may use any generally accepted valuation methodology generally in use at the time plus the amounts listed below:

(A) Big game as defined in Section 350 of the Regulations:	$400	–	$15,000
(B) Resident small game as defined in Section 257 of the Regulations:	$ 50	–	$ 1,000
(C) Migratory game birds as defined in Section 3500 of the Code:	$ 50	–	$ 1,000
(D) Nongame birds as defined in Section 3800 of the Code:	$ 50	–	$ 500
(E) Furbearing mammals as defined in Section 4000 of the Code:	$ 50	–	$ 1,000
(F) Marine mammals as defined in Section 4500 of the Code:	$400	–	$10,000
(G) Nongame mammals as defined in Section 4150 of the Code:	$ 50	–	$ 1,000
(H) Threatened, endangered, fully protected, specially protected and rare insects and animals as defined in sections 3511, 4700, 4800 and 5515 of the Code and Section 670.5 of the Regulations:	$400	–	$10,000
(I) Threatened, endangered, or rare plants, as defined in Section 670.2 of the Regulations:	$400	–	$ 5,000
(J) Fish as defined in Section 45 of the Code:	$.01	–	$ 1,000
(K) Reptiles:	$ 50	–	$ 1,000
(L) Wild animals as defined in Section 671 of the Regulations:	$400	–	$ 5,000

(7) In addition to the foregoing penalties, the qualified referee or hearing board may impose civil penalties for acts set forth in Code sections 2582(b) and 2582(c) and 2583 in the amounts as follows:

(A) Unlawfully exporting, importing, possessing, receiving, or transporting in interstate commerce any container or package that has not been marked, labeled, or tagged in accordance with the Code or Regulations and contains any bird, mammal, amphibian, reptile, or fish, or any endangered, rare, or threatened species, or any fully protected bird, mammal, amphibian, reptile or fish, or any part thereof, up to $1,000.00 for each container or package. The penalty under this section cumulatively shall not exceed $10,000.00 for acts or conduct taking place within a 24–hour period.

(B) Unlawful failure or refusal to maintain records or paperwork required by the Code or Regulations for the payment of taxes, fees, charges, or for export, import, possession, receipt or transport, up to $1,000.00 for each individual bird, mammal, amphibian, reptile or fish, or any endangered, rare or threatened species, or any full protected bird, mammal, amphibian, reptile or fish or any part thereof. The penalty under this section cumulatively shall not exceed $10,000.00 for acts or conduct taking place within a 24–hour period.

(8) If any one of the following aggravating factors is found by the qualified referee or hearing board to exist, the qualified referee or hearing board may, based on the totality of the circumstances surrounding the violation, impose a civil penalty of up to $10,000 for each bird, mammal, amphibian, reptile, fish or endangered or threatened species, or fully protected bird, mammal or fish:

(A) The violator's conduct was, in the opinion of the qualified referee or hearing board, intentional or reckless;

(B) The violator, within the last five (5) years, has been subject to a criminal or civil penalty for violation of the Code or related codes, been a subject to civil damages, or had any license document, including but not limited to a permit, suspended or revoked. This subsection shall not apply when the previous criminal or civil penalty, civil damage, or license suspension or revocation resulted from acts or conduct which are the same as those for which the civil penalty is currently sought;

(C) The acts of the violator could have resulted or did result in serious injury to the resources of the state;

(D) The acts of the violator were part of an illegal business enterprise or a legal business enterprise conducted illegally; or

(E) The acts of the violator took place in a wildlife management area. legislative refuge, ecological reserve, state marine reserve, state marine park, state marine conservation area, national wildlife refuge, national marine sanctuary, an area of critical concern, within the boundaries of a federal or state park or recreational area, or on other public lands or water set aside for the express purpose of protecting wildlife, plants, or habitat.

(d) If the qualified referee or hearing board finds that the violation was committed incidental to commercial fishing or processing activities, then the she/he shall impose a civil penalty based on the following schedule.

(1) If the illegally taken species constitute less than five percent, wet weight, of the load or lot, the civil penalty shall be $1,000.00, or the civil penalty listed in subsection (c)(6) above, whichever is less.

(2) If the illegally taken species constitutes five percent to ten percent, wet weight, of the load or lot, the civil penalty shall be $2,000.00, or the civil penalty listed in subsection (c)(6) above, whichever is less.

(3) If the illegally taken species constitute more than ten percent, wet weight, of the load or lot, the civil penalty listed in subsection (c)(6) above shall be imposed.

NOTE: Authority cited: Sections 500 and 2589, Fish and Game Code. Reference: Sections 500 and 2580–2589, Fish and Game Code.

HISTORY

1. New section filed 8–6–91; operative 9–5–91 (Register 92, No. 4).
2. Amendment of subsection (c)(8)(E) filed 3–8–2005; operative 4–7–2005 (Register 2005, No. 10).

§ 748. Procedures for Civil Penalties and License or Permit Revocations and Suspensions.

The procedures described in this chapter shall be applicable for the purposes of imposing civil penalties under Fish and Game Code sections 500 and 2580–2589 and regulations made pursuant thereto for violations described therein and for the purposes of revoking or suspending licenses or permits under Fish and Game Code section 8025, unless specific procedures for suspension or revocation are provided for by the Fish and Game Code or regulations made pursuant thereto.

(a) Burden of Proof.

The burden of proof shall be a preponderance of the evidence.

(b) Complaint.

(1) The Director, after investigation of facts and circumstances, may issue a complaint to any person on whom a civil penalty may be imposed pursuant to Section 2582 or 2583 of the Code. The complaint shall:

(A) allege the acts or failure to act that constitute a basis for the civil penalty;

(B) state the amount of the proposed civil penalty;

(C) be served by personal service or certified mail upon the person whom a civil penalty may be imposed at the last known address of the person;

(D) shall inform the person served that a hearing will be conducted within 60 days after the date of service unless the right to a hearing is waived.

(2) In the case of a license or permit revocation or suspension, the Department shall issue a complaint that shall:

(A) state the name of the licensee or permittee;

(B) inform the person served that a hearing will be conducted within 60 days after the date of service unless the right to a hearing is waived.

(C) be served by personal service or certified mail upon the person identified in the complaint at the licensee's or permittee's last known address.

(D) state the facts which constitute a violation of the Fish and Game Code and/or the regulations made pursuant thereto, including specific citations of the Code and/or regulations alleged to have been violated. In the case of a revocation or suspension in which the licensee or permittee has been convicted of a violation of the Fish and Game Code or any regulations pertaining to the activity licensed or permitted, the complaint shall state the date and fact of conviction;

(3) The complaint issued pursuant to (b)(1) and (b)(2) above may be accompanied by a Notice of Hearing described in subsection (e) of this section.

(c) Amended or supplemental complaint before submission of case.

At any time before the matter is submitted for decision, the Director may file or permit the filing of an amended or supplemental complaint. All parties shall be notified in writing thereof. If the amended or supplemental complaint presents new charges, the Department shall afford the person served a reasonable opportunity to prepare his or her defense thereto, but he or she shall not be entitled to file a further pleading unless the qualified referee or the presiding officer of the hearing board in his or her discretion so orders. Any new charges shall be deemed controverted, and any objections to the amended or supplemental complaint may be made orally and shall be noted in the record.

(d) Amendment of complaint after submission of case.

The Director, qualified referee or presiding officer of the hearing board may order amendment of the complaint after submission of the case for decision. Each party shall be given notice of the intended amendment and opportunity to show that he or she will be prejudiced thereby unless the case is reopened to permit the introduction of additional evidence on his or her behalf. If such prejudice is shown, the Director, qualified referee or presiding officer shall reopen the case to permit the introduction of additional evidence.

(e) Notice of hearing.

(1) The Department shall deliver or mail a notice of hearing to all parties at least 10 days prior to the hearing.

(2) The notice to the person served shall be substantially in the following form but may include other information:

You are hereby notified that a hearing will be held before a qualified referee or hearing board appointed by the Department of Fish & Game at [here insert place of hearing] on the _____ day of _____ 19 _____, at the hour of _____, upon the charges made in the complaint served upon you. You may be present at the hearing. You have the right to be represented by an attorney at your own expense. You are entitled to represent yourself without legal counsel. You may present any relevant evidence, and will be given full opportunity to cross–examine all witnesses testifying against you. You are entitled to the issuance of subpoenas to compel the attendance of witnesses and the production of books, documents or other things by applying to [here insert name and address of referee or presiding officer of the hearing board].

The hearing will be conducted in the English language. If you do not proficiently speak or understand the English language and would like to request language assistance, you must notify the Department in a timely manner. The referee or hearing board may order you to pay the costs of an interpreter.

Any questions you may have regarding this hearing must be addressed to the Department of Fish and Game, Legal Office at 1416 Ninth Street, Sacramento, CA 95814, telephone no. (916) 327–4483.

(3) In the case a license or permit revocation or suspension hearing, the person shall be advised that failure to appear at the time and place of the hearing shall result in an automatic suspension of the person's license or permit. In the case of the imposition of a civil penalty, the person shall be advised that failure to appear at the time and place of the hearing shall result in the automatic imposition of the civil penalty identified in the in the complaint.

(f) Continuance of hearing.

(1) The qualified referee or presiding officer of the hearing board may, on his or her own motion or upon request of any party accompanied by a showing of good cause, continue the hearing to another time not more than 60 days after the date scheduled for the initial hearing. Application for a continuance must be made to the qualified referee or the presiding officer not less than 20 calendar days prior to the scheduled hearing.

(2) When a continuance is ordered, the qualified referee or presiding officer shall give written notice of the time and place of the continued hearing.

(g) Waiver of hearing.

A person upon whom a complaint has been served may waive a right to a hearing. This waiver must be in writing signed by the person upon whom the complaint was served or his or her duly appointed representative. If the hearing is waived, the Department shall issue an order setting the penalty in the amount proposed in the complaint or setting the revocation or suspension. This order shall be final.

(h) Time and place of hearing.

The hearing shall be held at a location determined appropriate by the Department in Sacramento, California, unless the Department and the person served mutually agree to hold the hearing in one of the following locations: San Diego, Los Angeles, Fresno, San Francisco, Eureka or Redding.

(i) Discovery; exclusive provisions.

The provisions of subsection (j) of this Section provide the exclusive right to and method of discovery as to any proceeding governed by this section.

(j) Request for discovery; statements; writings.

After initiation of a proceeding, a party, upon written request made to another party, prior to the hearing and within 30 days after service by the Department of the initial pleading or within 15 days after such service of an additional pleading, is entitled to (1) obtain the names and addresses of witnesses to the extent known to the other party, including, but not limited to, those intended to be called to testify at the hearing, and (2) inspect and make a copy of any of the following in the possession or custody or under the control of the other party:

(1) A statement pertaining to the subject matter of the proceeding made by any party to another or person;

(2) Statement of witnesses then proposed to be called by the party and of other persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, not included in subsection (j)(1) above;

(3) All writings, including, but not limited to, reports of mental, physical and blood examinations and things which the party then proposes to offer in evidence;

(4) Any other writing or thing which is relevant and which would be admissible in evidence;

(5) Investigative reports made by or on behalf of the Department or other party pertaining to the subject matter of the proceeding, to the extent that such reports (1) contain the names and addresses of witnesses or of persons having personal knowledge of the acts, omissions or events which are the basis for the proceeding, or (2) reflect matters perceived by the investigator in the course of his or her investigation, or (3) contain or include by attachment any statement or writing described in subsections (j)(1) through (4), inclusive. or summary thereof.

For the purpose of this section, "statements" include written statements by the person signed or otherwise authenticated by him or her, stenographic, mechanical, electrical or other recordings, or transcripts thereof, of oral statements by the person, and written reports or summaries of such oral statements.

Nothing in this section shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential, or is protected as the attorney's work product.

(k) Subpoenas, service; obligation of witness to attend; witness fees, mileage, per diem.

(1) The qualified referee or presiding officer of the hearing board may issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing after making a showing of relevance and good cause. Subpoenas and subpoenas duces tecum shall be issued in accordance with Sections 1985, 1985.1, and 1985.2 of the Code of Civil Procedure.

(2) The process issued pursuant to subsection (k)(1) of this section shall be extended to all parts of the State and shall be served in accordance with Sections 1987 and 1988 of the Code of Civil Procedure.

(3) All witnesses appearing pursuant to subpoena, other than the parties or officers or employees of the state or any political subdivision thereof, shall receive fees, and all witnesses appearing pursuant to subpoena, except the parties, shall receive mileage in the same amount and under the same circumstances as prescribed by law for witnesses in civil actions in a superior court. Witnesses appearing pursuant to subpoena, except the parties, who attend hearings at points so far removed from their residences as to prohibit return thereto from day to day shall be entitled in addition to fees and mileage to a per diem compensation of three dollars ($3) for expenses of subsistence for each day of actual attendance and for each day necessarily occupied in traveling to and from the hearing. Fees, mileage, and expenses of subsistence shall be paid by the party at whose request the witness is subpoenaed.

(*l*) Contempt.

If any person in proceedings before the qualified referee or the hearing board disobeys or resists any lawful order, refuses to respond to a subpoena or a subpoena duces tecum, refuses to take the oath or affirmation as a witness or thereafter refuses to be examined, or is guilty of misconduct during a hearing or so near the place thereof as to obstruct the proceedings, the qualified referee or presiding officer of the hearing board shall certify the facts to the Superior Court in and for the County where the proceedings are held for contempt proceedings pursuant to Government Code Section 11525.

(m) Depositions.

On verified petition of any party, the qualified referee or the presiding officer of the hearing board may order that the testimony of any material witness residing within or without the State be taken by deposition in the manner prescribed by law for depositions in civil actions. The petition shall set forth the nature of the pending proceeding; the name and address of the witness whose testimony is desired; a showing of the materiality of his or her testimony; a showing that the witness will be unable or cannot be compelled to attend; and shall request an order requiring the witness to appear and testify before an officer named in the petition for that purpose. Where the witness resides outside the State and where the qualified or presiding officer of the hearing board has ordered the taking of his or her testimony by deposition, the deposition shall be taken according to the provisions of California Code of Civil Procedure section 2026, as amended.

(n) Prehearing conference; subject matter; prehearing order.

(1) On motion of a party or by order of a qualified referee or presiding officer of the hearing board. the qualified referee or hearing board may conduct a prehearing conference. The qualified referee or presiding officer of the hearing board shall set the time and place for the prehearing conference, and the Department shall give written notice to all parties.

(2) The rehearing conference may deal with one or more of the following matters:

(A) Exploration of settlement possibilities.

(B) Preparation of stipulations.

(C) Clarification of issues.

(D) Rulings on identity and limitation of the number of witnesses.

(E) Objections to proffers of evidence.

(F) Order of presentation of evidence and cross–examination.

(G) Rulings regarding issuance of subpoenas and protective orders.

(H) Schedules for the submission of written briefs if necessary, and schedules for the commencement and conduct of the hearing.

(I) Any other matters as shall promote the orderly and prompt conduct of the hearing.

(3) The qualified referee or hearing board shall issue a prehearing order incorporating the matters determined at the prehearing conference. The qualified referee or hearing board may direct one or more of the parties to prepare a prehearing order.

(o) Conduct of hearing; disqualification of qualified referee or member of the hearing board; reporting.

(1) Every hearing in a contested case shall be presided over by a qualified referee or hearing board that shall exercise all powers relating to the conduct of the hearing.

(2) A qualified referee or hearing board member shall voluntarily disqualify himself or herself and withdraw from any case in which he or she cannot accord a fair and impartial hearing or consideration. Any party may request the disqualification of any qualified referee or hearing board member by filing an affidavit, prior to the taking of evidence at a hearing, stating with particularity the grounds upon which it is claimed that a fair and impartial hearing cannot be accorded. The issue shall be determined by the qualified referee or hearing board.

(3) The proceedings at the hearing shall be reported by an electronic tape recording system.

(p) Evidence; examination of witnesses; interpreters.

(1) Oral evidence shall be taken only on oath or affirmation.

(2) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross–examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him or her to testify; and to rebut the evidence against him or her. If the person upon whom the complaint was served does not testify in his or her own behalf he or she may be called and examined as if under cross–examination.

(3) The hearing need not be conducted according to technical rules relating to evidence and witnesses, except as hereinafter provided. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely upon in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of the evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding unless it,would be admissible over objection in civil actions. The rules of privilege shall be effective to the extent that they are otherwise required by statute to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

(4) The hearing shall be conducted in the English language, except that a party who does not proficiently speak or understand the English language and who requests language assistance shall be provided an interpreter approved by the qualified referee or the presiding officer of the hearing board conducting the proceedings. The cost of providing the interpreter shall be paid by the Department if the qualified referee or presiding officer so directs, otherwise by the party for whom the interpreter is provided. The qualified referee's or hearing board's decision to direct payment shall be based upon an equitable consideration of all the circumstances in each case, such as the ability of the party in need of the interpreter to pay. Such an interpreter shall be selected from the list issued by the State Personnel Board pursuant to Government Code section 11513.

(5) In the event that interpreters on the approved list cannot be present at the hearing, or if there is no interpreter on the approved list for a particular language, the qualified referee or presiding officer shall have discretionary authority to provisionally qualify and utilize other interpreters.

(6) The Department shall advise each party of their right to an interpreter at the same time that each party is advised of the hearing date. Each party in need of an interpreter shall also be encouraged to give timely notice to the Department conducting the hearing so that appropriate arrangements can be made.

(7) The rules of confidentiality of the Department, if any, which may apply in an adjudicatory hearing, shall apply to any interpreter in the hearing, whether or not these rules so state.

(8) The interpreter shall not have had any involvement in the issues of the case prior to the hearing.

(q) Qualified referee or hearing board; ex parte communication with party or interested person prohibited in absence of notice and participation opportunity.

(1) Except as required for the disposition of ex parte matters specifically authorized by statute, a qualified referee or hearing board member may

not communicate, directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any party, including employees of the Department, with any person who has a direct or indirect interest in the outcome of the proceeding, or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.

(2) Unless required for the disposition of ex parte matters specifically authorized by statute, no party to an adjudicative proceeding, including employees of the Department, and no person who has a direct or indirect interest in the outcome of the proceeding or who presided at a previous stage of the proceeding, may communicate directly or indirectly, upon the merits of a contested matter while the proceeding is pending, with any person serving as a qualified referee or hearing board member, without notice and opportunity for all parties to participate in the communication, unless prior consent is obtained from all parties to the action.

(3) If, before serving as a qualified referee or hearing board member, a person receives an ex parte communication of a type that could not properly be received while serving, the person, promptly after starting to serve, shall disclose the communication in the manner prescribed in subsection (g)(4) of this section.

(4) A qualified referee or hearing board member who receives an ex parte communication in violation of this section shall place on the record of the pending matter all written communications received, all written responses to the communications, and a memorandum stating the substance of all oral communications received, all responses made, and the identity of each person from whom the qualified referee or hearing board member received an ex parte communication, and shall advise all parties that these matters have been placed on the record. Any person desiring to rebut the ex parte communication shall be allowed to do so, upon requesting the opportunity for rebuttal within 10 days after notice of the communication.

(5) The receipt by a qualified referee or hearing board member of an ex parte communication in violation of this section may provide the basis for disqualification of that qualified referee or hearing board member pursuant to this section. If the qualified referee or hearing board member is disqualified, the portion of the record pertaining to the ex parte communication may be sealed by protective order by the qualified referee or hearing board member so disqualified.

(r) Affidavits.

(1) At any time 10 or more days prior to a hearing or a continued hearing, any party may mail or deliver to the opposing party a copy of any affidavit which he or she proposes to introduce in evidence, together with a notice as provided in subsection (r)(2) of this section. Unless the opposing party, within seven days after such mailing or delivery, mails or delivers to the proponent a request to cross–examine an affiant, his or her right to cross–examine such affiant is waived and the affidavit, if introduced in evidence. shall be given the same effect as if the affiant had testified orally. If an opportunity to cross–examine an affiant is not afforded after request therefor is made as herein provided, the affidavit may be introduced in evidence, but shall be given only the same effect as other hearsay evidence.

(2) The notice referred to in subsection (r)(1) of this section shall be substantially in the following form:

The accompanying affidavit of (here insert name of affiant) will be introduced as evidence at the hearing in (here insert title of proceeding). (here insert name of affiant) will not be called to testify orally and you will not be entitled to question him or her unless you notify (here insert name of proponent or of his or her attorney) at (here insert address) that

[The next page is 192.2(c).]

you wish to cross-examine him or her. To be effective your request must be mailed or delivered to (here insert name of proponent or his or her attorney) on or before (here insert a date seven days after the date of mailing or delivering the affidavit to the opposing party).

(s) Official notice.

In reaching a decision, official notice may be taken, either before or after submission of the case for decision, of any generally accepted technical or scientific matter within the Department's jurisdiction, and of any fact which may be judicially noticed by the courts of this State. Parties present at the hearing shall be informed of the matters to be noticed, and those matters shall be noted in the record, referred to therein, or appended thereto. Any such party shall be given a reasonable opportunity on request to refute the officially noticed matters by evidence or by written or oral presentation of authority, the manner of such refutation to be determined by the qualified referee or hearing board.

(t) Decision consideration, preparation, adoption.

(1) A qualified referee or hearing board shall prepare, within 30 days after the conclusion of the hearing, a proposed decision which recommends the penalty to be imposed or the revocation or suspension of a license or permit. The proposed decision shall be submitted to the Director and shall be served upon the person whom the complaint was issued or his or her duly appointed representative.

(2) The Director may adopt, revise or reject the proposed decision or may enter into a settlement agreement with the person upon whom the complaint was served. If the Director revises, rejects or enters into a settlement agreement, the Director shall seek the recommendation of the qualified referee or the hearing board and shall enter into record of case the reasons for that action including the qualified referee's or hearing board's recommendations.

(3) Within thirty days after receipt of the proposed decision, the Director shall issue an order. If the order is issued against the person named in the complaint, the order shall set forth the amount of civil penalty to be imposed or the revocation or suspension of a license or permit. The order shall be served by personal service or by certified mail to the person upon whom the complaint was served. The order by the Director is final.

(u) Appeal.

Within 30 days after service of a copy of an order setting the amount of a civil penalty or revoking or suspending a license or permit, the person served may file with the Superior Court a petition for writ of mandate for review of the order. The record of the proceedings shall be prepared by the Department and delivered to the person upon whom the complaint is received by the Department after payment of any and all fees for the transcription of the record.

NOTE: Authority cited: Section 2589, Fish and Game Code. Reference: Section 2580–2589, Fish and Game Code.

HISTORY

1. New section filed 8–6–91; operative 9–5–91 (Register 92, No. 4).

§ 749. Special Order Relating to Incidental Take of Sacramento River Spring–Run Chinook Salmon During Candidacy Period.

The Commission finds that, based on current knowledge and existing protection and management efforts outlined in Appendices 1* and 2*, the level of habitat loss and take of Sacramento River spring–run chinook salmon individuals which is likely to occur during the period that this regulation is in effect will not cause jeopardy to the continued existence of the species.

(a) Take Authorization

Based on the above findings, the Commission authorizes the take of Sacramento River spring–run chinook salmon during the candidacy period subject to the terms and conditions herein.

(1) Inland Sport Fishing

Take of Sacramento River spring–run chinook salmon is authorized in accordance with the regulations adopted by the Commission.

(2) Ocean Sport Fishing

Take of Sacramento River spring–run chinook salmon is authorized in accordance with the regulations adopted by the Commission.

(3) Upper Sacramento River, Tributaries

Take of Sacramento River spring–run chinook salmon is authorized incidental to life–history studies described in (d)(3)(H) of Appendix 1, water diversions as described in (d)(3)(A)–(d)(3)(E) and (d)(6) of Appendix 1, and restoration actions described in (d)(3)(F)–(d)(3)(J) of Appendix 1, provided that such activities are substantially similar in nature and scope to those activities which existed on the effective date of this regulation, and provided further that there is no material change, to the detriment of conservation, in the existing management measures. The Commission shall determine, in its sole discretion, whether there has been a detrimental material change in such management measures.

(4) San Francisco Bay/Sacramento–San Joaquin River Delta Estuary

Take of Sacramento River spring–run chinook salmon is authorized incidental to water diversions described in (d)(6) of Appendix 1, provided that such activities are substantially similar in nature and scope to those activities which existed on the effective date of this regulation, and provided further that there is no material change, to the detriment of conservation, in the existing management measures. The Commission shall determine, in its sole discretion, whether there has been a detrimental material change in such management measures.

Take of Sacramento River spring–run chinook salmon is authorized incidental to operation of the State Water Project facilities and the Central Valley Project facilities in accordance with the 1995 WQCP and the Central Valley Project Improvement Act and as may be modified by the Operations Group through the process described in (d)(5) of Appendix 1. (For example, the CALFED OPERATIONS GROUP SACRAMENTO RIVER SPRING–RUN CHINOOK SALMON PROTECTION PLAN, dated October 27, 1997, found in Appendix 2.)

(b) Additions, Modifications, or Revocation

Other actions not addressed in this regulation requiring authorization for incidental take of Sacramento River spring–run chinook salmon from the Commission pursuant to Fish and Game Code Section 2084 or, to the extent allowed by law, by the Department of Fish and Game pursuant to Fish and Game Code Section 2081, will be considered on a case–by–case basis.

The Commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity, project or persons may cause jeopardy to the continued existence of the Sacramento River spring–run chinook salmon. In the event of a "triggering event (for consultation)", as defined in the CALFED OPERATIONS GROUP SACRAMENTO RIVER SPRING–RUN CHINOOK SALMON PROTECTION PLAN, or in the event the monitoring devices currently in place on Mill and Deer creeks are removed or rendered inoperable, the Commission shall forthwith institute an emergency action under Government Code Section 11125.5(a) and (b) to review the events which gave rise to the triggering event or loss of monitoring devices, and to consider modification of this regulation.

[NOTE: During the candidacy period of the spring–run chinook salmon, the commission commits to remaining informed on a timely basis as to the activities described in this regulation to determine if the commission must consider modification of the regulation. For example, in order to be informed of and responsive to potential impacts on spring–run throughout the candidacy period, the commission staff shall receive all electronic mail notices sent by the CALFED Operations Group Data Assessment Team (DAT) and the No Name Group to provide timely information to the commission. Based on this information, the commission will determine an appropriate level of participation in these conference calls and related meetings. When considering information of potential impacts or modification of this regulation, the commission shall ask staff for pertinent information about activities from other agencies or programs that could affect spring–run salmon, including the CALFED Bay–Delta Program, the CALFED Operations Group, the SWRCB Bay–Delta Water Rights Hearings, and the U.S. Fish and Wildlife Service and National Marine Fisheries Service (with respect to their biological opinions). Such involvement and information is intended to facilitate the commission's role in providing effective measures to protect spring–run salmon while minimizing conflicts with other resource needs. As provided by this regulation, where information warrants, the commission would convene an emergency meeting (under Government Code Section 11125.5) to deter-

mine whether any activity may cause jeopardy to the spring–run and if modification of this regulation is necessary.
Specifically, the commission acknowledges that the CALFED Operations Group Spring–run Chinook Salmon Protection Plan and the fish monitoring program, described by the Plan to determine salmon movements in the rivers and the Delta, continue to be in effect throughout the spring–run candidacy period and that the status of spring–run salmon will continue to be a factor in the Operations Group's decision making. (See Appendix 2, page 2, of this regulation.) Through receipt of DAT and No Name Group conference call notices, the commission will be able to determine when to participate in these groups, especially if these groups are making recommendations to DWR and USBR as to adjustments in CVP or SWP Delta pumping operations for purposes of spring–run salmon protection. Through this process, the commission may consider providing recommendations to DWR and USBR for protecting spring–run salmon and also may consider modifying this regulation through an emergency action to implement such protective measures.]

* Copies of Appendices 1 and 2, including attachments, which are referenced in this regulation are available upon request from the Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, CA 94255–2090 (Telephone: 916 653–4899).

NOTE: Authority cited: Sections 200, 202, 205, 240 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 240 and 2084, Fish and Game Code.

HISTORY

1. New section filed 11–21–97 as an emergency; operative 11–21–97 (Register 97, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–23–98 or emergency language will be repealed by operation of law on the following day.
2. Editorial correction of subsection (a)(4) and footnote (Register 98, No. 9).
3. New section refiled 2–23–98 as an emergency, including amendment of subsection (b); operative 3–20–98 (Register 98, No. 9). A Certificate of Compliance must be transmitted to OAL by 7–20–98 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–23–98 order transmitted to OAL 7–9–98 and filed 8–19–98 (Register 98, No. 34).
5. Amendment of subsection (a)(4) filed 11–16–98 as an emergency; operative 11–16–98 (Register 98, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–16–99 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to 11–16–98 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 5).

§ 749.1. Special Order Relating to Incidental Take of Coho Salmon *(Oncorhynchus kisutch)* During Candidacy Period.

The commission finds that, based on current knowledge and protection and management efforts outlined in this regulation, including Exhibits A through D*, the level of habitat loss and take of coho salmon which is likely to occur during the period that this regulation is in effect will not cause jeopardy to the continued existence of the species.

(a) Take Authorization.

Based upon the above findings, the commission authorizes the take of coho salmon north of San Francisco (Exhibit A) during the candidacy period subject to the terms and conditions herein.

(1) Inland and Ocean Sport and Commercial Fishing.

Coho salmon may not be retained during sport or commercial fishing in any waters of the State. Incidentally hooked or netted coho salmon must be immediately released unharmed to the waters where they are hooked or netted.

(2) Suction Dredging.

Incidental take of coho salmon during suction dredging that complies with Section 228, Title 14, CCR, is authorized during the candidacy period.

(3) Research and Monitoring.

(A) Take of coho salmon by department personnel in the course of research and monitoring is authorized pursuant to Section 783.1(c), Title 14, CCR.

(B) Take of coho salmon in the course of research and monitoring by public agencies and private parties is authorized subject to restrictions in Exhibit B.

(4) Hatchery Operations.

Take of coho salmon by the Department of Fish and Game for hatchery management purposes is authorized pursuant to Section 783.1(c). Title 14, CCR.

(5) Habitat Restoration.

(A) Incidental take of coho salmon resulting from planning, assessment, inventory, construction, maintenance and monitoring activities consistent with the objectives of the Department of Fish and Game Fisheries Restoration Grants Program and carried out in the manner prescribed in the department's "California Salmonid Stream Habitat Restoration Manual — Third Edition, January 1998", is authorized. Incidental take resulting from an activity not carried out in such manner is authorized only if the activity is performed under the supervision or oversight of, or is funded by the department.

(B) Incidental take resulting from activities performed by department employees related to constructing, installing, operating and maintaining facilities or stream features designed to eliminate or minimize barriers to fish migration and fish rescue operations is authorized pursuant to Section 783.1(c), Title 14, CCR.

(6) Extraction of Gravel Resources.

Incidental take of coho salmon resulting from the extraction of gravel resources in a stream or river, is authorized for the coho candidacy period provided that such activities are conducted in accordance with the measures specified in Exhibit C.

(7) Water Diversions.

Incidental take of coho salmon resulting from diversion of water, for any purpose, is authorized during the candidacy period, subject to the following conditions:

(A) Existing unscreened diversions may continue in operation through the candidacy period. Upon any future determination by the commission that coho salmon shall be added to the list of threatened or endangered species, incidental take for such diversions must be authorized under Fish and Game Code Section 2081(b) or be determined exempt from the permitting requirement under Fish and Game Code Section 2080.1.

(B) Diversions approved and constructed after the effective date of this section shall be screened and shall meet the Department of Fish and Game Fish Screening Criteria (dated June 19, 2000) included in this regulation as Exhibit D.

(C) Existing fish screens that are repaired, upgraded, or reconstructed during the candidacy period must meet the Department of Fish and Game Fish Screening Criteria (dated June 19, 2000) included in this regulation as Exhibit D.

(8) Department of Fish and Game Streambed Alteration Agreements.

Incidental take of coho salmon during the candidacy period is authorized for any project carried out in compliance with section 1601 or 1603 of the Fish and Game Code, for which a Lake or Streambed Alteration Agreement (Agreement) has been entered into between the department and the party undertaking the activity, provided that:

(A) any measures identified by the department as necessary to protect coho salmon are incorporated into the signed Agreement and are fully implemented by the party undertaking the activity; and

(B) the project otherwise complies with other relevant provisions of this section. Projects that will involve the extraction of mineral resources shall also comply with subsection (a)(6), and projects involving water diversions shall also comply with subsection (a)(7) of Section 749.1, Title 14, CCR.

(9) Pacific Lumber Company Habitat Conservation Plan.

Incidental take of coho salmon resulting from activities within the Plan and Permit Area described as Covered Activities in the "Habitat Conservation Plan for the Properties of The Pacific Lumber Company, Scotia Pacific Holding Company, and Salmon Creek Corporation, February 1999", is authorized during the candidacy period insofar as activities are conducted in accordance with the relevant Operating Conservation Plans.

(10) Forest Practices.

Incidental take of coho salmon is authorized during the candidacy period for otherwise lawful timber operations that comply with conditions

specified in the revised final rule language, "Protection for Threatened and Impaired Watersheds, 2000", sections 895, 895.1, 898, 898.2, 914.8, 934.8, 954.8, 916, 936, 956, 916.2, 936.2, 956.2, 916.9, 936.9, 956.9, 916.11, 936.11, 956.11, 916.12, 936.12, 956.12, 923.3, 943.3, 963.3, 923.9, 943.9 and 963.9, Title 14, CCR (which can be found on the Board of Forestry website at www.fire.ca.gov/BOF/pdfs/FRLZ00011814.pdf).

(11) Additions, Modifications or Revocation.

(A) Incidental take of coho salmon north of San Francisco from activities not addressed in this section may be authorized during the candidacy period by the commission pursuant to Fish and Game Code Section 2084 or by the department pursuant to Fish and Game Code Section 2081, on a case–by–case basis.

(B) The commission may modify or repeal this regulation in whole or in part, pursuant to law, if it determines that any activity or project may cause jeopardy to the continued existence of coho salmon north of San Francisco.

*A copy of Exhibits A through D which are referenced in this regulation is available upon request from the Fish and Game Commission, 1416 Ninth Street, Box 944209, Sacramento, CA 94255–2090 (Telephone 916 653–4899).

NOTE: Authority cited: Sections 200, 202, 205 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 2080, 2084 and 2085, Fish and Game Code.

HISTORY

1. New section and Exhibits A–D filed 4–26–2001 as an emergency; operative 4–26–2001 (Register 2001, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–24–2001 or emergency language will be repealed by operation of law on the following day.
2. New section and Exhibits A–D refiled 8–23–2001 as an emergency; operative 8–25–2001 (Register 2001, No. 34). A Certificate of Compliance must be transmitted to OAL by 12–24–2001 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 2002, No. 1).
4. New section and Exhibits A–D filed 12–31–2001 as an emergency; operative 12–31–2001 (Register 2002, No. 1). A Certificate of Compliance must be transmitted to OAL by 4–30–2002 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 12–31–2001 order, including amendment of subsection (a)(5)(A) and repealer and new Exhibit A, transmitted to OAL 4–26–2002 and filed 6–6–2002 (Register 2002, No. 23).

Exhibit A — Coho Salmon Distribution North of San Francisco

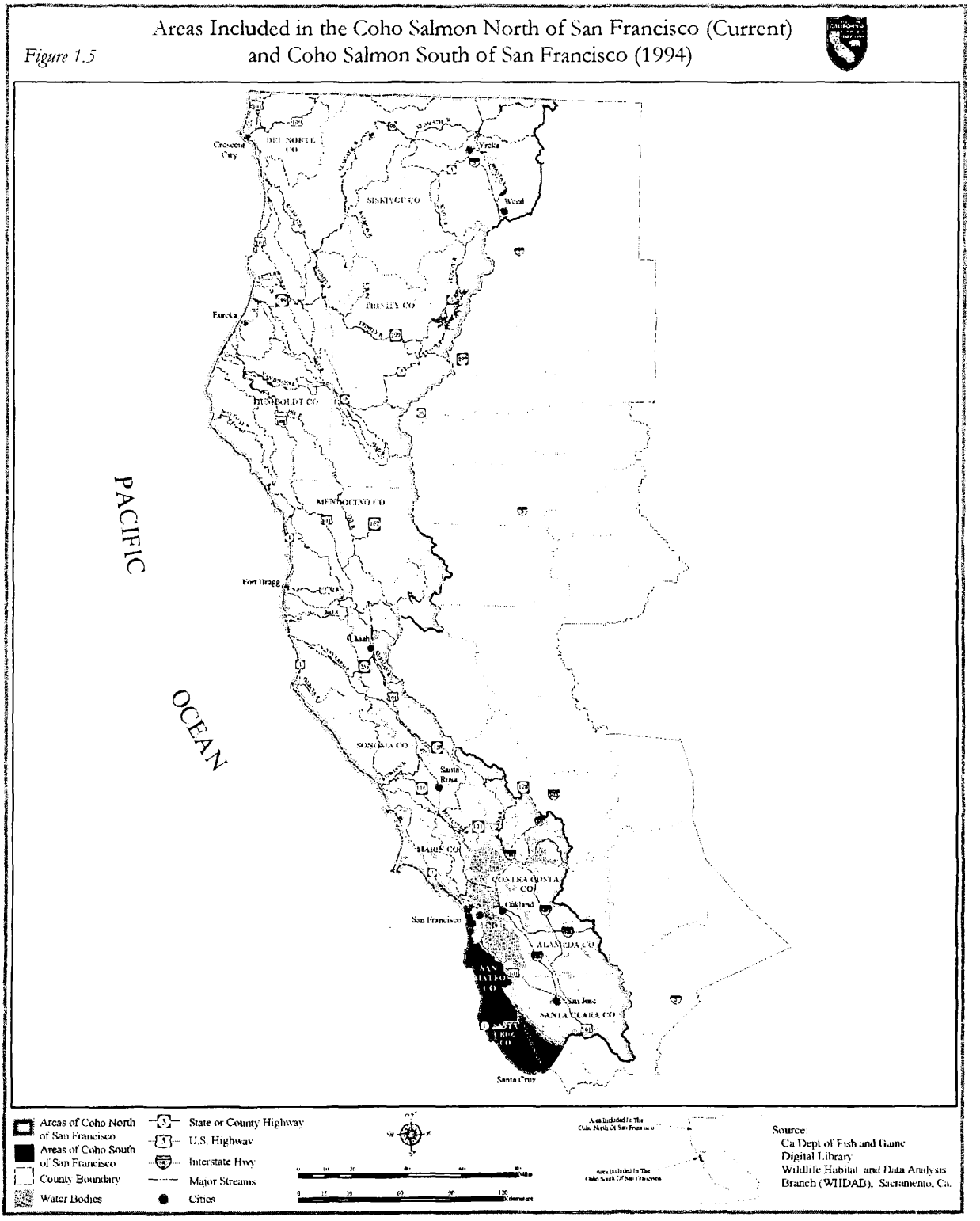


Exhibit B
Incidental Take Authorization Standards for Research and Monitoring During the Candidacy Period for Coho Salmon

Research Proposals

Take of coho salmon during the candidacy period is authorized for individuals, agencies, or universities and landowners for purposes of research and monitoring provided that:

(i) For ongoing research, a written, detailed project proposal describing objectives, methods (gear, sampling schedules and locations), efforts to minimize adverse effects to the species, estimated level of take of the species, and a copy of a permit authorizing take pursuant to the Federal Endangered Species Act shall be provided to the appropriate Department Regional Manager within 45 days of this regulation becoming effective.

(ii) For research which has not yet commenced, a written, detailed project proposal describing objectives, methods (gear, sampling schedules and locations), efforts to minimize adverse effects to the species, estimated level of take of the species, and a copy of a permit authorizing take pursuant to the Federal Endangered Species Act shall be provided to the appropriate Department Regional Manager.

(iii) The research or monitoring may commence once the Department issues written concurrence that the research and monitoring activities conducted are consistent with the Department's research and monitoring programs and are sufficient to protect coho salmon. The Department may specify additional terms and conditions for the protection of coho salmon and the reporting of all data collected to the Department.

Alternative Procedure

At the discretion of the Department, research and monitoring activities not addressed by the above procedures may receive separate authorization for take of coho salmon by the Department pursuant to Fish and Game Code Section 2081.

Department of Fish and Game Contacts

Regional Manager, Northern California — North Coast Region; 601 Locust Street, Redding, CA 96001 — (530) 225–2300.

Regional Manager, Central Coast Region; 7329 Silverado Trail, P.O. Box 46, Yountville, CA 94599 — (707) 944–5500.

Exhibit C
Incidental Take Authorization Standards for In–Stream Gravel Extraction During the Candidacy Period for Coho Salmon

1. A gravel extraction plan including design features, mitigation measures, and enhancement recommendations that minimize impacts to salmonids shall be prepared by the operator and submitted to the Department for review and approval before extraction may begin. The maximum amount permitted to be removed shall be no more than the amount of sand and gravel that is annually replenished in the proposed extraction area, and cumulative extraction quantities shall be consistent with the long–term average annual sustained yield based on estimates of mean annual recruitment.

2. Extraction of gravel shall be accomplished by "skimming" or grading of gravel from bars above the low water channel unless another technique is approved in advance by the Department. The gravel bars shall be sloped from the bank down towards the thalweg and downstream to avoid stranding of salmonids. No holes or depressions shall be allowed to remain in the extraction area. No extraction of the streambanks shall be allowed.

3. Low flow channel confinement shall be maximized by utilizing the low flow silt line, where available, in designing the vertical offset. The silt line measurement shall be taken on or before July 15th of any year unless an alternate date is approved, in advance, by the Department. The vertical offset shall be at least one foot. A larger vertical offset, as determined by the Department, may be necessary to maximize the low flow channel confinement.

4. Gravel bar stability shall be protected by minimizing extraction on the upstream one–third of gravel bars. No extraction shall be allowed in riffle sections. The Department shall review proposed gravel extraction plans during an annual site inspection and make specific recommendations to protect salmonid habitat.

5. Channel crossing construction shall not begin before June 15. Removal of channel crossings shall be completed by September 30. If temporary culverts are installed, they will be installed in such a manner so that they will not impede the passing of fish up and down stream.

6. Large woody debris (LWD) shall be stockpiled before gravel extraction begins and redistributed on the gravel bar after the extraction site has been reclaimed at the end of the extraction season. To the extent possible, vehicular access onto gravel mining sites shall be controlled to minimize the loss of LWD from firewood collectors.

7. Trees exceeding 1 inch DBH shall not be removed, and clumps of smaller trees shall not be removed except by prior approval of the Department. The disturbance or removal of vegetation shall be minimized, shall not exceed that necessary to complete operations and shall be limited to areas where extraction has occurred within the past two years.

8. The project shall comply with Section 1601 or 1603 of the California Fish and Game Code, and a Lake or Streambed Alteration Agreement shall be obtained from the Department. Any measures identified by the Department as necessary to protect coho salmon shall be incorporated into the signed agreement and shall be fully implemented.

Exhibit D
Department of Fish and Game
Fish Screening Criteria
June 19, 2000

1. STRUCTURE PLACEMENT

A. Streams And Rivers (flowing water): The screen face shall be parallel to the flow and adjacent bankline (water's edge), with the screen face at or streamward of a line defined by the annual low–flow water's edge.

The upstream and downstream transitions to the screen structure shall be designed and constructed to match the back–line, minimizing eddies upstream of, in front of and downstream of, the screen.

Where feasible, this "on–stream" fish screen structure placement is preferred by the California Department of Fish and Game.

B. In Canals (flowing water): The screen structure shall be located as close to the river source as practical, in an effort to minimize the approach channel length and the fish return bypass length. This "in canal" fish screen location shall only be used where an "on–stream" screen design is not feasible. This situation is most common at existing diversion dams with headgate structures.

The National Marine Fisheries Service — Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997" for these types of installations shall be used.

C. Small Pumped Diversions: Small pumped diversions (less than 40 cubic–feet per second) which are screened using "manufactured, self–contained" screens shall conform to the National Marine Fisheries Service — Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997".

D. Non–Flowing Waters (tidal areas, lakes and reservoirs): The preferred location for the diversion intake structure shall be offshore, in deep water, to minimize fish contact with the diversion. Other configurations will be considered as exceptions to the screening criteria as described in Section 5.F. below.

2. APPROACH VELOCITY (Local velocity component perpendicular to the screen face

A. Flow Uniformity: The design of the screen shall distribute the approach velocity uniformly across the face of the screen. Provisions shall be made in the design of the screen to allow for adjustment of flow patterns. The intent is to ensure uniform flow distribution through the entire face of the screen as it is constructed and operated.

B. Self–Cleaning Screens: The design approach velocity shall not exceed:

1. Streams And Rivers (flowing waters) — Either:

a. 0.33 feet per second, where exposure to the fish screen shall not exceed fifteen minutes, or

b. 0.40 feet per second, for small (less than 40 cubic-feet per second) pumped diversions using "manufactured, self-contained" screens.

2. In Canals (flowing waters) — 0.40 feet per second, with a bypass entrance located every one-minute of travel time along the screen face.

3. Non-Flowing Waters (tidal areas, lakes and reservoirs) — The specific screen approach velocity shall be determined for each installation, based on the species and life stage of fish being protected. Velocities which exceed those described above will require a variance to these criteria (see Section 5.F. below).

(Note: At this time, the U.S. Fish and Wildlife Service has selected a 0.2 feet per second approach velocity for use in waters where the Delta smelt is found. Thus, fish screens in the Sacramento-San Joaquin Estuary should use this criterion for design purposes.)

C. Screens Which Are Not Self-Cleaning: The screens shall be designed with an approach velocity one-fourth that outlined in Section B. above. The screen shall be cleaned before the approach velocity exceeds the criteria described in Section B.

D. Frequency Of Cleaning: Fish screens shall be cleaned as frequently as necessary to prevent flow impedance and violation of the approach velocity criteria. A cleaning cycle once every 5 minutes is deemed to meet this standard.

E. Screen Area Calculation: The required wetted screen area (square feet), excluding the area affected by structural components, is calculated by dividing the **maximum** diverted flow (cubic-feet per second) by the allowable approach velocity (feet per second). Example:,

1.0 cubic-feet per second / 0.33 feet per second = 3.0 square feet

Unless otherwise specifically agreed to, this calculation shall be done at the **minimum** stream stage.

3. SWEEPING VELOCITY (Velocity component parallel to screen face)

A. In Streams And Rivers: The sweeping velocity should be at least two times the allowable approach velocity.

B. In Canals: The sweeping velocity shall exceed the allowable approach velocity. Experience has shown that sweeping velocities of 2.0 feet per second (or greater) are preferable.

C. Design Considerations: Screen faces shall be designed flush with any adjacent screen bay piers or walls, to allow an unimpeded flow of water parallel to the screen face.

4. SCREEN OPENINGS

A. Porosity: The screen surface shall have a minimum open area of 27 percent. We recommend the maximum possible open area consistent with the availability of appropriate material, and structural design considerations.

The use of open areas less than 40 percent shall include consideration of increasing the screen surface area, to reduce slot velocities, assisting in both fish protection and screen cleaning.

B. Round Openings: Round openings in the screening shall not exceed 3.96mm (5/32in). In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in).

C. Square Openings: Square openings in screening shall not exceed 3.96mm (5/32in) measured diagonally. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in) measured diagonally.

D. Slotted Openings: Slotted openings shall not exceed 2.38mm (3/32in) in width. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 1.75mm (0.0689in).

5. SCREEN CONSTRUCTION

A. Material Selection: Screens may be constructed of any rigid material, perforated, woven, or slotted that provides water passage while physically excluding fish. The largest possible screen open area which is consistent with other project requirements should be used. Reducing the screen slot velocity is desirable both to protect fish and to ease cleaning requirements. Care should be taken to avoid the use of materials with sharp edges or projections which could harm fish.

B. Corrosion And Fouling Protection: Stainless steel or other corrosion-resistant material is the screen material recommended to reduce clogging due to corrosion. The use of both active and passive corrosion protection systems should be considered.

Consideration should be given to anti-fouling material choices, to reduce biological fouling problems. Care should be taken not to use materials deemed deleterious to fish and other wildlife.

C. Project Review And Approval: Plans and design calculations, which show that all the applicable screening criteria have been met, shall be provided to the Department before written approval can be granted by the appropriate Regional Manager.

The approval shall be documented in writing to the project sponsor, with copies to both the Deputy Director, Habitat Conservation Division and the Deputy Director, Wildlife and Inland Fisheries Division. Such approval may include a requirement for post-construction evaluation, monitoring and reporting.

D. Assurances: All fish screens constructed after the effective date of these criteria shall be designed and constructed to satisfy the current criteria. Owners of existing screens, approved by the Department prior to the effective date of these criteria, shall not be required to upgrade their facilities to satisfy the current criteria unless:

1. The controlling screen components deteriorate and require replacement (i.e., change the opening size or opening orientation when the screen panels or rotary drum screen coverings need replacing),

2. Relocation, modification or reconstruction (i.e., a change of screen alignment or an increase in the intake size to satisfy diversion requirements) of the intake facilities, or

3. The owner proposes to increase the rate of diversion which would result in violation of the criteria without additional modifications.

E. Supplemental Criteria: Supplemental criteria may be issued by the Department for a project, to accommodate new fish screening technology or to address species-specific or site-specific circumstances.

F. Variances: Written variances to these criteria may be granted with the approval of the appropriate Regional Manager and concurrence from both the Deputy Director, Habitat Conservation Division and the Deputy Director, Wildlife and Inland Fisheries Division. At a minimum, the rationale for the variance must be described and justified in the request.

Evaluation and monitoring may be required as a condition of any variance, to ensure that the requested variance does not result in a reduced level of protection for the aquatic resources.

It is the responsibility of the project sponsor to obtain the appropriate fish screen criteria as provided herein. Project sponsors should contact the Department of Fish and Game, the National Marine Fisheries Service (for projects in marine and anadromous waters) and the U.S. Fish and Wildlife Service (for projects in anadromous and fresh waters) for guidance.

Copies of the criteria are available from the Department of Fish and Game through the appropriate Regional office, which should be the first point of contact for any fish screening project.

Northern California and North Coast Region; 601 Locust Street, Redding, CA 96001 — (530) 225-2300.

Sacramento Valley and Central Sierra Region; 1701 Nimbus Drive, Rancho Cordova, CA 95670 — (916) 358-2900.

Central Coast Region; 7329 Silverado Trail/P.O. Box 46, Yountville, CA 94599 — (707) 944-5500.

San Joaquin Valley-Southern Sierra Region; 1234 E. Shaw Avenue, Fresno, CA 93710 — (209) 243-4005.

South Coast Region; 4649 View Crest Avenue, San Diego, CA 92123 — (619) 467-4201.

Eastern Sierra and Inland Deserts Region; 4775 Bird Farms Road, Chino Hills, CA 91709 — (909) 597-9823.

Marine Region; 20 Lower Ragsdale Drive, #100, Monterey, CA 93940 — (831) 649-2870.

Technical assistance can be obtained directly from the Habitat Conservation Division; 1416 Ninth Street, Sacramento, CA 95814 — (916) 653-1070.

The National Marine Fisheries Service — Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997" are also available from their Southwest Region; 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95402 — (707) 575–6050.

§ 749.2. Incidental Take of Xantus's Murrelet (*Synthliboramphus hypoleucus*) During Candidacy Period.

NOTE: Authority cited: Sections 200, 202, 205, 240 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 240, 2080, 2084 and 2085, Fish and Game Code.

HISTORY

1. New section filed 11–7–2002 as an emergency; operative 11–7–2002 (Register 2002, No. 45). A Certificate of Compliance must be transmitted to OAL by 3–7–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 3–4–2003 as an emergency; operative 3–7–2003 (Register 2003, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–7–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 3–4–2003 order, including amendment of section heading and NOTE, transmitted to OAL 6–10–2003 and filed 6–24–2003 (Register 2003, No. 26).
4. Repealer filed 11–22–2004; operative 12–22–2004 (Register 2004, No. 48).

§ 749.3. Special Order Relating to the Incidental Take of Longfin Smelt (*Spirinchus thaleichthys*) During Candidacy Period.

The Commission finds that, based on current knowledge and the protection and management efforts outlined in this regulation, including Exhibits A through E, the level of habitat loss and take of longfin smelt which is likely to occur during the period that this regulation is in effect will not cause an appreciable reduction in the species' ability to survive and reproduce.

(a) Take Authorization

(1) Research and Monitoring

(A) Take of longfin smelt by Department personnel in the course of research and monitoring is authorized pursuant to Section 783.1(c), Title 14, CCR.

(B) Take of longfin smelt in the course of research and monitoring by public agencies and private parties is authorized subject to the following:

1. For ongoing research, a written, detailed project proposal describing objectives, methods (gear, sampling schedules and locations), efforts to minimize adverse effects to the species, and estimated level of take of the species shall be provided to the Regional Manger of the Bay Delta Region at the address specified in subsection (4) below within 45 days of this regulation becoming effective.

2. For research which has not yet commenced, a written, detailed project proposal describing objectives, methods (gear, sampling schedules and locations), efforts to minimize adverse effects to the species, and estimated level of take of the species shall be provided to the Regional Manger at the address specified in subsection (4) below.

3. The research or monitoring may commence once the Department issues written concurrence that the research and monitoring activities conducted are consistent with the Department's research and monitoring programs and are sufficient to protect longfin smelt. The Department may specify additional terms and conditions for the protection of longfin smelt and the reporting of all data collected to the Department.

4. Regional Manager, Bay Delta Region, P.O. Box 47, Yountville, CA 94599 — (707) 944–5500.

(C) Notwithstanding the foregoing, at the discretion of the Department, research and monitoring activities not addressed by the above procedures may receive separate authorizations for take of longfin smelt pursuant to Fish and Game Code Section 2081.

(2) Dredging and Extraction of Sand or Gravel Resources

Take of longfin smelt incidental to otherwise lawful dredging or extraction of sand or gravel resources in a stream or river is authorized for the longfin smelt candidacy period provided that any activity already required to monitor and report the take of any fish species to the Department or a federal wildlife agency also include the following information: the date, location and number of any longfin smelt taken during the candidacy period. A copy of the report shall be mailed to: Regional Manager, Bay Delta Region, P.O. Box 47, Yountville, CA 94599 — (707) 944–5500.

(3) Local Water Diversions

Incidental take of longfin smelt resulting from diversion of water by any local agency, private party, or the State Water Project North Bay Aqueduct or Suisun Marsh facilities, is authorized during the candidacy period, subject to the following conditions:

(A) Existing unscreened diversions may continue in operation through the candidacy period. Upon any future determination by the commission that longfin smelt shall be added to the list of threatened or endangered species, incidental take for such diversions must be authorized under Fish and Game Code Section 2081(b) or, if longfin smelt become listed pursuant to Section 1533 of Title 16 of the United States Code, be determined exempt from the permitting requirement under Fish and Game Code Section 2080.1.

(B) Diversions approved and constructed after the effective date of this section shall be screened and shall use the Department of Fish and Game Fish Screening Criteria for delta smelt (*Hypomesus transpacificus*) in Exhibit A as the fish screening criteria for longfin smelt.

(C) Existing fish screens that are repaired, upgraded, or reconstructed during the candidacy period must screen for longfin smelt by meeting the Department of Fish and Game Fish Screening Criteria for delta smelt in Exhibit A.

(D) Any activity already required to monitor and report the take of any fish species to the Department or a federal wildlife agency shall also include the following information: the date, location and number of any longfin smelt taken during the candidacy period. A copy of the report shall be mailed to: Regional Manager, Bay Delta Region, P.O. Box 47, Yountville, CA 94599 — (707) 944–5500.

(4) State Water Project and Federal Central Valley Project Export Facilities

In *Natural Resources Defense Council v. Kempthorne* (Kempthorne), the United States Eastern District Court issued an Interim Remedial Order Following Summary Judgment and Evidentiary Hearing which required specific limitations on the joint operations of the State Water Project (SWP) and the Federal Central Valley Project (CVP) in order to prevent the extinction of delta smelt until a new delta smelt biological opinion is issued by the United States Fish and Wildlife Service (FWS). The court has directed FWS to issue its new opinion by September 15, 2008. When the new biological opinion is issued, the *Kempthorne* requirements will terminate. The *Kempthorne* requirements are triggered by environmental conditions and the presence of specific delta smelt life stages and are focused on minimizing the negative entrainment effects caused when the combined export pumping of the SWP, operated by the Department of Water Resources (DWR) and the CVP, operated by the U.S. Department of the Interior, Bureau of Reclamation (Reclamation) reverses the flow in Old and Middle River (OMR). A series of *Kempthorne* OMR flow requirements began in late–December 2007 and will continue until June 20, 2008, sequentially targeting adult delta smelt during migration prior to spawning, spawning delta smelt, larvae and juveniles.

The Commission recognizes that there are statistical correlations between negative OMR flows and take of different longfin smelt life stages, as there are for delta smelt. There is substantial overlap in the periods when the two species are taken by the SWP and CVP. However, adult longfin smelt can be taken a month or more earlier than delta smelt (potentially in December). Because longfin smelt typically spawn earlier, the larvae may be present earlier as well (potentially in February). Consequently, concurrent take of both delta smelt and longfin smelt may include different life stages and magnitudes and Kempthorne requirements keyed to delta smelt presence may not match longfin smelt timing. The following measures will protect longfin smelt during the candidacy period when OMR limits required under *Kempthorne* for delta smelt may not

be in effect or adequately protective. The Commission therefore authorizes take of longfin smelt incidental to the coordinated operations of the SWP and CVP export facilities in accordance with the following OMR limits, or the OMR limits set in *Kempthorne*, whichever are more protective:

(A) Monitoring for the presence of adult (≥85mm Fork Length (FL)) and larval longfin smelt (<20 mmFL) shall be achieved as follows:

1. For adults by standard field sampling intervals, methods and locations of the Fall Midwater Trawl Survey, the San Francisco Bay Study Survey and the Spring Kodiak Trawl Survey.

2. For larvae, by initiating the 20mm Survey beginning in the first two weeks of March and conducting single tows at sampling locations 405, 411, 418, 602, 501, 504, 519, 508, 513, 520, 703, 704, 706, 707, 711, 716, 705, 801, 802, 804, 809, 812, 815, 901, 902, 906, 910, 912, 914, 915, 918, 919; In the last two weeks in March the full 20mm Survey will begin using standard survey protocol, sampling three tows per sampling location at all 41 standard locations.

3. DWR and Reclamation shall ensure that smelt collected at the SWP and the CVP, respectively, are preserved in formalin or ethanol, labeled with the date and location of collection, and transferred to the Department's Bay–Delta Region Stockton office, 4001 N Wilson Way, Stockton, CA 92405, within two business days to the attention of Marty Gingras for a determination of sex and reproductive status (i.e., egg stage or spent). Identification of any larval longfin smelt collected at either facility shall be reported within one business day to Marty Gingras at the Department's Bay–Delta Region Stockton office.

(B) Commencing on the effective date of this regulation, DWR and Reclamation shall protect spawning, larval, and juvenile longfin smelt by jointly operating the CVP and SWP to achieve a daily average net upstream (reverse) OMR flow (as computed for *Kempthorne* compliance) between 750 and 5,000 cfs on a seven–day running average beginning when longfin smelt spawning is indicated by: (i) the presence of spent female longfin smelt (≥85mm FL) in the Spring Kodiak Trawl (stations 809, 812, 815, 902, 906, 910, 912, 914, 915 on Exhibit B) or in the San Francisco Bay Study Otter Trawl or Midwater Trawl surveys (stations 863, 864, 865 on Exhibit C), all of which are located east or south of Jersey Point in the San Joaquin River, or south Delta channels or at either the SWP or CVP fish salvage facilities or (ii) when larval longfin smelt (<20mm FL) are detected in the 20mm Survey (stations 809, 812, 815, 901, 902, 906, 910, 912, 914, 915, 918 on Exhibit D) east or south of Jersey Point in the San Joaquin River or in south Delta channels or at the SWP or CVP fish salvage facility.

The specific biological flow objective within this range shall be set by the Department, after consultation with the FWS, DWR and Reclamation, to be determined on a weekly basis and based upon a Longfin Smelt Risk Assessment Matrix (LSRAM)(Exhibit E) to be refined by the Department in consultation with FWS, DWR, and Reclamation and the best available scientific and commercial information concerning the distribution and status of longfin smelt. The LSRAM is patterned after the Delta Smelt Risk Assessment Matrix only modified to reflect longfin smelt biology and life stages and available information. This action is suspended during any time: (i) the three–day average of flow in the Sacramento River at Freeport exceeds 80,000 cfs and is resumed when the three–day average Delta outflow falls below 40,000 cfs and adult or larval longfin smelt are again detected east or south of Jersey Point as described above, or (ii) the Vernalis Adaptive Management Plan is being implemented (31 days, typically in mid–April to mid–May). This action shall continue until, in the reasonable discretion of the Department, after consultation with the FWS, DWR, and Reclamation, the longfin smelt entrainment risk at each facility is abated, or June 20, 2008 whichever occurs first.

(C) Notwithstanding the foregoing, this regulation shall not prevent DWR or Reclamation from taking any action in operating the projects that is reasonably necessary to protect human health or safety of the public, including, but not limited to, any act or omission reasonably necessary to protect the structural integrity of any SWP or CVP facility.

(D) In the event DWR receives a permit from the Department pursuant to Fish and Game Code Section 2081, which governs the take of longfin smelt, those requirements under Section 749.3(a)(4) which apply to DWR shall be superseded by the terms of such permit.

(E) This emergency regulation shall be in effect for 180 days. It does not contain measures to protect pre–spawning longfin smelt or their larvae after June 20, 2008 from the effects of project operations, which effects can occur as early as late November or early December 2008. If this regulation is extended, operational requirements for this December — February period may be added by amending this regulation prior to expiration or extension.

NOTE: Authority cited: Sections 200, 202, 205, 240 and 2084, Fish and Game Code. Reference: Sections 200, 202, 205, 240 and 2084, Fish and Game Code.

HISTORY

1. New section and Exhibits A–E filed 2–27–2008 as an emergency; operative 2–29–2008 (Register 2008, No. 9). A Certificate of Compliance must be transmitted to OAL by 8–27–2008 or emergency language will be repealed by operation of law on the following day.

Exhibit A
Department of Fish and Game
Fish Screening Criteria
June 19, 2000

1. STRUCTURE PLACEMENT

A. Streams And Rivers (flowing water): The screen face shall be parallel to the flow and adjacent bankline (water's edge), with the screen face at or streamward of a line defined by the annual low–flow water's edge.

The upstream and downstream transitions to the screen structure shall be designed and constructed to match the bankline, minimizing eddies upstream of, in front of, and downstream of, the screen.

Where feasible, this "on–stream" fish screen structure placement is preferred by the California Department of Fish and Game.

B. In Canals (flowing water): The screen structure shall be located as close to the river source as practical, in an effort to minimize the approach channel length and the fish return bypass length. This "in canal" fish screen location shall only be used where an "on–stream" screen design is not feasible. This situation is most common at existing diversion dams with headgate structures.

The National Marine Fisheries Service — Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997" shall be used for these types of installations.

C. Small Pumped Diversions: Small pumped diversions (less than 40 cubic–feet per second) which are screened using "manufactured, self–contained" screens shall conform to the National Marine Fisheries Service — Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997."

D. Non–Flowing Waters (tidal areas, lakes and reservoirs): The preferred location for the diversion intake structure shall be offshore, in deep water, to minimize fish contact with the diversion. Other configurations will be considered as exceptions to the screening criteria as described in Section 5.F. below.

2. APPROACH VELOCITY (Local velocity component perpendicular to the screen face)

A. Flow Uniformity: The design of the screen shall distribute the approach velocity uniformly across the face of the screen. Provisions shall be made in the design of the screen to allow for adjustment of flow patterns. The intent is to ensure uniform flow distribution through the entire face of the screen as it is constructed and operated.

B. Self–Cleaning Screens:[1]

The U.S. Fish and Wildlife Service has selected a 0.2 feet per second approach velocity for use in waters where the Delta smelt is found. Thus, fish screens in the Sacramento–San Joaquin Delta and San Francisco Estuary should use this criterion for design purposes. In addition:

1. Streams and Rivers (flowing waters) — exposure to the fish screen shall not exceed fifteen minutes.

2. In Canals (flowing waters) — a bypass entrance shall be located every one–minute of travel time along the screen face.

3. Non–Flowing Waters (tidal areas, lakes and reservoirs) — The specific screen approach velocity shall be determined for each installation, based on the delta smelt life stage being protected. Velocities which exceed those described above will require a variance to these criteria (see Section 5.F. below).

C. Screens Which Are Not Self–Cleaning: The screens shall be designed with an approach velocity one–fourth that outlined in Section B. above. The screen shall be cleaned before the approach velocity exceeds the criteria described in Section B.

D. Frequency Of Cleaning: Fish screens shall be cleaned as frequently as necessary to prevent flow impedance and violation of the approach velocity criteria. A cleaning cycle once every 5 minutes is deemed to meet this standard.

E. Screen Area Calculation: The required wetted screen area (square feet), excluding the area affected by structural components (i.e., pore space or open area), is calculated by dividing the **maximum** diverted flow (cubic–feet per second) by the allowable approach velocity (feet per second). Example:

1.0 cubic–feet per second / 0.2 feet per second = 5.0 square feet of pore space

Unless otherwise specifically agreed to, this calculation shall be done at the **minimum** stream stage.

3. SWEEPING VELOCITY (Velocity component parallel to screen face)

A. In Streams And Rivers: The sweeping velocity should be at least two times the allowable approach velocity.

B. In Canals: The sweeping velocity shall exceed the allowable approach velocity. Experience has shown that sweeping velocities of 2.0 feet per second (or greater) are preferable.

C. Design Considerations: Screen faces shall be designed flush with any adjacent screen bay piers or walls, to allow an unimpeded flow of water parallel to the screen face.

4. SCREEN OPENINGS

A. Porosity: The screen surface shall have a minimum open area of 27 percent. We recommend the maximum possible open area consistent with the availability of appropriate material, and structural design considerations.

The use of open areas less than 40 percent shall include consideration of increasing the screen surface area, to reduce slot velocities, assisting in both fish protection and screen cleaning.

B. Round Openings: Round openings in the screening shall not exceed 3.96mm (5/32in). In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in).

C. Square Openings: Square openings in screening shall not exceed 3.96mm (5/32in) measured diagonally. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 2.38mm (3/32in) measured diagonally.

D. Slotted Openings: Slotted openings shall not exceed 2.38mm (3/32in) in width. In waters where steelhead rainbow trout fry are present, this dimension shall not exceed 1.75mm (0.0689in).

5. SCREEN CONSTRUCTION

A. Material Selection: Screens may be constructed of any rigid material, perforated, woven, or slotted that provides water passage while physically excluding fish. The largest possible screen open area which is consistent with other project requirements should be used. Reducing the screen slot velocity is desirable both to protect fish and to ease cleaning requirements. Care should be taken to avoid the use of materials with sharp edges or projections which could harm fish.

B. Corrosion and Fouling Protection: Stainless steel or other corrosion–resistant material is the screen material recommended to reduce clogging due to corrosion. The use of both active and passive corrosion protection systems should be considered. Consideration should be given to anti–fouling material choices, to reduce biological fouling problems. Care should be taken not to use materials deemed deleterious to fish and other wildlife.

C. Project Review and Approval: Plans and design calculations, which show that all the applicable screening criteria have been met, shall be provided to the Department before written approval can be granted by the Regional Manager, Bay Delta Region.

The approval shall be documented in writing to the project sponsor, with a copy to the Deputy Director, Resource Management and Policy Division. Such approval may include a requirement for post–construction evaluation, monitoring and reporting.

D. Assurances: All fish screens constructed after the effective date of these criteria shall be designed and constructed to satisfy the current criteria. Owners of existing screens, approved by the Department prior to the effective date of these criteria, shall not be required to upgrade their facilities to satisfy the current criteria unless:

1. The controlling screen components deteriorate and require replacement (i.e., change the opening size or opening orientation when the screen panels or rotary drum screen coverings need replacing),

2. Relocation, modification or reconstruction (i.e., a change of screen alignment or an increase in the intake size to satisfy diversion requirements) of the intake facilities, or

3. The owner proposes to increase the rate of diversion which would result in violation of the criteria without additional modifications.

E. Supplemental Criteria: Supplemental criteria may be issued by the Department for a project, to accommodate new fish screening technology or to address species–specific or site–specific circumstances.

F. Variances: Written variances to these criteria may be granted with the approval of the Regional Manager, Bay Delta Region and concurrence from the Deputy Director, Resource Management and Policy Division. At a minimum, the rationale for the variance must be described and justified in the request. Evaluation and monitoring may be required as a condition of any variance, to ensure that the requested variance does not result in a reduced level of protection for the aquatic resources.

It is the responsibility of the project sponsor to obtain the most current version of the appropriate fish screen criteria. Project sponsors should contact the Department of Fish and Game and the U.S. Fish and Wildlife Service (for projects in anadromous and fresh waters) for guidance.

Copies of the current criteria are available from the Department of Fish and Game Bay Delta Region; 7329 Silverado Trail/P.O. Box 46, Yountville, CA 94599, (707) 944–5500.

Technical assistance can be obtained directly from the Habitat Conservation Branch; 1416 Ninth Street, Sacramento, CA 95814 – (916) 653–1070.

The National Marine Fisheries Service Southwest Region "Fish Screening Criteria for Anadromous Salmonids, January 1997" is available at: http://swr.ucsd.edu/hcd/fishscrn.htm and from their Southwest Region, 777 Sonoma Avenue, Room 325, Santa Rosa, CA 95402 – (707) 575–6050.

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[1] Approach velocities in the June 19, 2000 Fish Screening Criteria that are inapplicable if delta smelt are present are omitted.

Exhibit B

Spring Kodiak Trawl Sampling Stations

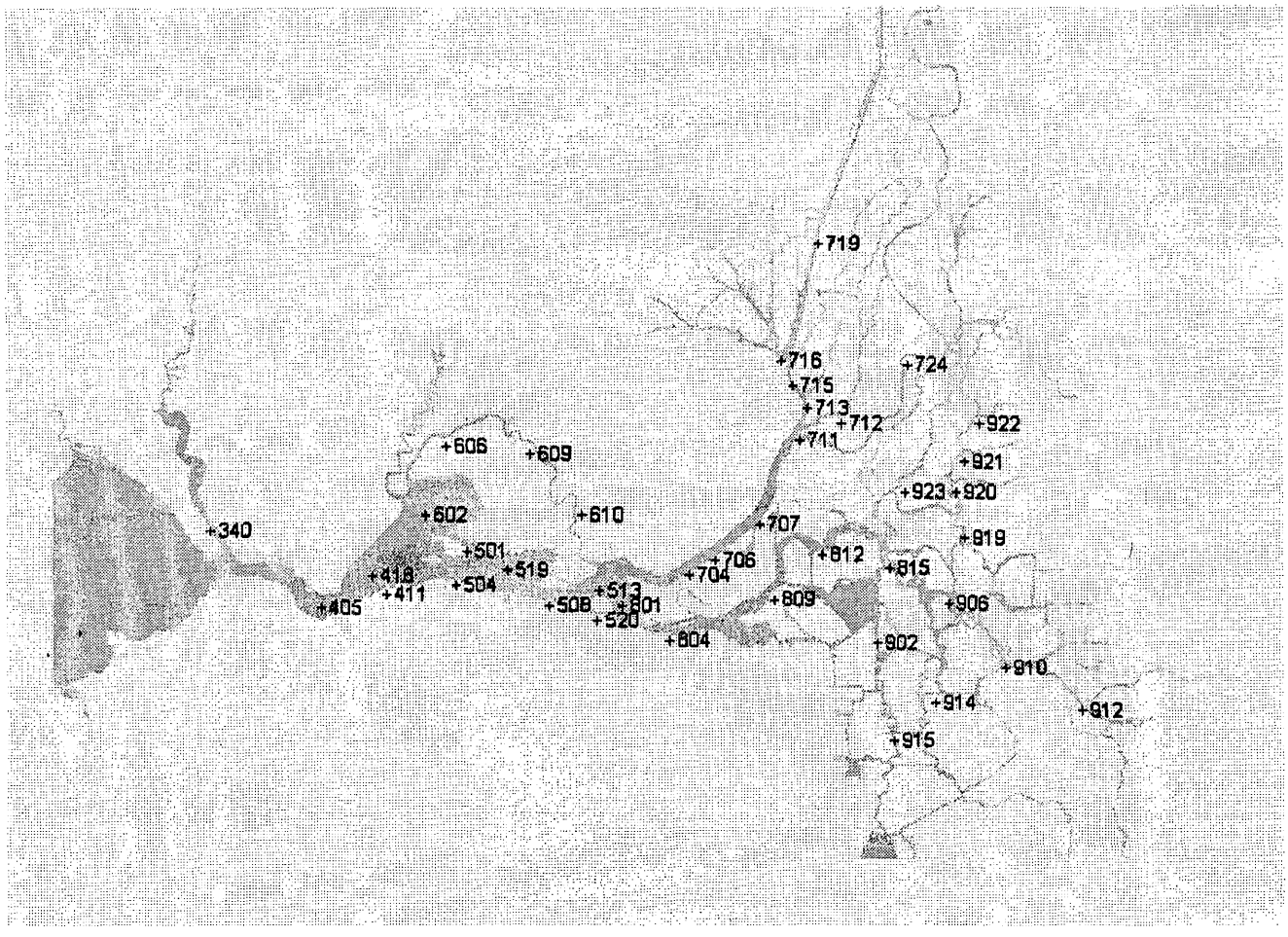


Exhibit C

San Francisco Bay Study Boat Sampling Stations

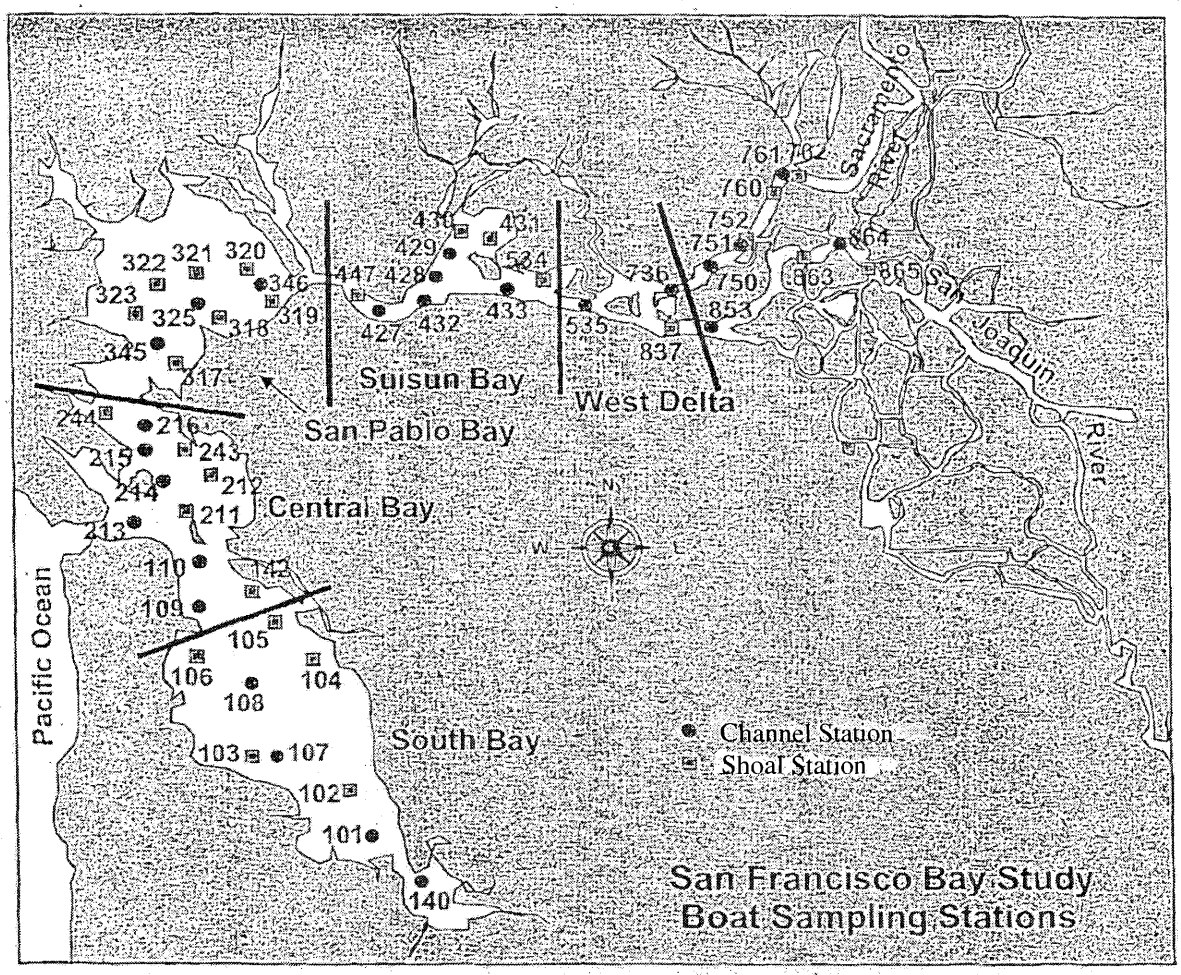


Exhibit D

20 Millimeter Sampling Stations

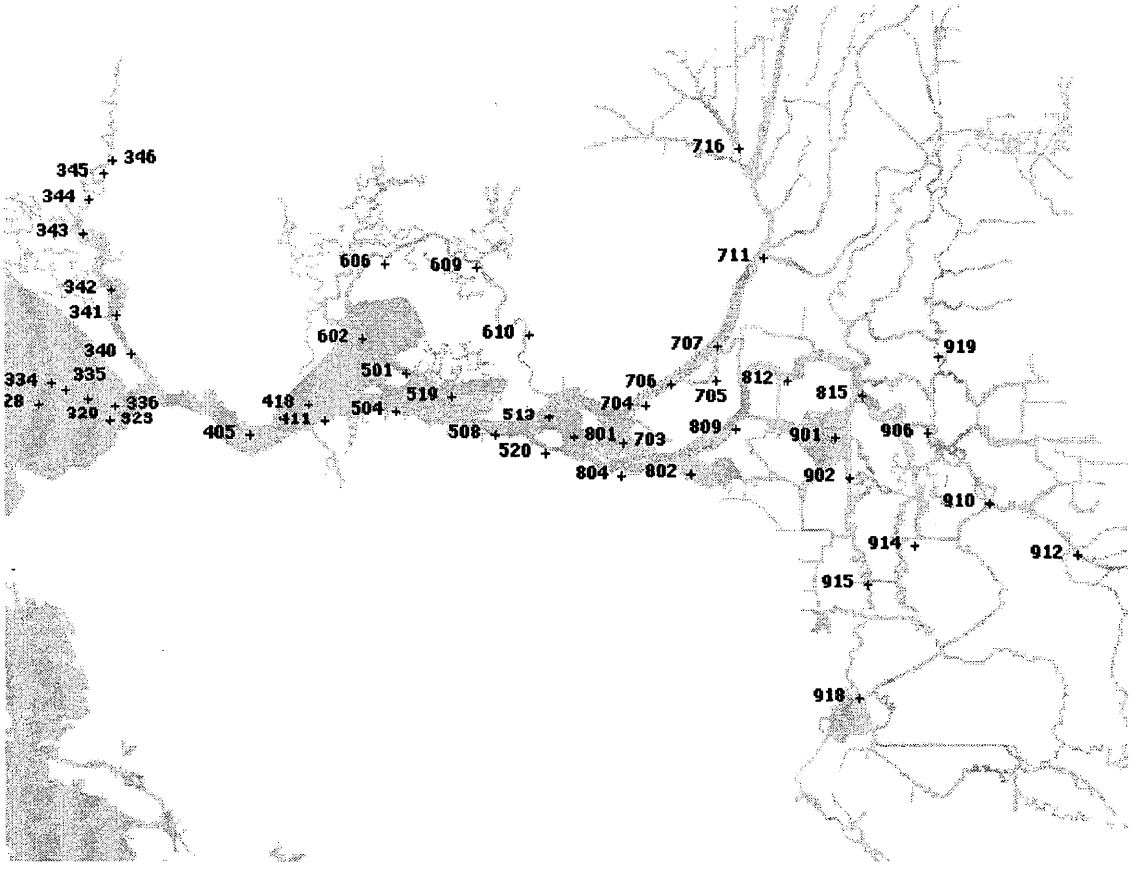


Exhibit E
Longfin Smelt Risk Assessment Matrix (LSRAM)
January 31, 2008

Triggers	December	January	February	March	April	May	June	July
Life Stage	Adults	Adults and Larvae	Adults and Larvae	Larvae	Larvae and Juveniles	Larvae and Juveniles	Juveniles	Juveniles
Previous Two Year's Fall Midwater Trawl **Concern Index Level** (1)	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years	Index below 240 for one or both years
Risk of Entrainment (2)	X2 upstream of Chipps Island; reduced if Sac R. flows >80k cfs	X2 upstream of Chipps Island; reduced if Sac R. flows >80k cfs	X2 upstream of Chipps Island; reduced if Sac R. flows >80k cfs	X2 upstream of Chipps Island ; reduced if Sac R. flows >80k cfs	X2 upstream of Chipps Island; reduced if Sac R. flows >80k cfs	X2 upstream of Chipps Island and mean delta-wide temps <18°C and south delta temps below 21.5°C	X2 upstream of Chipps Island and temps are below 21.5°C	X2 upstream of Chipps Island and temps are below 21.5°C
Spawning Stage as determined by FMWT, Bay Study, Spring Kodiak trawl and/or salvage (3)	Presence of Adults at spawning stage ≥ 4	Presence of Adults at spawning stage ≥ 4	Presence of Adults at spawning stage ≥ 4					
smelt distribution (4)	See footnote #4	See footnote #4	See footnote #4	See footnote #4 or negative 20mm centroid	Negative 20mm centroid	Negative 20mm centroid	Negative 20mm centroid	Negative 20mm centroid
Salvage Trigger (5)	Adult or Spent Adult	Spent Adult or larvae	Spent Adult or larvae	If salvage is above zero	If salvage is above zero	If salvage is above zero	If salvage is above zero	

Tools for Change (6)	December	January	February	March	April	May	June	July
Export reduction at one or both facilities	X	X	X	X	X	X	X	X
Change in barrier operations						X	X	X
Change in San Joaquin River flows	X	X	X	X	X	X	X	X
Change position of cross channel gates	X	X	X			X	X	

Longfin Smelt Risk Assessment Matrix Footnotes

1 The concern index refers to the Fall Midwater Trawl longfin smelt total index (all ages) from the 2–years previous to the calendar year of the larva/juvenile loss risk being evaluated (e.g., in 2008, the concern index would be FMWT 2006 and 2007 LFS indices; see http://www.delta.dfg.ca.gov/data/mwt/). The critical concern index of 240 is the approximate index value at the lower limit of the 1988–2000 outflow–abundance relationship (Figure 1). For recovery, indices at or above the regression line of the relationship are targeted.

2 We hypothesize that the location of X2 influences the distance adult fish migrate into the Delta to spawn and thus their vulnerability to entrainment in south delta exports, as well as that of their offspring. The highest and most consistent salvage of adult longfin smelt occurs when X2 is upstream of river kilometer (rkm) 70, and little salvage occurs when X2 is below 60 rkm. Sacramento River flow (3–day running average) of 80,000 cfs or greater pushes X2 well below rkm 70 and typically below rkm 60, moving water conditions suitable for longfin smelt spawning downstream of the Delta and transporting larvae downstream, away from the Delta as well. Longfin smelt spawn in winter when water temperature is declining into 13–15°C range. Larvae are typically present in colder temperatures and few early stage larvae continue to be present after water temperatures surpass 16.5°C. Young juveniles avoid temperatures > 21.5°C. These temperature relations were derived from plotting catches by stage on water temperature measurements, both of which were taken by the Bay Study field crews at western Delta locations, 1980–1986.

Critical thermal maxima for longfin smelt is unknown.

3 The adult spawning stage is determined from longfin smelt (≥85 mm FL) captured by one of the trawl surveys and/or one of the salvage facilities. A stage greater than or equal to 4 indicates female longfin smelt are ripe and ready to spawn or have already spawned (following Mager 1996 for delta smelt).

Mager RC. 1996. Gametogenesis, Reproduction and Artificial Propogation of Delta Smelt, *Hypomesus transpacificus*. [Dissertation] Davis: University of California, Davis. 115 pages. Published.

4 Adults (December–February): the Fall Midwater Trawl in December, the Bay Study otter and midwater trawl samples in December through February, and the Spring Kodiak Trawl Survey in January and February all will provide data to be used to determine the distribution of adult longfin smelt. December–February trigger occurs when adult longfin smelt (≥85 mm FL) are detected east or south of Jersey point in the San Joaquin River or south Delta channels however risk is substantially reduced when Sacramento River flows at Freeport surpass 80,000 cfs in a 3–day running average and remains low until total Delta outflow drops below 40,000 cfs for a 3–day running average; at which time the longfin smelt distribution will be re–evaluated relative to the original triggering criteria of an adult east or south of Jersey Point.

Larvae (January–April)(in 2008, March–April): March concern is triggered by the presence of longfin smelt larvae in salvage or distribution east or south of Jersey Point in the 20mm Survey. The level of response is determined by the distribution of larvae within the system (see http://www.delta.dfg.ca.gov/data/20mm/ for longfin smelt)

Juveniles (March–July) — concern is triggered by longfin smelt juveniles distribution of juvenile smelt where the centroid is located upstream (negative) or downstream (positive) of the Sacramento–San Joaquin River confluence (see delta smelt Matrix, Figure 5.2). The 20–mm Survey centroid is calculated by multiplying the observed smelt station CPUE by a distance parameter in km from the confluence. The summed result (summed over a survey) is divided by the survey CPUE which gives the survey centroid position (see delta smelt Matrix, Figure 5.2 and http://www.delta.dfg.ca.gov/data/20mm/, selecting delta smelt).

5 Salvage trigger: the salvage trigger for December through March is determined by calculating the ratio of adult salvage to the fall MWT index. This ratio will increase as fish are salvaged during the winter months. If the ratio exceeds the median of what was observed during December–March 1980–2002, then the trigger was met (see Figure 6 for more explanation of the calculation)

During April, May and June, if longfin smelt collected at the salvage facilities is greater than zero, then the working group will meet. This is because April, May and June are the peak of smelt salvage and salvage densities cannot be predicted. Therefore, during these two months, the smelt working group will meet proactively to protect these fish by looking at relevant information such as salvage, delta temperatures, delta hydrology and smelt distributions.

6 The tools for change are actions that the working group can recommend to help protect longfin smelt. Exports may be reduced at one or both of the south delta

export facilities and a proposed duration of the reduction would be recommended by the working group.

Chapter 4. Procedural Regulations for Implementation of the California Environmental Quality Act of 1970

Article 1. General

§ 750. Authority.

These regulations are prescribed by the Director of the California Department of Fish and Game, the California Fish and Game Commission, and the California Wildlife Conservation Board, hereafter referred to as Fish and Game, under authority granted in Public Resources Code Section 21082 to implement, interpret, or make specific Sections 21000 through 21176 of the Public Resources Code (The California Environmental Quality Act of 1970—Division 13, Public Resources Code, 21000 et seq.) and Sections 15000 through 15203 of the California Administrative Code (Guidelines for Implementation of the California Environmental Quality Act of 1970—Division 6, Title 14, Cal. Adm. Code, Chap. 3) adopted by the California Resources Agency under Public Resources Code Section 21083.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

HISTORY

1. New Chapter 4 (Sections 750 through 781) filed 4–4–73 as an emergency; designated effective 4–4–73 (Register 73, No. 14).
2. Certificate of Compliance filed 7–11–73 (Register 73, No. 28).
3. Repealer of Chapter 4 (Articles 1–5, Sections 750–781) and new Chapter 4 (Articles 1–3, Sections 750–781) filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).

§ 751. Short Title.

Fish and Game CEQA Implementation Regulations.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 752. Purpose.

The purpose of these regulations is to further specify the objectives and criteria, and the procedures to be followed by Fish and Game in implementing the California Environmental Quality Act of 1970, hereinafter referred to as CEQA, and the Guidelines for Implementation of the California Environmental Quality Act of 1970, as adopted February 7, 1973 and all subsequent amendments thereto, hereinafter referred to as the State EIR Guidelines.

The State EIR Guidelines are incorporated into these regulations by reference, as though they are set out in full. These procedural regulations are to be used in conjunction with the State EIR Guidelines.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 753. Policy.

As early as possible and in all cases prior to a decision concerning a project as defined in CEQA and the State EIR Guidelines, Fish and Game, acting as a lead agency (Section 21080.3 and 21080.4 of CEQA, Section 15030 of the State EIR Guidelines), or an agency with jurisdiction by law to exercise authority over natural resources which may be affected by the project (Section 21080.3 and 21080.4 of CEQA) will, in consultation with the public and appropriate federal, state, and local agencies, assess in detail the potential environmental impact of a project in order that adverse effects are avoided, and environmental quality is preserved, restored or enhanced to the fullest extent practicable. Project alternatives that will minimize significant adverse impact will be explored and evaluated in order to avoid to the fullest extent practicable undesirable consequences to the environment.

It is Fish and Game policy that consideration of the potential environmental impact of all actions is of the highest priority.

It is further Fish and Game policy to involve affected federal, state, and local agencies, private organizations, and members of the public to the fullest extent practicable in the environmental impact assessment process.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 753.5. Collection of Filing Fees.

(a) Fee Schedule (also see subsection 753.5(g) of these regulations).

(1) Statutorily Exempt Projects: All projects statutorily exempt from the provisions of the California Environmental Quality Act shall incur no fee. (See sections 15260–15277, title 14, CCR.)

(2) Categorically Exempt Projects: All projects categorically exempt by regulations of the Secretary for Resources from the provisions of the California Environmental Quality Act shall incur no fee. (See sections 15300–15329, title 14, CCR.)

(3) De Minimis Projects: All projects found by the lead agency to be de minimis in their effect on fish and wildlife shall incur no fee. (See subsection 753.5(c) of these regulations).

(4) Negative Declaration Projects: All projects for which a Negative Declaration has been prepared pursuant to section 21080(c) of the Public Resources Code shall incur a fee of $1,250.00. (See subsection 753.5(c) of these regulations).

(5) Environmental Impact Report Projects: All projects for which an Environmental Impact Report has been prepared pursuant to section 21151 of the Public Resources Code shall incur a fee of $850.00. (See subsection 753.5(c) of these regulations).

(b) Parties Responsible for Payment of Fees.

Pursuant to subdivision 711.4(c) of the Fish and Game Code, all project applicants subject to the California Environmental Quality Act shall pay a filing fee for each project for which an EIR or Negative Declaration has been approved. In the case of projects subject to the discretionary approval of local government or nonstate public agencies the following regulations apply:

(1) Local or Non–state Public Agencies Undertaking a Project: When a local or non–state public agency acts in its own proprietary capacity in undertaking a project, the local agency or non–state public agency, shall be considered to be the applicant (section 15351, title 14, CCR) and be required to remit the fee.

(2) Private Entities or Special Districts Proposing Projects Subject to Environmental Review and Discretionary Approval by Local Government: When local land use authorities are granting a license, permit or entitlement to project applicants, the Private entity or special district shall be considered to be the applicant and be required to remit the fee.

(c) Fee Exemption for De Minimis Impact Finding.

Notwithstanding subsections (a)(4) and (5), if the lead agency (as defined by section 21067 of the Public Resources Code) finds that, considering the record as a whole a project involves no potential for adverse effect, either individually or cumulatively on wildlife (as defined by section 711.2 of the Fish and Game Code), no fee is required. A lead agency claiming a de minimis exemption shall comply with the following provisions:

(1) The lead agency's findings of fact shall include the following information in order to qualify for a de minimis exemption:

(A) The name and address of the project proponent;

(B) A brief description of the project and its location, including county:

(C) A statement that an initial study has been conducted by the lead agency so as to evaluate the potential for adverse environmental impact; and

(D) A declaration that when considering the record as a whole there is no evidence before the agency that the proposed project will have potential for an adverse effect on wildlife resources or the habitat upon which the wildlife depends.

(E) A declaration that the lead agency has, on the basis of substantial evidence, rebutted the presumption of adverse effect contained in these regulations at subsection (d).

(2) At the time a lead agency approves or determines to carry out a project subject to the California Environmental Quality Act, it shall complete, if appropriate, a Certificate of Fee Exemption (DFG 753.5 – 5/91) and adopt the findings of fact described above in subsection (c)(1).

(3) Upon certification of the contents of the Certificate of Fee Exemption (DFG 753.5 – 5/91) by the chief planning official, the lead agency shall retain the original certificate as part of the environmental record and file two copies of the certificate with the county clerk along with the Notice of Determination as provided in section 21152 of the Public Resources Code pertaining to local agencies, or with the Office of Planning and Research as provided in section 21108 of the Public Resources Code, pertaining to state agencies.

(d) Presumption of Adverse Effect.

(1) If the Environmental Checklist form found in the Secretary for Resources' guidelines (14 CCR, section 15000 et seq., Appendix I) or the initial study conducted by the lead agency indicates that the project may or will in the lead agency's opinion result in chances to the resources listed in subsections (A) through (G) below, it is presumed, unless rebutted by substantial evidence in the record, that the project will have a potential for adverse effect on fish and wildlife resources or the habitat upon which the wildlife depends.

(A) Riparian land, rivers, streams, watercourses, and wetlands under state and federal jurisdiction;

(B) Native and non–native plant life and the soil required to sustain habitat for fish and wildlife;

(C) Rare and unique plant life and ecological communities dependent on plant life; and

(D) Listed threatened and endangered plant and animals and the habitat in which they are believed to reside.

(E) All species of plant or animals as listed as protected or identified for special management in the Fish and Game Code, the Public Resources Code, the Water Code or regulations adopted thereunder.

(F) All marine and terrestrial species subject to the jurisdiction of the Department of Fish and Game and the ecological communities in which they reside.

(G) All air and water resources the degradation of which will individually or cumulatively result in a loss of biological diversity among the plants and animals residing in that air and water.

(e) Collection Procedures for County Clerks.

(1) Each project proponent shall remit to the county clerk on or before the filing of Notice of Determination (see Public Resources Code, section 21152) the fee required under Fish and Game Code section 711.4(d). Without the appropriate fee, de minimis finding, statutory or categorical exemption (see subsection 753.5(a) of these regulations) the Notice of Determination is not operative, vested or final, shall not be accepted by the clerk and shall be returned to the lead agency with notification of fee requirement and a statement that, pursuant to section 21089(b) of the Public Resources Code "the project is not operative, vested, or final until the filing fees are paid."

(2) In the event of nonpayment of the documentary handling fee authorized under Fish and Game Code, section 711.4, the county clerk shall have the discretion to not accept a filing until the handling fee is paid. Upon rejection of any filing under this subsection, the clerk may return the Notice of Determination to the lead agency with notification of fee requirement.

(3) Only one fee shall be paid per project. In the event a project requires multiple Notices of Approval or Determination by lead and/or responsible agencies, the fee shall be paid at the time or before the lead agency files the Notice of Approval or first Notice of Determination. Upon payment, the applicant shall retain the receipt for presentation to any additional agencies whose approval may be required. A copy of that receipt shall be attached to any additional Notices of Determination that may be required for the same project. This copy shall suffice as documentation that the fee has been paid.

(4) All checks are to be payable to the county where the filing is made. The county in turn will deposit the checks into its treasury and remit the fees collected to the State Treasurer on a monthly basis.

(5) To maintain accountability and to track all project applications, the Department has developed press numbered Environmental Filing Fee Cash Receipts (DFG 753.5a – 5/91). These cash receipts, or a Department approved alternative cash receipt, must be used in conjunction with this collection procedure. (To obtain Department approval the substitute receipt must provide the same information as in DFG.753.5a – 5/91 and contain four copies for distribution.) The original receipt is to be issued to a project applicant when payment is made in conjunction with filing a Notice of Determination (Public Resources Code, section 21152). The second copy is to be submitted to the Department on a monthly basis. The remaining copies will be retained by the county (one for the lead agency and one for the county clerk).

(6) For projects that are categorically exempt (sections 15260–15277, or 15300–15329, title 14, CCR) and are filed with the county clerk, the Environmental Filing Fee Cash Receipt shall also be completed and attached to the Notice of Exemption in order to ensure accountability in section 753.5(e)(5) above. The cash receipt will indicate "project that is exempt from fees". If a documentary handling fee of $25.00 maximum is charged by the county clerk, the receipt shall so indicate.

(7) For projects that the lead agency has found to be de minimis it is mandatory that a copy of the Certificate of Fee Exemption, certified by the lead agency's chief planning official be attached to the Notice of Determination.

(8) Within 30 days after the end of each month in which the filing fees are collected, each county will summarize and record the amount collected on the monthly State of California Form No. CA 25 (TC 31) report (available from State Controller's office) and remit the amount collected to the State Treasurer. IDENTIFY THE REMITTANCE ON THE STATE OF CALIFORNIA FORM NO. CA 25 (TC 31) AS "ENVIRONMENTAL DOCUMENT FILING FEES" PER FISH AND GAME CODE SECTION 711.4. DO NOT COMBINE THE ENVIRONMENTAL FEES WITH THE STATE SHARE OF FISH AND GAME FINES. The following documents are to be mailed by the county clerks to the Department of Fish and Game, Fiscal and Administrative Services Branch, 1416 Ninth Street. Box 944209, Sacramento, California 94244–2090, on a monthly basis:

(A) A photocopy of the monthly State of California Form No. CA 25 (TC 31);

(B) Department copies of all cash receipts (including all voided receipts);

(C) A copy of all "Certificates of Fee Exemption";

(D) A copy of all Notices of Approval or Determination filed with the county during the preceding month; and

(E) Name, address and telephone number of all project applicants for which a Notice of Determination has been filed. If this information is contained on the cash receipt filed with the Department under section 753.5(e)(5) above, no additional information is required.

(f) Retention of Records.

In order to ensure that records are available for Department audit and accountability purposes, the documents required by these regulations (section 753.5(e)(8)(A) through (E)) shall be retained for a period of 9 months. The county clerk shall make available to the Department, and its representatives, for purposes of inspection and review, any and all of its books, papers, documents and other records. The aforesaid records shall be available for inspection and review during regular business hours.

(g) Cost Recovery by County Clerks.

(1) The county clerk is authorized pursuant to Fish and Game Code, section 711.4(e) to charge a documentary handling fee for each environ-

mental document received by the clerk pursuant to Public Resources Code section 21152(a) or 21152(b).

(2) If the county is acting in its capacity as a "lead agency" and the costs of complying with these filings and remittance activities exceeds $25.00 per document, the county clerk is authorized under Public Resources Code, Section 21089 to charge and recover the estimated costs incurred by the clerk at the time the lead agency files the Notice of Determination or Exemption as required under Public Resources Code, section 21152.

(h) Collection Procedures – Statutory Assessment.

(1) Unpaid Fee Defined – An unpaid fee shall for the purposes of this regulation be defined as either of the following:

(A) In the event a project applicant fails to remit the fees due under Fish and Game Code section 711.4(d) to the county clerk on or before the time of filing of a Notice of Determination pursuant to Public Resources Code section 21152; or with the Office of Planning and Research as required under Public Resources Code section 21108; or with the Secretary for Resources as required under Public Resources Code section 21080.5;

(B) If the filing of a de minimis exemption where the legal presumption has not in the judgment of the Department been rebutted by substantial evidence in the record.

(2) If the county clerk, the Office of Planning and Research, or Secretary for Resources accepts the Notice of Determination without the required filing fee, the unpaid fee is a statutory assessment and such assessment is final pursuant to Revenue Taxation Code section 6757(b)(4) upon the date the county clerk, the Office of Planning and Research, or the Secretary for Resources accepts the Notice of Determination/Approval without the required Environmental Filing Fee.

(3) If the county clerk accepts a Notice of Determination for filing with a de minimis exemption certificate and the Department of Fish and Game, upon audit of the record of environmental filings received, determines that the legal presumption of adverse effect was not rebutted by substantial evidence, the Department of Fish and Game shall notice the project applicant and upon 20 days from mailing of the notice the unpaid fee shall then become a final statutory assessment pursuant to Revenue and Taxation Code, section 6757(b)(4).

(4) Enforceable Lien – Upon non–payment of the Environmental Filing Fee as required under Fish and Game Code section 711.4(d) by any person as defined under Revenue and Taxation Code, section 6005, the amount of the liability including penalties, interest, and any costs shall thereupon be a perfected and enforceable statutory lien subject to chapter 14 commencing with section 7150 of the Government Code.

[The next page is 192.3.]

CALIFORNIA DEPARTMENT OF FISH AND GAME
CERTIFICATE OF FEE EXEMPTION

De Minimis Impact Finding

Project Title/Location Name and Address of Project Proponent (include county):

Project Description:

Findings of Exemption (attach required findings):

Certification:

I hereby certify that the lead agency has made the above findings of fact and that based upon the initial study and hearing record the project will not individually or cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.

_____
(Chief Planning Official)

Title: _____

Lead Agency _____

Date _____

DFG 753.5 (5/91)

DFG 753.5a (5/91)

STATE OF CALIFORNIA-THE RESOURCES AGENCY
DEPARTMENT OF FISH AND GAME
ENVIRONMENTAL FILING FEE
CASH RECEIPT

Lead Agency: _____ Date: _____
County/State Agency of Filing: _____ Document No.: _____
Project Title: _____
Project Applicant Name: _____ Telephone No.: _____
Project Applicant Address: _____

Project Applicant (check appropriate box): Local Public Agency ☐ School District ☐ Other Special District ☐
State Agency ☐ Private Entity ☐

CHECK APPLICABLE FEES:

( ) Environmental Impact Report	$850.00	$ _____
( ) Negative Declaration	$1,250.00	$ _____
( ) Application Fee Water Diversion *(State Water Resources Control Board Only)*	$850.00	$ _____
( ) Projects Subject to Certified Regulatory Programs	$850.00	$ _____
( ) County Administrative Fee	$25.00	$ _____
( ) Project That Is Exempt From Fees		
	TOTAL RECEIVED	$ _____

Signature and title of person receiving payment: _____

FIRST COPY-PROJECT APPLICANT SECOND COPY-DFG/CEAB THIRD COPY-LEAD AGENCY FOURTH COPY-COUNTY/STATE AGENCY OF FILING

NOTE: Authority cited: Sections 702 and 711.4, Fish and Game Code. Reference: Sections 702, 710.5, 711.4 and 1607, Fish and Game Code.

HISTORY

1. New section filed 1–22–91 as an emergency, operative 1–22–91 (Register 91, No. 10). A Certificate of Compliance must be transmitted to OAL by 5–27–91 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 1–22–91 order with amendments transmitted to OAL 6–20–91 and filed 6–20–91 (Register 91, No. 42).

Article 2. Fish and Game As Lead Agency

§ 754. Environmental Review Procedures.

The following procedures shall be used when Fish and Game has been designated as the lead agency pursuant to the State EIR Guidelines. (Sec. 15065).

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 755. Determination of Lead Unit.

The Fish and Game unit having the lead role for the environmental evaluation process shall be that unit with the primary responsibility for

[The next page is 193.]

proposing to carry out or recommending approval of a project, and shall have responsibility for ensuring that the evaluation process as set forth in CEQA, the State EIR Guidelines, and these procedures is followed. In the event that a project requires joint proposal or approval of two or more Fish and Game units, then the unit executives shall meet and determine which shall be the lead unit, and what information and other assistance shall be provided by the other responsible units. (Sec. 15065).

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 756. Applicability of CEQA.

The lead unit shall determine whether or not a proposed action is in fact a "project" as defined by CEQA, and necessitates CEQA compliance. (Sec. 15037).

"Project" means the whole of an action which has a potential for resulting in a direct or indirect physical change in the environment as follows:

(a) Activities directly undertaken by Fish and Game;

(b) Activities undertaken by a person which are supported in whole or in part through contracts, grants, subsidies, loans or other forms of assistance provided by Fish and Game;

(c) Activities involving the issuance to Fish and Game of a lease, permit, license, certificate or other entitlement for use by one or more public agencies.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 757. Exempt Projects.

Planning and feasibility studies, ministerial projects, and classes designated by the State EIR Guidelines as "Categorical exemptions" are considered exempt from the provisions of CEQA. It is further modified by the State EIR Guidelines to exclude emergencies (Section 15071), legislative proposals (Section 15037(b)(2)), continuing administrative or maintenance activities (Section 15037(b)(3)), and "where it can be seen with certainty that the activity in question will not have a significant effect on the environment" (Section 15060). In addition, these guidelines are not applicable to those Fish and Game Commission programs or activities that are exempted from CEQA through certification by the Secretary for Resources under the provisions of Section 21080.5 CEQA.

The lead unit shall determine which projects are exempt and shall prepare a Notice of Exemption. This notice shall be forwarded from the lead unit to ESB for review, and from there to the Director's office. If the exemption is approved, it shall then be forwarded and filed with the Resources Agency. The filing of a notice of exemption starts a 35 day statute of limitations period on legal challenges. A copy shall be filed in ESB files and a copy returned to the lead unit. If the exemption is not approved, the lead unit will be notified. Specific exemptions include:

(a) Feasibility and Planning Studies. Feasibility and planning studies are exempted by Section 21102 of CEQA. This section provides that funds shall not be requested or authorized for any project, other than a project involving only feasibility or planning studies for possible future actions not approved, adopted, or funded, which may have a significant effect on the environment, unless an impact report has been prepared. However, environmental factors are to be considered during such studies.

(b) Ministerial Projects. Ministerial projects are exempted from CEQA by Section 21080(b). Ministerial projects, as defined in the Section 15032 of the State EIR Guidelines, include those activities defined as projects which are undertaken or approved by a governmental decision which a public officer or public agency makes upon a given state of facts in a prescribed manner in obedience to the mandate of legal authority. The following activities of Fish and Game are hereby considered to be ministerial projects as authorized by Section 15192(b) of the State EIR Guidelines:

(1) Issuance of fishing and hunting licenses, stamps, and tags, falconry licenses, and trapping licenses;

(2) Actions concerning enforcement of the Fish and Game Code and other State laws;

(3) Licensing of pheasant clubs, commercial hunting clubs, and domesticated migratory waterfowl shooting areas;

(4) Issuance of the following permits: domesticated fish breeder's permit; fish transportation permit; suction dredge permit; fish importation permit; private fish stocking permit; depredation permit; explosives permit; scientific collecting permit; bird banding permit; migratory waterfowl feeding permit; permit to import and possess prohibited species of wild animals; permit for Indians to transport game off reservations; permit for Commission approval for taking of deer; permit to take or herd birds or mammals with the aid of vehicles or aircraft.

Other projects may be ministerial and the determination of this status shall be made by Fish and Game on a case–by–case basis, depending upon analysis of the laws relevant to the project.

(c) Categorical Exemptions. Categorical exemptions are those classes of projects which are exempted from the requirements of CEQA, through adoption by the Secretary for Resources (Public Resources Code Section 21084). These exemptions have been made upon a finding that the projects will have no significant effect on the environment. This finding has been made as stated in Section 15100 et seq. of the State EIR Guidelines. Classes concerning Fish and Game and particular projects to which they apply are as follows:

(1) Class 1: Existing Facilities. Class 1 consists of the operation, repair, or maintenance or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of use beyond that previously existing, including but not limited to:

(A) Interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances;

(B) Existing streets, sidewalks, gutters, bicycle and pedestrian trails, and similar facilities except where the activity will involve removal of a scenic resource including but not limited to a stand of trees, a rock outcropping, or an historic building;

(C) Restoration or rehabilitation of deteriorated or damaged structures, facilities or mechanical equipment to meet current standards of public health and safety, unless it is determined that the damage was substantial and resulted from an environmental hazard such as earthquake, landslide, or flood;

(D) Additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition or alteration, or 2,500 square feet, whichever is less; or, 10,000 square feet if the project is in an area where all public services and facilities are available to allow for maximum development permissible in the General Plan and, the area in which the project is located is not environmentally sensitive;

(E) Addition of safety or health protection devices for use during construction of or in conjunction with existing structures, facilities, or mechanical equipment, or topographical features (including navigational devices) where these devices do not have or result in an adverse environmental impact;

(F) New copy on existing on–and–off–premise signs;

(G) Maintenance of existing landscaping, native growth and water supply reservoirs (including the use of economic poisons, as defined in Division 7, Chapter 2, California Agriculture Code);

(H) Maintenance of fish screens, fish ladders, wildlife habitat areas, artificial wildlife watering devices, streamflows, springs and waterholes, and stream channels (clearing of debris) to protect fish and wildlife resources;

(I) Production and stocking of fish and wildlife but not including the introduction of new species;

(J) Demolition and removal of individual small structures listed in this subsection except where the structures are of historical, archaeological or architectural significance:

1. Single family residences not in conjunction with the demolition of two or more units;

2. Apartments and duplexes designed for not more than four dwelling units if not in conjunction with the demolition of two or more such structures;

3. Offices, if designed for an occupant load of 10 persons or less, if not in conjunction with the demolition of two or more such structures;

4. Accessory (appurtenant) structures including but not limited to garages, carports, roof structures, workshops, storage buildings, well houses, aerators, feed bins, fences, patios and public restroom facilities;

(K) Minor repairs and alterations to existing dams and appurtenant structures under the supervision of the Department of Water Resources.

(2) Class 2: Replacement or Reconstruction. Class 2 consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including but not limited to:

(A) Fish hatcheries;

(B) Office buildings;

(C) Residences;

(D) Streamflow maintenance dams;

(E) Public restroom facilities;

(3) Class 3: New Construction of Small Structures. Class 3 consists of construction and location of single, new facilities or structures and installation of new equipment and facilities including but not limited to:

(A) Single family residences not in conjunction with the building of two or more such units.

(B) Offices and laboratories if designed for an occupant load of 20 persons or less if not in conjunction with the building of two or more such structures.

(C) Accessory (appurtenant) structures including garages, carports, public restroom facilities, workshops, storage buildings, feed bins, roof structures, aerators, and well houses.

(4) Class 4: Minor Alterations to Land. Class 4 consists of minor public or private alterations in the condition of land, water and/or vegetation which do not involve removal of mature, scenic trees except for forestry and agricultural purposes. Examples include but are not limited to:

(A) Grading on land with a slope of less than 10 percent or under one acre, except where it is to be located in a waterway, in any wetland, in an officially designated (by Federal, State, or local governmental action) scenic area, in officially mapped areas of severe geologic hazard, or, in the habitat of a rare or endangered species of fish or wildlife;

(B) New gardening or landscaping but not including tree removal;

(C) Filling of earth into previously excavated land with material compatible with the natural features of the site;

(D) Minor alterations in land, water and vegetation on existing officially designated wildlife management areas or fish production facilities which result in improvement of habitat for fish and wildlife resources or greater fish production;

(E) Minor temporary uses of land having negligible or no permanent effects on the environment.

(5) Class 5: Alterations in Land Use Limitations. Class 5 consists of minor alterations in land use limitations in areas with less than a 20% slope, which do not result in any changes in land use or density, including but not limited to:

(A) Minor lot line adjustments, side yard and set back variances not resulting in the creation of any new parcel;

(B) Issuance of minor encroachment permits;

(C) Reversion to acreage in accordance with the Subdivision Map Act.

(6) Class 6: Information Collection. Class 6 consists of basic data collection, research, experimental management and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource. These may be for strictly information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted or funded, including but not limited to:

(A) Fish and wildlife life history studies, including collection or marking of animals and obtaining data on the vital statistics of fish and wildlife populations and their use by man;

(B) Measurement and monitoring of pesticides, heavy metals, thermal discharges, and other pollutants, including bioassays and testing of oil spill cleanup agents;

(C) Experimental development and evaluation of fish and wildlife habitat;

(D) Experimental introduction of exotic species, experimental fish and wildlife culture and stocking, and transplants of native and established species;

(E) Evaluation of the effects of fish and wildlife protection or enhancement facilities or measures (e.g. fish screens, vegetation removal from spawning areas, deer escape devices in canals);

(F) Research on fish and wildlife diseases and parasites;

(G) Studies of the impact of land and water use changes on fish and wildlife;

(H) Habitat inventory programs.

(7) Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Class 7 consists of actions taken by regulatory agencies as authorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment. Examples include but are not limited to wildlife preservation activities of the State Department of Fish and Game. Examples include but are not limited to:

(A) Actions to close areas to hunting and sport fishing;

(B) Approval of ecological reserves and wildlife management areas (but not acquisition or development);

(C) Elimination or control of undesirable species, including chemical treatment of streams, lakes and reservoirs;

(D) Vegetation development, manipulation, or fertilization to increase habitat productivity for fish and wildlife, including controlled burning;

(E) Botulism and other disease control measures;

(F) Development of springs and waterholes and artificial wildlife watering devices for fish and wildlife maintenance or enhancement purposes.

Construction activities are not included in this exemption.

(8) Class 8: Actions by Regulatory Agencies for Protection of the Environment. Class 8 consists of actions taken by regulatory agencies as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement or protection of the environment where the regulatory process involves procedures for protection of the environment. Construction activities are not included in this exemption.

(9) Class 9: Inspections. Class 9 consists of activities limited entirely to inspection, to check for performance of an operation, or quality, health or safety of a project, including:

(A) Related activities such as inspection for possible mis–labeling, mis–representation or adulteration of products;

(B) Live freshwater fish and marine shellfish importation inspection;

(C) Fish disease inspection;

(D) Game bird farm inspections;

(E) Inspections of private and public zoological gardens.

(10) Class 10: Loans. Class 10 consists of loans made by the Department of Veterans Affairs under the Veterans Farm and Home Purchase Act of 1943, mortgages for the purchase of existing structures where the loan will not be used for new construction and the purchase of such mortgages by financial institutions.

(11) Class 11: Accessory Structures. Class 11 consists of construction, or placement of minor structures accessory to (appurtenant to) existing commercial, industrial, or institutional facilities, including but not limited to:

(A) On–premise signs;

(B) Small parking lots;

(C) Placement of seasonal or temporary use items such as portable restrooms, checking stations, or other facilities designed for public use.

(12) Class 12: Surplus Government Property Sales. Class 12 consists of sales of surplus government property except for parcels of land located in an area of statewide interest or potential area of critical concern as identified in the Governor's Environmental Goals Policy Report pre-

pared pursuant to Government Code 65041 et seq. However, if the surplus property to be sold is located in those areas identified in the Governor's Environmental Goals and Policy Report, its sale is exempt if:

(A) The property does not have significant values for wildlife habitat or other environmental purposes; and,

(B) Any of the following conditions exist:

1. The property is of such size or shape that it is incapable of independent development or use, or

2. The property to be sold would qualify for an exemption under any other class of categorical exemption in Article 8 of these guidelines, or

3. The use of the property and adjacent property has not changed since the time of purchase by the public agency.

(13) Class 13: Acquisition of Lands for Wildlife Conservation Purposes. Class 13 consists of the acquisition of lands for fish and wildlife conservation purposes including preservation of fish and wildlife habitat, establishing ecological reserves under Fish and Game Code Section 1580, and preserving access to public lands and waters where the purpose of the acquisition is to preserve the land in its natural condition.

(14) Class 14: Minor Additions to Schools. Class 14 consists of minor additions to existing schools within existing schoolgrounds where the addition does not increase original student capacity by more than 25% or five classrooms, whichever is less. The addition of portable classrooms is included in this exemption.

(15) Class 15: Minor Land Divisions. Class 15 consists of the division of property in urbanized areas zoned for residential, commercial, or industrial use into four or fewer parcels when the division is in conformance with the General Plan and zoning, no variances or exceptions are required, all services and access to the proposed parcels to local standards are available, the parcel was not involved in a division of a larger parcel within the previous 2 years, and the parcel does not have a slope greater than 20%.

(16) Class 16: Transfer of Ownership of Land in Order to Create Parks. Class 16 consists of the acquisition or sale of land in order to establish a park where the land is in a natural condition or contains historic sites or archaeological sites and either:

(A) The management plan for the park has not been prepared, or

(B) The management plan proposes to keep the area in a natural condition or preserve the historic or archaeological site. CEQA will apply when a management plan is proposed that will change the area from its natural condition or significantly change the historic or archaeological site.

(17) Class 17: Open Space Contracts or Easements. Class 17 consists of the establishment of agricultural preserves, the making and renewing of open space contracts under the Williamson Act, or the acceptance of easements or fee interests in order to maintain the open space character of the area. The cancellation of such preserves, contracts, interests or easements is not included.

(18) Class 18: Designation of Wilderness Areas. Class 18 consists of the designation of wilderness areas under the California Wilderness System.

(19) Class 19: Annexations of Existing Facilities and Lots for Exempt Facilities. Class 19 consists of only the following annexations:

(A) Annexations to a city or special district of areas containing existing public or private structures developed to the density allowed by the current zoning or pre–zoning of either the gaining or losing governmental agency whichever is more restrictive, provided, however, that the extension of utility services to the existing facilities would have a capacity to serve only the existing facilities.

(B) Annexation of individual small parcels of the minimum size for facilities exempted by Section 15103, New Construction of Small Structures.

(20) Class 20: Changes in Organization of Local Agencies. Class 20 consists of changes in the organization of local governmental agencies where the changes do not change the geographical area in which previously existing powers are exercised. Examples include but are not limited to:

(A) Establishment of a subsidiary district;

(B) Consolidation of two or more districts having identical powers;

(C) Merger with a city of a district lying entirely within the boundaries of the city.

(21) Class 21: Enforcement Actions by Regulatory Agencies. Class 21 consists of actions by regulatory agencies to enforce or revoke a lease, permit, certificate, or other entitlement for use issued, adopted or prescribed by the regulatory agency of law, general rule, standard, or objective, administered or adopted by the regulatory agency. Such actions include, but are not limited to, the following:

(A) The direct referral of a violation of lease, permit, license, certificate, or entitlement for use or of a general rule, standard, or objective to the Attorney General, District Attorney, or City Attorney as appropriate, for judicial enforcement.

(B) The adoption of an administrative decision or order enforcing or revoking the lease, permit, license, certificate, or entitlement for use or enforcing the general rule, standard, or objective.

Construction activities undertaken by the public agency taking the enforcement or revocation action are not included in this exemption.

(22) Class 22: Educational or Training Programs Involving No Physical Changes. Class 22 consists of the adoption, alteration, or termination of educational or training programs which involve physical changes only in the interior of existing school or training structures. Examples include, but are not limited to:

(A) Development of or changes in curriculum or training methods;

(B) Changes in the grade structure in a school which do not result in changes in student transportation.

(23) Class 23: Normal Operations of Facilities for Public Gatherings. Class 23 consists of the normal operations of existing facilities for public gatherings for which the facilities were designed, where there is a past history of the facility being used for the same kind of purpose. Facilities included within this exemption include, but are not limited to racetracks, stadiums, convention centers, auditoriums, amphitheaters, planetariums, swimming pools and amusement parks.

(24) Class 24: Regulation of Working Conditions. Class 24 consists of actions taken by regulatory agencies, including the Industrial Welfare Commission as authorized by statute, to regulate any of the following:

(A) Employee wages;

(B) Hours of work; or

(C) Working conditions where there will be no demonstrable physical changes outside the place of work.

(25) Class 25: Transfers of Ownership of Interests in Land to Preserve Open Space. Class 25 consists of the transfers of ownership of interests in land in order to preserve open space. Examples include but are not limited to:

(A) Acquisition of areas to preserve the existing natural conditions;

(B) Acquisition of areas to allow continued agricultural use of the areas;

(C) Acquisition to allow restoration of natural conditions;

(D) Acquisition to prevent encroachment of development into flood plains.

(26) Class 26: Acquisition of Housing for Housing Assistance Programs. Class 26 consists of actions by a redevelopment agency, housing authority, or other public agency to implement an adopted Housing Assistance Plan by acquiring an interest in housing units. The housing units may be either in existence or possessing all required permits for construction when the agency makes its final decision to acquire the units.

(27) Class 27: Leasing New Facilities. Class 27 consists of the leasing of a newly constructed or previously unoccupied privately owned facility by a local or state agency where the local governing authority determined that the building was exempt from CEQA. To be exempt under this section, the proposed use of the facility:

(A) Shall be in conformance with existing State plans and policies and with general, community, and specific plans for which an EIR or Negative Declaration has been prepared;

(B) Shall be substantially the same as that originally proposed at the time the building permit was issued;

(C) Shall not result in a traffic increase of greater than 10% of front access road capacity; and

(D) Shall include the provision of adequate employee and visitor parking facilities;

(E) Examples of Class 27 include but are not limited to:

1. Leasing of administrative offices in newly constructed office space;

2. Leasing of client service offices in newly constructed retail space;

3. Leasing of administrative and/or client service offices in newly constructed industrial parks.

All of the exemptions listed above are inapplicable if the cumulative impact over a period of time has a significant effect on the environment.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

HISTORY

1. Repealer of subsection (b)(3) and subsection renumbering filed 2–23–2000; operative 3–24–2000 (Register 2000, No. 8).
2. Amendment of subsection (b)(4) filed 4–26–2001 as an emergency; operative 4–26–2001 (Register 2003, No. 9). A Certificate of Compliance must be transmitted to OAL by 8–24–2001 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction adding HISTORY 2 (Register 2003, No. 9).
4. Reinstatement of section as it existed prior to 4–26–2001 emergency amendment by operation of Government Code section 11346.1(f) (Register 2003, No. 9).

§ 758. Initial Study.

If a project for which Fish and Game has assumed the role of Lead Agency is subject to the requirements of CEQA, and not found to be exempt, the lead unit shall conduct an Initial Study to determine if the project may have a significant effect on the environment unless the lead unit can determine that the project will clearly have a significant effect.

If any aspects of the project, either individually or cumulatively, may cause a significant effect on the environment, regardless of whether the overall effect of the project is adverse or beneficial, then an EIR must be prepared. All phases of project planning, implementation, and operation must be considered in the Initial Study of the project. To meet the requirements of this section, the Lead Agency may use an Initial Study prepared pursuant to the National Environmental Policy Act. The purposes, contents, uses, submission of data, format and consultation required shall be in accordance with Section 15080 of the State EIR Guidelines.

Early consultation shall include all responsible agencies, agencies with legal jurisdiction over natural resources affected by the project, and appropriate Fish and Game personnel, including Regional Environmental Services Supervisors and/or Environmental Services Branch.

Information from the Initial Study and comments obtained through consultation shall assist the lead unit in determining whether or not the project may have a significant effect on the environment.

If any aspects of the project, either individual or cumulative, may cause a significant effect on the environment, and EIR must be prepared. If no significant effects are found, a Statement of Negative Declaration is required.

(a) Purposes. The purposes of an Initial Study are to:

(1) Identify environmental impacts;

(2) Enable modification of a project, mitigating adverse impacts before an EIR is written:

(3) Focus an EIR, if one is required, on potentially significant environmental effects;

(4) Facilitate environmental assessment early in the design of a project;

(5) Provide documentation of the factual basis for the finding in a Negative Declaration that a project will not have a significant effect on the environment;

(6) Eliminate unnecessary EIRs.

(b) Contents. An Initial Study shall contain in brief form:

(1) A description of the project;

(2) An identification of the environmental setting;

(3) An identification of environmental effects by use of a checklist, matrix, or other method;

(4) A discussion of ways to mitigate the significant effects identified, if any;

(5) An examination of whether the project is compatible with existing zoning and plans;

(6) The name of the person or persons who prepared or participated in the Initial Study.

(c) Uses.

(1) The Initial Study shall be used to provide a written determination of whether a Negative Declaration or an EIR shall be prepared for a project.

(2) Where a project is revised in response to an Initial Study so that potential adverse effects are mitigated to a point where no significant environmental effects would occur, a Negative Declaration shall be prepared instead of an EIR. If the project would still result in one or more significant effects on the environment after mitigation measures are added to the project, an EIR shall be prepared.

(3) The EIR shall emphasize study of the impacts determined to be significant and can omit further examination of those impacts found to be clearly insignificant in the Initial Study.

(d) Submission of Data. If the project is to be carried out by a private person or private organization, Fish and Game may require such person or organization to submit data and information which will facilitate preparation of the Initial Study.

(e) Determining Significant Effect.

(1) The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved based to the extent possible on scientific and factual data. Prior to determining whether a Negative Declaration or Environmental Impact Report is required for a project, the lead unit will consult with all responsible agencies and all Trustee Agencies responsible for resources affected by the project as required by Section 15066(b) of the State EIR Guidelines. If a substantial body of opinion considers the effects of the project to be adverse, Fish and Game should prepare an EIR to explore the environmental effects involved.

(2) In evaluating the significance of the environmental effect of a project, the responsible Fish and Game unit shall consider both primary or direct and secondary or indirect consequences. Primary consequences are immediately related to the project (the construction of a new treatment plant may facilitate population growth in a particular area), while secondary consequences are related more to primary consequences than to the project itself (an impact upon the resource base, including land, air, water and energy use of the area in question may result from the population growth).

(f) Mandatory Findings of Significance. A project shall be found to have a significant effect on the environment if:

(1) The project has the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

(2) The project has the potential to achieve short–term environmental goals to the disadvantage of long–term environmental goals;

(3) The project has possible environmental effects which are individually limited but cumulatively considerable. As used in this subsection, "cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects;

(4) The environmental effects of a project will cause substantial adverse effects on human beings, either directly or indirectly.

During this Initial Study, the lead unit should consult with other appropriate Fish and Game personnel, including Regional Environmental Services Supervisors and/or the Environmental Services Branch for assistance.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 759. Preparation and Filing of Negative Declaration.

A Negative Declaration shall be prepared for a project which could potentially have a significant effect on the environment, but which Fish and Game finds on the basis of an Initial Study will not have a significant effect on the environment. Before completing a Negative Declaration, Fish and Game shall consult with all responsible agencies pursuant to Section 15066 of the State EIR Guidelines. This consultation shall be accomplished through transmittal of the results of the Initial Study to the agencies by a memorandum from the Director requesting their comments and recommendations on the proposed Negative Declaration. Coordination and staff assistance to the Lead Unit will be the responsibility of the Environmental Services Branch. The Negative Declaration shall include:

(a) A brief description of the project; including a commonly used name for the project, if any;

(b) The location of the project and the name of the project proponent;

(c) A finding that the project will not have a significant effect on the environment;

(d) An attached copy of the Initial Study documenting reasons to support the finding;

(e) Mitigation measures, if any, included in the project to avoid potentially significant effects.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 760. Staff Review of Negative Declarations.

Immediately upon completion, two copies of a Draft Negative Declaration shall be submitted to the Environmental Services Branch (ESB) for review. ESB will review the document, coordinate with other Branches and Regions as appropriate, and forward the document and a letter of comment to the Director. This review will be completed within 10 days of receipt.

(a) If the document is acceptable, ESB will notify the lead unit. This unit will then prepare a Notice of Intent and a Draft Negative Declaration for transmittal to the Secretary for Resources, a Notice of Intent and 25 copies of the Draft Negative Declaration for transmittal to the local agency or clearinghouse, and copies of the Draft Negative Declaration, as appropriate, for transmittal to other involved units of the Department.

(b) If the document requires revisions, ESB will notify the lead unit. The responsible unit will make the appropriate revisions and resubmit the Draft Negative Declaration to ESB for the Director's approval.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 761. Notice of Preparation.

Notice of the Preparation of Negative Declaration shall be provided to the public within a reasonable period of time prior to final adoption by the Department of the Negative Declaration. Notice shall be given to all organizations and individuals who have previously requested such notice, including responsible agencies and shall also be given by at least one of the following procedures:

(a) Publication by the public agency in a newspaper of general circulation in the area affected by the proposed project;

(b) Posting of notice by the public agency on and off site for a period of at least two weeks in the area where the project is to be located;

(c) Direct mailing to owners of property contiguous to the project. The alternatives for providing notice as specified above shall not preclude Fish and Game from providing additional notice by other means if it so desires, nor shall the requirements of this section preclude the Fish and Game from providing the public notice required herein at the same time and the same manner as public notice otherwise required by law for such project.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 762. Notice of Determination.

After making a decision to carry out or approve a project for which a Negative Declaration has been prepared, the responsible unit shall file a Notice of Determination with a copy of the Negative Declaration attached. The Notice of Determination shall include:

(a) The decision of the agency to approve or disapprove the project;

(b) The determination of the agency whether the project will have a significant effect on the environment; and

(c) A statement that no EIR has been prepared pursuant to the provisions of CEQA.

The notice of determination shall be filed with the Secretary for Resources. The filing of the Notice of Determination with the Secretary for Resources starts a 30 day statute of limitations on court challenges to the approval under CEQA [Section 21167(b)].

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 763. State, Federal and Public Review.

Filing the Negative Declaration with the Secretary for Resources and State Clearinghouse shall provide an opportunity for Federal, State and local agencies and members of the public to respond to the findings. Copies of the Negative Declaration shall be available for public inspection upon request during normal Department working hours at 1416 Ninth Street, Sacramento, or may be requested through regional offices of the Department of Fish and Game. If no objections to the project are received within 45 days, the project will be approved, unless there has been a request for a specific reasonable extension of time. Within 10 days after project approval, a Notice of Determination shall be transmitted from the Director of the Department of Fish and Game to the Secretary of Resources.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 764. Decision to Prepare an EIR.

If the Department of Fish and Game finds after an Initial Study that the project may have a significant effect on the environment, Fish and Game must prepare or cause to be prepared an Environmental Impact Report. An EIR should be prepared whenever it can be fairly argued on the basis of substantial evidence that the project may have a significant effect on the environment. An EIR should be prepared when there is serious public controversy concerning the environmental effect of a project. Controversy not related to an environmental issue does not require the preparation of an EIR.

The purpose of EIRs is set forth in Section 15012 of the State EIR Guidelines stating in part:

"An Environmental Impact Report is an informational document which, when fully prepared in accordance with the CEQA and these guidelines, will inform public decision–makers and the general public of the environmental effects of the projects they propose to carry out or approve."

(a) Early Consultation.

(1) Before completing a draft EIR consisting of the information specified in Sections 15141, 15142, and 15143 of the State EIR Guidelines, Fish and Game shall consult with all Responsible Agencies. In addition, if it has not already done so, Fish and Game should also consult directly with any person or organization it believes will be concerned with the environmental effects of the project. Many public agencies have found that early consultation solves many potential problems that would arise in more serious form later in the review process.

(2) For projects where federal involvement might require preparation of a federal EIS, Fish and Game should consult with the appropriate federal agency on the need for an EIS. If both an EIR and EIS are needed, the documents should be prepared jointly where federal regulations or

procedures allow, or the EIR should be prepared pursuant to Section 15063 of the State EIR Guidelines. Preparation of a separate EIR and EIS for the same project should be avoided, if possible.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 765. Contents of EIRs.

The contents of Draft EIRs and Final EIRs are prescribed in Sections 15140 and 15150 of the State EIR Guidelines. The title of a Draft EIR shall begin with the statement, "Draft Environmental Impact Report," followed by the project name.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 766. Procedure.

In the preparation of a Draft EIR, as with the Initial Study, the author may consult with the Regional Environmental Services Supervisor and/or the Environmental Services Branch for assistance. When preparing an EIR for a non-governmental person, such person shall be required to submit data and information required by Sections 15141-15145 of the State EIR Guidelines. All such data and information may be submitted in the form of a Draft EIR, however, Fish and Game assumes responsibility for the adequacy and objectivity of the EIR.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 767. Staff Review.

Immediately upon completion, two copies of a Draft shall be submitted to ESB for review. ESB will review the document, coordinate with other Branches and Regions as appropriate, and forward the document and a letter of comments to the Director. This review will be completed within 10 to 60 days of receipt, depending on the project scope.

(a) If the document is acceptable, ESB will notify the lead unit. This unit will then prepare a Notice of Intent and a Draft EIR for transmittal to the Secretary for Resources, a Notice of Intent and 25 copies of the Draft EIR for transmittal to the local agency or clearinghouse, and copies of the Draft EIR, as appropriate, for transmittal to other involved units of the Department.

(b) If the document requires revisions, ESB will notify the lead unit and resubmit the Draft EIR to the Director for approval.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 768. Fees for the Preparation and Processing of EIRs.

When Fish and Game prepares and processes an EIR under the requirements of Section 15037(a)(2) or 15037(a)(3) of the State EIR Guidelines, an initial fee shall be levied and collected from the project proponent before undertaking the preparation of the EIR.

(a) The minimum initial fee shall be based upon Fish and Game's estimated expenses in preparing the EIR. A detailed account of the derivation of this estimate shall be provided to the project proponent.

(b) Fish and Game shall separately account for the initial fee collected and the changes thereto. The status of the account shall be provided to the project proponent at regular periodic intervals established by mutual agreement. If, during the preparation of the EIR, it is determined that the costs will exceed the initial fee, the project proponent shall be required to pay the additional amount in advance of the work funded thereby. A final accounting shall be rendered by Fish and Game after the Final EIR is considered and adopted.

(c) If in the final accounting the initial fee exceeds the actual costs incurred by Fish and Game for the preparation and processing of the EIR, the excess shall be refunded. If the actual costs exceed the amount of the initial fee, the project proponent shall be billed for the difference.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 769. Advance Notice to Secretary for Resources.

A Notice of Completion and a copy of the Draft EIR shall be filed with the Secretary for Resources at least three working days before release of the draft EIR for state, federal and public review, in accordance with Section 15085(c) of the State EIR Guidelines.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 770. State, Federal and Public Review.

Filing the Draft EIR with the Secretary for Resources and State and local clearinghouses shall provide an opportunity for Federal, State and local agencies and members of the public to respond. EIRs shall be available for public inspection upon request during normal working hours at 1416 Ninth Street, Sacramento, or may be requested through Regional offices of the Department of Fish and Game. Copies shall be made available to the general public for the actual cost of reproducing such copies.

(a) In accordance with Section 15160 of the State Guidelines, Fish and Game shall provide a minimum of 45 calendar days between release of the Draft EIR and the final date for receipt of comments. ESB shall specify the length of the review period after considering the physical and environmental complexities of the proposed project. Unless there has been a request for a specific reasonable extension of time, only those comments received within the review period shall be considered.

(b) Whenever a public hearing is held on the project as a part of the review and approval process, hearings on the Draft EIR shall be included. In all other cases, the Director shall determine the need for public hearings on the Draft EIR in accordance with Section 15165 of the State Guidelines. Such public hearings shall not be held until at least 45 days after release of the Draft EIR for review and comment.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 771. Final EIR Preparation.

Fish and Game lead unit shall evaluate significance of comments received and shall respond to those comments found to raise significant environmental points, and incorporate comments and responses in the Final EIR, in accordance with Sections 15085(d), 15085(e), and 15146(a) of the State EIR Guidelines.

(a) The form of the Final EIR shall be that deemed most appropriate by the Director. The title of a Final EIR shall begin with the statement, "Final Environmental Impact Report," followed by the project name. All comments and responses shall be either an attachment to the EIR or incorporated within a revised EIR in accordance with Section 15146(b) of the State Guidelines.

(b) In accordance with Section 15166 of the State EIR Guidelines, comments received shall be maintained in the files of Fish and Game for a reasonable period.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 772. Final EIR Review.

In accordance with Sections 1060 and 1070 of the State Administrative Manual, the final EIR will be submitted with a second Notice of Completion to OPR, the Agency Secretaries, the State Library, and other appropriate public agencies. At least 14 days shall be allowed for these agencies to object to the adequacy with which the Final EIR met objections or recommendations made on the project during the review of the Draft EIR.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 773. Processing of Final EIR.

As required by Section 15085(g) of the State Guidelines, the final EIR shall be presented to the Director of the department. The Director shall certify that the final EIR has been completed in compliance with CEQA

and the State EIR Guidelines and that he has reviewed and considered the information contained in the EIR.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 774. Findings.

Fish and Game shall not approve or carry out a project for which an environmental impact report has been completed which identifies one or more significant effects of the project unless the public agency makes one or more of the following written findings for each of those significant effects, accompanied by a statement of the facts supporting each finding.

(a) Changes or alterations have been required in, or incorporated into, the project which mitigate or avoid the significant environmental effects thereof as identified in the final EIR.

(b) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.

(c) Specific economic, social, or other considerations make infeasible the mitigation measures or project alternatives identified in the final EIR.

These findings required by Section 774 shall be supported by substantial evidence in the record.

The finding in subsection (b) shall not be made if Fish and Game has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 775. Statement of Overriding Considerations.

In accordance with Section 15089 of the State EIR Guidelines, if a project is approved for which serious adverse environmental consequences have been identified in an EIR, a statement may be made identifying the other interests that warrant approval. If such a statement is made, it should be included in the record of the project approval and may be attached to the Notice of Determination.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 776. Notice of Determination.

Within ten days after the decision on a project, Fish and Game shall file a Notice of Determination with the Secretary for Resources in accordance with Section 15085(g) of the State EIR Guidelines.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 777. Final EIR to Local Planning Agencies.

At the time of filing the Notice of Determination with the Secretary for Resources, Fish and Game shall file a copy of the final EIR with the local planning agencies as specified in Section 15085(i) of the State EIR Guidelines.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

Article 2.5. Certified Regulatory Program for Adoption of Regulations

§ 777.5. Purpose.

(a) This Article sets forth the procedure governing the Department of Fish and Game's (the "Department") adoption of regulations which may have a significant effect on the environment.

(b) These regulations are adopted by the Department to implement the procedures provided for under California Public Resources Code section 21080.5, which exempts a regulatory program certified by the Secretary of the Resources Agency from certain requirements of the California Environmental Quality Act ("CEQA"), when the regulatory program requires the preparation of a plan or other written documentation containing environmental information which is functionally similar to that required under CEQA.

(c) These regulations are adopted by the Department pursuant to the authority established by the Department's enabling legislation, as set forth in the California Fish & Game Code, including, but not limited to, section 702.

(d) If the Resources Agency declines to certify the regulatory program under California Public Resources Code section 21080.5, or if the Resources Agency revokes that certification, then this Article will no longer apply to the Department of Fish and Game's adoption of regulations.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Section 21080.5, Public Resources Code.

HISTORY

1. New article 2.5 (sections 777.5–777.9) and section filed 8–27–98; operative 8–27–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

§ 777.6. Contents of Initial Statement of Reasons.

(a) When the Department proposes to adopt, amend, or repeal a standard or regulation that falls within Section 777.5(a), above, the Department shall prepare and make available an Initial Statement of Reasons to accompany the proposed Department regulations, as required by Government Code section 11346.2.

(b) In addition to the information required by Government Code section 11346.2, the Initial Statement of Reasons shall contain the following material:

(1) A description of the proposed regulations and any possible significant adverse effects of the proposed regulations on the environment. If there are no significant adverse effects, the description shall so state. Such statement shall be supported by documentation describing the possible effects that the Department examined in reaching its conclusion.

(2) A statement of feasible alternatives to the proposed regulations and mitigation measures available to substantially lessen any significant or potentially significant adverse effect of the proposed regulations on the environment; or a statement that, because the Department's review of the proposed regulations showed that the proposed regulations would not have any significant or potentially significant effects on the environment, no alternatives or mitigation measures are proposed to avoid or reduce significant effects on the environment. Such statement shall be supported by documentation describing the possible effects that the Department examined in reaching its conclusion.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Section 21080.5(d)(2), Public Resources Code.

HISTORY

1. New section filed 8–27–98; operative 8–27–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

§ 777.7. Circulation of Notice and Initial Statement of Reasons; Solicitation of Comments and Consultation with Agencies Which Have Jurisdiction by Law; Subsequent Notices.

(a) The Initial Statement of Reasons and the proposed regulations shall be available for review and comment by other public agencies and the general public, as required by Government Code section 11346.8. The public review period shall be at least forty–five (45) days.

(b) Notice of the proposed action and availability of the Initial Statement of Reasons and the proposed regulations shall be mailed and published at least 45 days before the close of the public comment period, as required by Government Code section 11346.4. Such notice shall comply with Government Code section 11346.5 and shall include a request for input by the public and other public agencies.

(c) After the Notice is published, the Department shall consult with all other public agencies which have jurisdiction by law with respect to the activities involved in the proposed regulations.

(d) If changes or additions to the proposed regulations are made or if material is added to the record, subsequent notice and opportunity for

comment by the public and other public agencies shall be provided as required by Government Code section 11346.8.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Section 21080.5(d)(2)(iii) and (iv), Public Resources Code.

HISTORY

1. New section filed 8–27–98; operative 8–27–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

§ 777.8. Evaluation and Adoption of Proposed Regulations.

(a) When preparing the Initial Statement of Reasons, the Department shall evaluate proposed regulations for consistency with the Department's enabling legislation. The Department's evaluation shall be set forth in writing in the Initial Statement of Reasons.

(b) When evaluating proposed regulations, the Department shall utilize an interdisciplinary approach that will ensure the integrated use of the natural and social sciences in decision making, consistent with the environmental protection purposes of the Department's enabling statute. The evaluation shall address both short–term and long–term effects on the environment, and shall also address growth–inducing effects and any potential cumulative effects.

(c) Any proposed regulations for which significant adverse environmental effects have been identified during the review process shall not be approved or adopted as proposed if there are feasible mitigation measures or feasible alternatives available which would avoid or substantially lessen any significant adverse effect which the proposed regulations may have on the environment, in accordance with Public Resources Code section 21081.

(d) If the analysis identifies significant adverse environmental effects for which feasible mitigation measures are not available, it shall also include a statement describing any specific environmental, economic, legal, social, technological, or other benefits which might justify the significant environmental effects of the proposed regulations.

(e) In addition to meeting the requirements of Government Code section 11346.9(a)(3), if comments are received from other public agencies and members of the public during the evaluation process which raise significant environmental points, the Department shall summarize and respond to such comments in writing prior to taking final action on the proposed regulations and such written responses shall be included in the record of the rulemaking proceeding.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Sections 21080.5(d)(2)(i), (ii) and (iv), and 21081, Public Resources Code.

HISTORY

1. New section filed 8–27–98; operative 8–27–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

§ 777.9. Notice of Decision.

(a) A notice of the final decision by the Department, which indicates whether the proposed regulations will, or will not, have a significant effect on the environment, shall be filed with the Secretary of the Resources Agency. The notice of the final decision shall be available for public inspection, and a list of the notices will be posted on a weekly basis in the Office of the Resources Agency, and will remain posted for a period of thirty (30) days.

NOTE: Authority cited: Section 702, Fish and Game Code. Reference: Section 21080.5(d)(2)(v), Public Resources Code.

HISTORY

1. New section filed 8–27–98; operative 8–27–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

Article 3. Fish and Game Review Procedures for EIRs and Negative Declarations

§ 778. General.

The nature and extent of Fish and Game's review of EIRs and Negative Declarations will be determined by the following conditions:

(a) Fish and Game has legal jurisdiction with respect to a project as it affects natural resources which are held in trust for the people of the State of California.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 779.5. Review of Projects Affecting Natural Resources Held in Public Trust—Early Consultation.

Under conditions specified in Section 21080.3 of CEQA, a lead agency shall consult with Fish and Game prior to the decision of whether an EIR or Negative Declaration is required. Comments shall be provided by the responsible regional unit.

Section 21080.4 of CEQA requires lead agencies to send a Notice of Determination to Fish and Game if an EIR is required. Upon receipt of such notice ESB personnel shall send the Notice to the responsible regional unit. This unit shall specify the scope and content of environmental information germane to Fish and Game statutory responsibilities and identify specific concerns with the project. The above information shall be provided in writing to ESB for review within 40 days of the date on the Notice of Determination. ESB shall obtain appropriate signatures and forward Fish and Game comments to the Resources Agency within 45 days of the date on the Notice of Determination.

In order for the environmental review process of a project to be timely and complete, the responsible regional unit of Fish and Game may request one or more meetings between representatives of agencies involved in the project. In addition, the responsible unit shall attend any such meeting requested by the lead agency or any other agency involved in the project. Such meetings shall be convened as soon as possible, but no later than 30 days, after they have been requested.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 780. Review of Draft EIRs and Negative Declarations.

Fish and Game in reviewing environmental documents, shall focus on the sufficiency of the EIR in accordance with Section 15161(c) of the State EIR Guidelines. Comments should focus on any shortcomings in the EIR. The appropriateness of using a Negative Declaration, or additional alternatives or mitigation measures which the document should include. Comments shall be provided by the regional unit to ESB for review. If the comments are sufficient, appropriate signatures shall be obtained, and the comments forwarded to the Resources Agency for incorporation into other Agency comments, if any. If the comments are not sufficient, regional unit personnel and ESB personnel shall coordinate to complete the comments before obtaining necessary signatures.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 780.5. Review of Final EIRs and Negative Declarations.

The same procedure shall be used to review final documents as is used to review draft documents.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 781. Designation of Contact Person.

Under the conditions and procedures specified above, Fish and Game shall supply with its comments the name of a Fish and Game contact person in accordance with Section 15161(d) of the State EIR Guidelines.

NOTE: Authority cited: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code; Section 15050 of the State EIR Guidelines.

§ 781.5. Regulation Procedure.

(a) When the department submits a recommendation to the commission with regard to adopting regulations which may have a significant effect on the environment, or it is anticipated that a substantial body of opinion will reasonably consider the environmental effect to be adverse, the recommendation shall be presented in written form containing:

(1) The proposal,

(2) Reasonable alternatives to the proposal, and

(3) Mitigation measures to minimize any significant adverse environmental impacts of the proposal.

(b) Recommendations from the department shall consider the relevant portions of policies declared by the state legislature and the commission dealing with the management of fish and wildlife resources.

(c) Recommendations received from any person other than the department shall be considered as a comment on, or counter proposal to, the recommendations received from the department, and a written response shall be prepared by the department.

(d) The commission will evaluate proposals according to how well the recommendations would achieve the purposes and policies of fish and wildlife management described in the Fish and Game Code, and in Division 1, Title 14, California Administrative Code.

(e) After receipt of the recommendation from the department, the commission shall consult with all other public agencies having jurisdiction by law with respect to the activities involved in the recommendation.

(f) Notice of the filing of the recommendation by the department shall be made to the public following the statutory requirements of the Fish and Game Code. The notification shall be provided early enough that people will have at least 30 days, or until the next meeting, whichever occurs first, to respond to the recommendation before the commission takes its action. Notice shall also be mailed to any person who requests in writing such notification.

(g) The commission will not adopt regulations as proposed if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment, unless specific economic, social or other conditions make infeasible such project alternatives or such mitigation measures.

(h) The final action on the adopting of regulations shall include the written response of the commission to significant environmental points raised during the evaluation process by other public agencies and members of the public. Responses to comments received prior to the final public meeting when the commission must take its action will be prepared in writing prior to the meeting. Responses to comments received at the final meeting may be made orally by the commission during the meeting. Such oral responses will be included in the official written minutes of the meeting.

(i) Notice of the adoption of a regulation adopted pursuant to Section 21080.5, Public Resources Code, shall be filed with the Secretary for Resources. The notice shall be available for public inspection and shall remain posted for a period of 30 days.

NOTE: Authority cited: Section 21080.5, Public Resources Code, and Section 15050 of the State EIR Guidelines. Reference: Section 21080.5, Public Resources Code, and Section 15050 of the State EIR Guidelines.

HISTORY

1. New section filed 10–19–76; effective thirtieth day thereafter (Register 76, No. 43).
2. Amendment of subsection (a) filed 3–15–77 as an emergency; effective upon filing (Register 77, No. 12).
3. Certificate of Compliance filed 7–8–77 (Register 77, No. 28).
4. Amendment of subsection (a) filed 7–8–77; effective thirtieth day thereafter (Register 77, No. 28).
5. Amendment of NOTE filed 7–16–81; effective thirtieth day thereafter (Register 81, No. 29).
6. Renumbering of Section 3.90 to Section 781.5 filed 2–17–82; designated effective 3–1–82 (Register 82, No.8).

Chapter 5. Fish and Game Commission, Wildlife Conservation Board, and Department of Fish and Game—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344, that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

FISH AND GAME COMMISSION
1416 NINTH ST.
SACRAMENTO, CALIFORNIA 95814

WILDLIFE CONSERVATION BOARD
1807 13TH STREET, SUITE 201
SACRAMENTO, CALIFORNIA 95814

DEPARTMENT OF FISH AND GAME
1416 NINTH ST.
SACRAMENTO, CALIFORNIA 95814

FAIR POLITICAL PRACTICES COMMISSION
428 "J" STREET, SUITE 450
SACRAMENTO, CALIFORNIA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" ST.
SACRAMENTO, CALIFORNIA 95814

The Conflict of Interest Code is designated as Chapter 5 of Title 14 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Section
782. General Provisions
Appendix

NOTE: Authority cited: Section 87300 and 87304, Government Code. Reference: Sections 87300, et seq., Government Code.

HISTORY

1. New Chapter 5 (Articles 1–5, Sections 782–786.7) filed 11–9–77; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 10–4–77 (Register 77, No. 46).
2. Repealer of Chapter 5 (Article 1–4, Sections 782–786.7) and new Chapter 5 (Section 782 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
3. Amendment of Appendix filed 1–20–87; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 10–14–86 (Register 87, No.4).
4. Amendment of Appendix filed 1–21–93; operative 2–22–93. Submitted to OAL for printing only pursuant to Government Code section 11343.8. Approved by Fair Political Practices Commission 11–9–92 (Register 93, No. 4).
5. Amendment of chapter heading, contact information, section and Appendix filed 6–9–2005; operative 7–9–2005. Approved by Fair Political Practices Commission 4–4–2005 (Register 2005, No. 23).

Chapter 6. Regulations for Implementation of the California Endangered Species Act

Article 1. Take Prohibition; Permits for Incidental Take of Endangered Species, Threatened Species and Candidate Species

§ 783.0. Purpose and Scope of Regulations.

This article implements Section 2080 and Section 2081 of the Fish and Game Code. This article does not affect the Department's authority to authorize take pursuant to any other provision of this division.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Sections 2080 and 2081, Fish and Game Code.

HISTORY

1. New chapter 6, article 1 (sections 783.0–783.8) and section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.1. Prohibitions.

(a) No person shall import into this State, export out of this State or take, possess, purchase, or sell within this State, any endangered species, threatened species, or part or product thereof, or attempt any of those acts, except as otherwise provided in the California Endangered Species Act, Fish and Game Code Section 2050, et seq. ("CESA"), the Native Plant Protection Act, the Natural Community Conservation Planning Act, the California Desert Native Plants Act, or as authorized under this article in an incidental take permit.

(b) Subsection (a) applies to any species designated as a candidate species under Section 2074.2 of the Fish and Game Code if the Commission has issued notice under Section 2074.4.

(c) Department wildlife management activities. The possession or take of endangered, threatened, or candidate species by employees and agents of the Department for scientific, educational and management purposes, and for law enforcement purposes, is not prohibited.

(d) Take of insects. The take of insects and other invertebrates that are not fish as defined in the Fish and Game Code is not prohibited.

NOTE: Authority cited: Sections 702, 1001, 2081(a) and 2081(d), Fish and Game Code. Reference: Sections 2080, 2085, 2062 and 2067, Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.2. Incidental Take Permit Applications.

(a) Permit applications. Applications for permits under this article must be submitted to the Regional Manager. Each application must include all of the following:

(1) Applicant's full name, mailing address, and telephone number(s). If the applicant is a corporation, firm, partnership, association, institution, or public or private agency, the name and address of the person responsible for the project or activity requiring the permit, the president or principal officer, and the registered agent for the service of process.

(2) The common and scientific names of the species to be covered by the permit and the species' status under CESA, including whether the species is the subject of rules and guidelines pursuant to Section 2112 and Section 2114 of the Fish and Game Code.

(3) A complete description of the project or activity for which the permit is sought.

(4) The location where the project or activity is to occur or to be conducted.

(5) An analysis of whether and to what extent the project or activity for which the permit is sought could result in the taking of species to be covered by the permit.

(6) An analysis of the impacts of the proposed taking on the species.

(7) An analysis of whether issuance of the incidental take permit would jeopardize the continued existence of a species. This analysis shall include consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of (A) known population trends; (B) known threats to the species; and (C) reasonably foreseeable impacts on the species from other related projects and activities.

(8) Proposed measures to minimize and fully mitigate the impacts of the proposed taking.

(9) A proposed plan to monitor compliance with the minimization and mitigation measures and the effectiveness of the measures.

(10) A description of the funding source and the level of funding available for implementation of the minimization and mitigation measures.

(11) Certification in the following language:

I certify that the information submitted in this application is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to suspension or revocation of this permit and to civil and criminal penalties under the laws of the State of California.

(b) Information requirements; consultation with Department. Responses to the requirements of section 783.2(a)(5)–(a)(9) shall be based on the best scientific and other information that is reasonably available. At an applicant's request, the Department shall, to the greatest extent practicable, consult with the applicant regarding the preparation of a permit application in order to ensure that it will meet the requirements of this article when submitted to the Department. An analysis prepared pursuant to state or federal laws other than CESA that meets the requirements of section 783.2 and 783.3 may be submitted in an incidental take permit application.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Section 2081(b) and (c), Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.3. Compliance with the California Environmental Quality Act.

(a) Department as responsible agency. In general, the Department will be a responsible agency for purposes of issuing an incidental take permit where another public agency must approve the project or activity for which the permit is sought and the other agency has taken the lead agency role for purposes of compliance with the California Environmental Quality Act, Public Resources Code section 21000, et seq. ("CEQA"). Where the Department will be a responsible agency for purposes of CEQA, the following must be included in the permit application required by section 783.2:

(1) The name, address, telephone number and contact person of the lead agency.

(2) A statement as to whether an environmental impact report, negative declaration, mitigated negative declaration, initial study has been prepared or is being considered, or whether another document prepared pursuant to a regulatory program certified pursuant to Public Resources Code section 21080.5 (and listed in title 14, California Code of Regulations, section 15251) has been prepared or is being considered.

(3) At the option of the applicant, a notice of preparation, notice of determination, or draft or final environmental document may be attached.

(b) Department as lead agency. In general, the Department will act as the lead agency for purposes of CEQA where issuance of the incidental take permit is the only public agency action subject to CEQA that will be taken with regard to the project or activity for which the permit is sought. Where the Department will act as a lead agency for purposes of issuing an incidental take permit, the permit applicant, in addition to the information required by section 783.2, shall provide sufficient information to enable the Department to determine whether the project or activity for which a permit is sought, as proposed, may result in significant adverse environmental effects in addition to the impacts of taking analyzed pursuant to section 783.2, and, if so, whether feasible alternatives or feasible mitigation measures would avoid or substantially lessen any such significant adverse effects. In such cases, each application shall include an analysis of all potentially significant adverse environmental effects which may result from the project or activity, and either (1) a discussion of feasible alternatives and feasible mitigation measures to avoid or substantially lessen any significant adverse environmental effects or (2) a statement that, because the applicant's analysis of the proposed project showed that the proposed project would not have any significant or potentially significant effects on the environment, no alternatives or mitigation measures are proposed to avoid or substantially lessen significant effects on the environment. This statement shall be supported by documentation describing the potential effects examined in reaching this conclusion. If the analysis identifies significant adverse environmental effects for which feasible mitigation measures are not available, it shall also include a statement describing any specific environmental, economic, legal, social, technological, or other benefits which might justify the significant environmental effects of the project or activity. The analysis and information required by this section shall be provided to the Department as soon as reasonably practicable following the submission of a permit application.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code; and Section 21080.5, Public Resources Code. Reference: Section 2081(b), Fish and Game Code; and Sections 21002.1, 21069, 21080.1, 21080.3, 21080.4, 21080.5 and 21165, Public Resources Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.4. Incidental Take Permit Review Standards.

(a) Issuance criteria. If an application is submitted in accordance with section 783.2 and section 783.3, the Director shall decide whether or not

an incidental take permit should be issued. A permit may only be issued if the Director finds that:

(1) The take authorized by the permit will be incidental to an otherwise lawful activity.

(2) The applicant will minimize and fully mitigate the impacts of the take authorized under the permit. The measures required to meet this obligation shall be roughly proportional in extent to the impact of the authorized taking on the species. Where various measures are available to meet this obligation, the measures required shall maintain the applicant's objectives to the greatest extent possible. All required measures shall be capable of successful implementation. For purposes of this section only, impacts of taking include all impacts on the species that result from any act that would cause the proposed taking.

(3) The permit will be consistent with any regulations adopted pursuant to Fish and Game Code Sections 2112 and 2114.

(4) The applicant has ensured adequate funding to implement the measures required under the permit to minimize and fully mitigate the impacts of the taking, and to monitor compliance with, and the effectiveness of, the measures.

(b) No incidental take permit shall be issued pursuant to this article if issuance of the permit would jeopardize the continued existence of the species. The Department shall make this determination based on the best scientific and other information that is reasonably available, and shall include consideration of the species' capability to survive and reproduce, and any adverse impacts of the taking on those abilities in light of

(1) known population trends;

(2) known threats to the species; and

(3) reasonably foreseeable impacts on the species from other related projects and activities.

(c) Permit conditions. Every permit issued under this article shall contain such terms and conditions as the Director deems necessary or appropriate to meet the standards in this section. In determining whether measures are capable of successful implementation, the Director shall consider whether the measures are legally, technologically, economically and biologically practicable. This provision does not preclude the use of new measures or other measures without an as yet established record of success which have reasonable basis for utilization and a reasonable prospect for success.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Sections 2081(b) and (c), Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.5. Incidental Take Permit Process.

(a) The Director shall review and render a decision regarding incidental take permit applications in accordance with this section. On–site inspections by the Department may be required prior to a final decision by the Director.

(b) Initial review. The Department shall complete an initial review of each incidental take permit application within 30 days of receipt. If the Department determines that the application is complete, it shall notify the applicant that the application has been accepted and shall commence review of the permit application in accordance with section 783.5(c) or section 783.5(d), as applicable. This determination shall be based solely on whether the applicant has provided information responsive to each required element of sections 783.2 and 783.3 and shall not be based on the merits of the application. If an incomplete or improperly executed application is submitted, the Department shall return the application to the applicant with a description of the deficiency. The applicant shall have 30 days from receipt of the returned application to correct the deficiency and re–submit the application. If the Department takes no action within 30 days of receipt, the application shall be deemed complete. The Department may require supplementary information during the application review process after the application is determined to be complete, or is deemed complete, pursuant to this subsection.

(c) Department as CEQA responsible agency. If the Department is a responsible agency for purposes of CEQA, the Department shall act in accordance with California Code of Regulations, title 14, section 15096 and other applicable provisions of CEQA and the CEQA Guidelines, California Code of Regulations, title 14, section 15000, et seq.. The Director shall decide whether an incidental take permit can be issued under this article, in accordance with CEQA and the CEQA Guidelines, based on a review of the application; the environmental impact report, mitigated negative declaration or negative declaration, or other environmental documentation prepared pursuant to a regulatory program certified pursuant to Public Resources Code section 21080.5 (and listed in title 14, California Code of Regulations, section 15251), prepared by the lead agency; the lead agency's findings under Section 21081 of the Public Resources Code; and any other available, relevant information included in the record by the Department.

(1) If the Department determines that it will not proceed with any of the actions specified in California Code of Regulations, title 14, section 15096(e), the Director shall approve the application and issue a permit, or deny an application, in accordance with this article as soon as possible and no later than the latest of the following dates:

(A) 90 days from the date on which the lead agency approved the activity. However, the Department shall, at the request of the applicant, commence processing the application as soon as the information necessary to commence the processing is available.

(B) 90 days from the date on which the application was accepted as complete by the Department.

(C) If the Department makes a written finding that additional time is necessary due to the complexity of the application or the scope and duration of the requested permit, the 90 day periods for acting upon the permit application may be extended an additional 60 days to at total of 150 days.

(2) If the Director decides to approve the application, the Director shall make findings substantiating compliance with section 783.4 and shall make the findings required of a CEQA responsible agency under California Code of Regulations, title 14, section 15096(h). The Director shall then issue the incidental take permit. Within five working days after the issuance or amendment of a permit, the Department shall file a notice of determination under California Code of Regulations, title 14, section 15096(i).

(3) If the Director decides to deny the application, the Director shall return the application to the applicant with a written statement of the basis for the denial and a description of any measures the Director deems necessary in order for the application to be approved.

(d) Department as lead agency. If the Department is the lead agency under CEQA for purposes of issuing an incidental take permit, the application shall be reviewed, and approved or denied in accordance with this subsection. The Director shall approve an application and issue a permit, or deny the application , under this subsection no later than 120 days from the date on which the completed application is accepted as complete by the Department; provided, however, that the Department may extend this time to no later than 180 days from the date the application is accepted upon a written finding that the extension is necessary due to the complexity of the application or the scope and duration of the requested permit.

(1) Review of environmental analysis. After accepting a completed application, the Department shall review the analysis submitted by the applicant pursuant to section 783.3 and make any revisions that the Director deems necessary or appropriate to comply with CEQA.

(2) Notice of Public Availability of application.

(A) Public review and comment. Once the Department has reviewed and revised the analysis, it shall make the application and analysis available for public review at the headquarters of the region in which the application was submitted and shall distribute copies of a Notice of Public Availability. A minimum of 30 days following distribution of the Notice of Public Availability shall be allowed for public review and comment regarding the application. The Notice of Public Availability shall include the following:

1. the name of the applicant;
2. a brief description of the project or activity for which the permit is sought and its location;
3. the common and scientific names of the species to be covered by the permit;
4. the date on which the Department accepted the application;
5. a description of how copies of the application and analysis can be obtained;
6. the name and telephone number of a contact person within the Department who can answer questions regarding the application; and
7. a statement that the Department seeks written comments from the public regarding the application and analysis, an address to which the comments should be sent, and the deadline for submission of the comments.

(B) Distribution of notice. Copies of the Notice of Public Availability shall be distributed as follows:

1. A copy shall be sent to the office of the County Clerk of the county in which the proposed project or activity would take place and, if applicable, to the planning department of the city with jurisdiction over the project or activity, for posting at the customary place for posting environmental matters.
2. If the Director determines that the proposed project or activity is of Statewide significance, a copy shall be filed with the Office of Planning and Research.
3. A copy shall be sent to any other person upon written request.
4. Copies of the Notice of Public Availability may also be posted or made available at such other locations as the Director deems desirable and feasible to provide adequate public notice.

(3) Consultation. Concurrent with the distribution of the Notice of Public Availability, the Department shall consult with, and request written comments from, all public agencies with jurisdiction by law over the project or activity for which the permit is sought.

(4) Response to comments. The Department shall prepare a written summary and response to all significant environmental points raised during review of the application.

(5) Issuance of permit. The Director's decision regarding the application shall be based on the application and analysis, the written summary and response to significant environmental points, and any other available, relevant information included in the record by the Department. The Director shall determine whether or not to issue an incidental take permit pursuant to this article and, in addition, shall determine whether the project or activity, as proposed, may result in any significant adverse environmental effects in addition to the impacts of taking species to be covered by the permit, and, if so, whether feasible alternatives or feasible mitigation measures would avoid or substantially lessen any significant adverse effects. The Director shall not approve the application, as proposed, if there are feasible mitigation measures or alternatives which would substantially reduce any significant adverse effects. If significant adverse effects will likely result even after the inclusion of feasible mitigation measures or alternatives, the Director may approve the application if the Director first makes findings in accordance with the provisions of Section 21081 of the Public Resources Code.

(A) If the Director decides to approve the application, the Director shall make findings substantiating compliance with section 783.4 and this subsection (d)(5). The Director shall then issue the incidental take permit.

(B) If the Director decides to deny the application, the Director shall return the application to the applicant with a written statement of the basis for the permit denial and a description of any measures the Director deems necessary in order for the application to be approved.

(6) Notice of decision. Within five working days of issuing an incidental take permit or denying an application under this subsection(d), the Director shall file a Notice of Decision, which indicates whether the proposed permit will, or will not, have a significant effect on the environment, with the Secretary of the Resources Agency. The Notice of Decision shall include a statement that the Director approved the application and has issued an incidental take permit, or that the Director denied the application.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code; and Section 21080.5, Public Resources Code. Reference: Section 2081(b), Fish and Game Code; and sections 21002.1, 21069, 21080.1, 21080.3, 21080.4, 21080.5 and 21165, Public Resources Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.6. General Permit Conditions.

The following provisions apply to all permits issued under this article.

(a) Assignment or transfer of permit.

(1) Except as provided in subsection (a)(2) below, no incidental take permit shall be assigned or transferred without the written consent of the Department, which shall not be unreasonably withheld.

(2) With written notice to the Department, any permit may be assigned or transferred without the approval of the Department in the following circumstances:

(A) The sale, merger, annexation, consolidation or other acquisition of an institutional, corporate or public entity permit holder by another entity.

(B) The transfer of a permit from a natural person to the institutional, corporate, or public employer of such individual.

(C) As security for a debt under the provision of any mortgage, deed of trust, indenture, bank credit agreement, or similar instrument.

(b) Renewal of permits.

(1) Applicants for renewal must submit a written application to the Regional Manager at least 60 days prior to the expiration date of the permit. Applicants must certify in writing that all statements and information in the original application remain current and correct, unless previously changed or corrected. If the information is no longer current or correct, the applicant must provide corrected information.

(2) Renewal criteria. The Director shall renew a permit if the application meets the standards in section 783.4.

(3) Continuation of permitted project or activity. Any person holding a valid, renewable, incidental take permit who has submitted a timely application for renewal, may continue the activities authorized by the expired permit until the Director has acted on such person's application for renewal.

(c) Amendment of permit.

(1) Permittee's request. Where circumstances have changed so that a permittee desires to have any condition of a permit modified, such permittee must submit an application and supporting information in conformity with this article.

(2) Department amendments. The Department may amend any permit at any time during its term with the concurrence of the permittee, or as required by law. The Department shall amend a permit as required by law regardless of whether the permittee concurs with such amendment.

(3) Change of name or address. A permittee is not required to amend a permit or obtain a new permit if there is a change in the legal individual or business name, or in the mailing address of the permittee. A permittee is required to notify the Regional Manager within 10 calendar days of such change. This provision does not authorize any change in location of the conduct of the permitted project or activity when approval of the location is a qualifying condition of the permit.

(4) Minor permit amendments. Amendments that would not significantly modify the scope or nature of the permitted project or activity or the minimization, mitigation or monitoring measures in an incidental take permit, as determined by the Department, shall be considered minor permit amendments. Minor permit amendments shall be approved and incorporated into the incidental take permit, or denied, by the Director within 60 days of the permittee's submission of an application for amendment. If the Director approves a minor permit amendment, the Depart–

ment shall not impose any new permit condition or modify any existing permit condition except when the new or modified condition:

(A) relates solely to the minor permit amendment,

(B) is required by changes in the law, or

(C) is needed to make existing permit conditions consistent with the proposed amendment.

(5) Major permit amendments. Amendments that would significantly modify the scope or nature of the permitted project or activity or the minimization, mitigation or monitoring measures in an incidental take permit, or require additional environmental review pursuant to Public Resources Code, section 21166, or California Code of Regulations, title 14, section 15162, as determined by the Department, shall be considered major permit amendments. Requests for major permit amendments shall be reviewed according to the process established for initial permit applications, except that the information and analysis provided in support of an application for a major permit amendment may rely on and supplement the information and analysis used in the initial permit application.

(6) Approval standard. The Director shall approve any minor or major permit amendment if the amended permit would continue to meet the standards in section 783.4.

(d) Alteration of permit. Permits shall not be altered, erased, or mutilated, and any permit which has been altered, erased, or mutilated shall immediately become invalid.

(e) Display of permit. Permits shall be displayed for inspection upon request by the Director or the Director's agents.

(f) Surrender of permit. Any person holding a permit shall surrender such permit to the Department upon notification that the permit has been suspended or revoked and all appeal procedures have been exhausted.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Section 2081(b), Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.7. Permit Suspension and Revocation.

(a) Criteria for suspension. The privileges of exercising some or all of the permit authority may be suspended at any time if the permittee is not in compliance with the conditions of the permit. Any action to suspend any privileges under an incidental take permit shall be limited so as to address the discrete action or inaction that has resulted in the suspension, to the extent consistent with the species protection purposes of the permit.

(b) Criteria for revocation. The Director may begin procedures to revoke a permit if the permittee fails within 60 days of written notification pursuant to subsection (c)(3) to correct deficiencies that were the cause of a permit suspension, or if statutory enactments subsequent to the issuance of the permit prohibit the continuation of the permit or the project or activity covered by the permit. Any action to revoke any privileges under an incidental take permit shall be limited so as to address the discrete action or inaction, or statutory enactment, that has resulted in the revocation, to the extent consistent with the species protection purposes of the permit.

(c) Procedure for suspension or revocation.

(1) When the Director believes there are valid grounds for suspending or revoking a permit the permittee shall be notified in writing of the proposed suspension or revocation by certified or registered mail. In no case shall a proposed revocation notice be issued prior to the 60 day period required by subsection (b). The notice shall identify the permit to be suspended or revoked, the reason(s) for such suspension or revocation, the actions necessary to correct the deficiencies, and inform the permittee of the right to object to the proposed suspension or revocation. The Department may amend any notice of suspension or revocation at any time.

(2) Upon receipt of a notice of proposed suspension or revocation the permittee may file a written objection to the proposed action. Such objection must be in writing, must be filed within 45 calendar days of the date of the notice of proposal, must state the reasons why the permittee objects to the proposed suspension or revocation, and may include supporting documentation.

(3) A decision on the proposed suspension or revocation shall be made within 45 days after the end of the objection period. The Department shall notify the permittee in writing of the Director's decision and the reasons therefor. The Department shall also provide the applicant with the information concerning the right to request reconsideration of the decision under section 783.8 of this article and the procedures for requesting reconsideration. No permit may be revoked pursuant to this section unless it has first been suspended pursuant to this section. The permit shall remain valid and effective pending any final determination on suspension under this subsection, except that a permit may be suspended immediately if statutory enactments subsequent to the issuance of the permit prohibit the continuation of the permit or the project or activity covered by the permit.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Section 2081(b), Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

§ 783.8. Reconsideration and Appeal Procedures.

(a) Request for reconsideration. Any person may request reconsideration of an action under this article if that person is one of the following:

(1) An applicant for permit issuance, renewal or amendment who has received written notice of denial;

(2) A permittee who has a permit amended, suspended, or revoked; or

(3) A permittee who has a permit issued, renewed, or amended but has not been granted authority by the permit to perform all activities requested in the application; or the permit includes minimization or mitigation measures other than those proposed by the applicant.

(b) Method of requesting reconsideration. Any person requesting reconsideration of an action under this article must comply with the following criteria:

(1) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and must be submitted to the Regional Manager.

(2) The request for reconsideration must be received by the Regional Manager within 30 days of the date of notification of the decision for which reconsideration is being requested.

(3) The request for reconsideration shall state the decision for which reconsideration is being requested and shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.

(4) The request for reconsideration shall contain a certification in substantially the same form as provided in section 783.2(a)(11). If a request for reconsideration does not contain such certification, but is otherwise timely and appropriate, it shall be held and the person submitting the request shall be given written notice of the need to submit the certification within 15 days. Failure to submit certification shall result in the request being rejected as insufficient in form and content.

(c) Inquiry by the Department. The Department may institute a separate inquiry into the matter under consideration.

(d) Determination of grant or denial of a request for reconsideration. The Department shall notify the permittee of its decision within 45 days of the receipt of the request for reconsideration. This notification shall be in writing, shall state the reasons for the decision, and shall contain a description of the evidence which was relied upon by the issuing officer. The notification shall also provide information concerning the right to appeal and the procedures for making an appeal.

(e) Appeal. A person who has received an adverse decision following submission of a request for reconsideration may submit a written appeal to the Director. An appeal must be submitted within 30 days of the date of the notification of the decision on the request for reconsideration. The appeal shall state the reason(s) and issue(s) upon which the appeal is based and may contain any additional evidence or arguments to support the appeal.

(f) Decision on appeal.

(1) Before a decision is made concerning the appeal, the appellant may present oral arguments before the Director if the Director judges oral arguments are necessary to clarify issues raised in the written record.

(2) The Director shall notify the appellant in writing of his or her decision within 30 calendar days of receipt of the appeal, unless extended for one additional 30–day period for good cause and the appellant is notified of the extension.

(3) The decision of the Director shall constitute the final administrative decision of the Department.

NOTE: Authority cited: Sections 702 and 2081(d), Fish and Game Code. Reference: Section 2081(b), Fish and Game Code.

HISTORY

1. New section filed 12–30–98; operative 12–30–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

Article 2. Take Incidental to Routine and Ongoing Agricultural Activities

§ 786.0. Purposes.

(a) The purpose of this article is to encourage farmers and ranchers engaged in agricultural activities to establish locally designed programs to voluntarily enhance and maintain habitat for endangered and threatened species. These voluntary local programs shall be suited to the particular circumstances of the local agricultural area where each will be implemented.

(b) Upon approval of the voluntary local program by the Department, any taking of candidate, threatened or endangered non–fish species incidental to routine and ongoing agricultural activities is not prohibited by the California Endangered Species Act, Division 3, Chapter 1.5 of the Fish and Game Code, provided that the take occurs on a farm or ranch while implementing the management practices specified in the voluntary local program.

(c) The voluntary local programs authorized pursuant to this article shall provide sufficient flexibility to maximize participation and to gain the maximum wildlife benefits without compromising the economics of agricultural operations.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068, 2080, 2086, 2088 and 2089, Fish and Game Code.

HISTORY

1. New article 2 (sections 786.0–786.6) and section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).
2. Amendment filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.1. Definitions.

(a) Management Practices. "Management practices" are practical, achievable agricultural practices that, to the maximum extent practicable, avoid and minimize the take of candidate, threatened or endangered species while encouraging enhancement of wildlife habitat without compromising the economics of agricultural operations when undertaken by a farmer or rancher. Examples of management practices include, but are not limited to, establishing brood ponds, installing artificial nesting structures, reducing harvester speed, integrated pest management techniques, planting fallow fields, delaying fall tillage, flooding harvested fields, and establishing wildlife refugia at margins of fields.

(b) Routine and Ongoing Agricultural Activities. "Routine and ongoing agricultural activities" shall include the cultivation and tillage of the soil; crop rotation; fallowing; dairying; the production, cultivation, growing, replanting and harvesting of any agricultural commodity including viticulture, vermiculture, apiculture, or horticulture; the raising of livestock, fur bearing animals, fish, or poultry; any practices performed by a farmer on a farm as incident to or in conjunction with those farming operations, including the preparation for market, delivery to storage or to market, or delivery to carriers for transportation to market, including any such activities recognized as compatible uses pursuant to the Williamson Act (Government Code sections 51200 et seq.) provided such activities are consistent with the economics of agricultural operations; and other similar agricultural activities as determined by the Department during its review and approval of a particular voluntary local program. Routine and ongoing agricultural activities do not include conversion of agricultural land to nonagricultural use, timber harvesting activities governed by the State Board of Forestry or activities that intentionally reduce habitat and wildlife to facilitate conversion to non–agricultural use. For the purposes of this article and Division 3, Chapter 1.5, Article 3.5 of the Fish and Game Code, the conversion of rangeland to more intensive agricultural uses such as permanent crops is not considered a routine and ongoing agricultural activity. Ordinary pasture maintenance and renovation and dry land farming operations consistent with rangeland management are considered routine and ongoing agricultural activities.

(c) Local Program. A "local program" or a "voluntary local program" is a locally designed voluntary program to encourage the enhancement and maintenance of habitat for candidate, threatened and endangered species and other wildlife in ways compatible with routine and ongoing agricultural activities on farms or ranches, proposed in accordance with section 786.2(a) of this article.

(d) Department. For purposes of this article, "Department" means the Director of the Department or any Regional Manager or other Department representative to whom the Director has delegated duties under this article.

NOTE: Authority cited: Sections 702, 2086 and 2089, Fish and Game Code. Reference: Sections 700, 704, 2062, 2067, 2068, 2086, 2087 and 2089, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).
2. Amendment of section and NOTE filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.2. Preparation of a Voluntary Local Program.

(a) Local Program Development. A local program shall be developed by a planning committee formed by a group of farmers and/or ranchers or individual farmers or ranchers who own or manage agricultural lands within the geographic area to be covered by the local program. The planning committee, or individual farmer or rancher, shall identify a lead applicant, which may be the local county Agricultural Commissioner or another entity designated by the planning committee. The planning committee shall design a local program in consultation with interested government agencies and in cooperation with interested local private sector entities and interested conservation groups.

(b) Consultation. Individuals or groups of farmers and ranchers developing a voluntary local program are encouraged to consult with the Department, the California Department of Food and Agriculture, the local county Agricultural Commissioner, University of California Cooperative Extension agents, the USDA Natural Resources Conservation Service, local Resource Conservation Districts, local non–profit and private sector entities, or other agricultural or wildlife experts in identifying effective management practices.

(c) Information and Assistance from the Department. Individuals or groups of farmers and ranchers may propose a voluntary local program to the Department for Department review and assistance. When requested, the Department shall advise and assist in the development of the voluntary management practices and voluntary local program. When providing information and assistance, the Department shall recognize that the State consists of many different climates, habitats and geographies and that management practices will vary throughout the State based on local conditions and local farming and ranching activities.

(1) The Department shall assist the individual(s) seeking to establish a voluntary local program with contacts and information from the Department of Food and Agriculture, the local county Agricultural Commissioner, University of California Cooperative Extension agents, local non–profit and private sector entities or other agricultural experts.

(2) The Department will, upon request, provide the best available scientific information in its possession on any candidate, threatened, or endangered species within the vicinity of the proposed voluntary local program and any such information the Department has on possible management practices.

(3) The Department shall serve as a repository for information concerning possible management practices. The Department may collect information from persons with expertise in agriculture, biology or habitat conservation, including but not limited to representatives of the Califor-

nia Department of Food and Agriculture, the U.S. Department of Agriculture, local county agricultural commissioners, University of California Cooperative Extension agents, the Farm Bureau, the Bureau of Land Management, the University of California at Riverside and Davis, California State University at Fresno, California Polytechnic University at Pomona and San Luis Obispo, and the Cattlemen's Association, and shall review the information with the California Department of Food and Agriculture for the purpose of obtaining advice as to the information's practical application to local programs. The Department will incorporate available information developed in the preparation and establishment of each voluntary local program into that repository to facilitate the establishment of subsequent voluntary local programs and to periodically update information.

(d) Voluntary Local Program Plan Elements. The following elements shall be included in the voluntary local program:

(1) Area Description. A description of the area to be covered by the voluntary local program needs to include: geographic boundaries; the number of acres covered by the voluntary local program area; the habitat enhancement opportunities and constraints bearing upon the development of recommended management practices; candidate, threatened, and endangered species and wildlife likely to benefit from the local program; and reasonably attainable interim targets and long–range goals for increasing the quantity and quality of wildlife habitat throughout the program area.

(2) Designated Representative. The local program shall identify the name and address of one or more designated representative(s) who will serve as a contact person for communications between the voluntary local program and Department.

(3) List of Management Practices. The management practices so listed shall be described in an appendix to the voluntary local program in sufficient detail so that farmers, ranchers and program reviewers may understand what the practices are, how these practices may be recognized in the field, and how these practices are intended to minimize the take of candidate, threatened and endangered species while encouraging the enhancement of habitat. The Department shall not require land set–aside or conservation easements as a management practice.

(4) Activities Covered by the Plan. A description of the general types of agricultural activities covered and a reasonable estimate of the type and amount of habitat to be maintained and enhanced and how any significant adverse environmental effects are addressed by the plan. This element may include a description of any agreements required under section 1603 of the Fish and Game Code that are intended to be approved during the term of the voluntary local program.

(5) Best Available Scientific Information. A statement with supporting evidence that the management practices are supported by the best available scientific information for both agricultural and habitat conservation practices. The Department shall not require the development of additional scientific information or data as a condition of approval for the voluntary local program.

(6) Flexibility. A statement with supporting evidence that the voluntary local program is designed to provide sufficient flexibility to maximize participation and to gain maximum wildlife benefits without compromising the economics of agricultural operations.

(7) Environmental Analysis. An environmental analysis meeting the requirements of this subsection shall be prepared and submitted to the Department, except that when another public agency is acting as lead agency under the California Environmental Quality Act, Public Resources Code sections 21000 et seq. ("CEQA"), in the preparation and adoption of the local program, the Department, acting as a responsible agency, will consider the lead agency's environmental document in place of this environmental analysis. The environmental analysis shall include a description of the proposed local program and an analysis of any potentially significant adverse effects of the local program on the environment.

(A) If no potentially significant adverse effect is identified, a statement to that effect shall be provided and supported by a checklist or other documentation, based on substantial evidence.

(B) If potentially significant adverse environmental effects are identified, the following shall be included:

1. A detailed statement of whether additional management practices are necessary to reduce potentially significant adverse effects to a level less than significant; and

2. If potentially significant adverse effects remain after full consideration of the environmental benefits from the proposed management practices, a detailed statement shall be prepared of potentially feasible alternatives to the local plan and additional potentially feasible management practices that would substantially lessen any remaining potentially significant adverse environmental effects. The analysis shall address both short–term and long–term significant effects on the environment, and shall also address growth–inducing effects and potential cumulative effects. The analysis shall identify any significant adverse environmental impacts that remain after implementation of all reasonable and feasible alternatives and management practices. If remaining significant environmental effects are identified, it shall also include a statement describing any public benefits of the plan, including the management practices which substantially lessen the significant environmental effects of the activity.

(8) Administrative Plan. The written administrative plan, which describes how the voluntary local program is administered, shall include: a record keeping process which will document implementation of the program's management practices while protecting the confidentiality of participants and conforming with confidentiality under section 786.2(d)(10) of this article; a procedure for developing, reviewing and revising recommendations for management practices; a procedure for assessing the acreage benefitting from the local program on an annual basis; and a procedure for revoking the participation in the local program of any local program participant who fails to conduct agricultural activities or recommended management practices in a manner which is consistent with the requirements of the local program. Failure to conduct an agricultural activity or recommended management practice due to an act of nature or an event beyond the control of a local program participant shall not constitute grounds for program or individual participant revocation. Any participant whose enrollment is involuntarily revoked shall be required to comply with the procedures for withdrawal from the local program.

(9) Withdrawal and Termination of the Voluntary Local Program. This element shall include terms and conditions for withdrawing individual participation in the voluntary local program or for termination of the entire voluntary local program. These terms and conditions shall establish a reasonable time period and reasonable measures to minimize impacts to listed species in the area during withdrawal from or termination of the local program, without compromising the economics of agricultural operations. These terms and conditions:

(A) Shall provide for notice to the Department of intent to terminate the voluntary local program or of the withdrawal of any individual farmer or rancher.

(B) Shall not require land set–aside for impacts to wildlife caused by withdrawing participation in the voluntary local program, and shall not impose penalties or disincentives for withdrawing participation.

(C) Shall not prohibit take of listed species during termination or withdrawal provided that the terms and conditions governing withdrawal or termination have been followed.

(10) Confidentiality. All information generated by a voluntary local program or an individual landowner in the course of participation in the local program that identifies or indicates the existence of endangered, threatened or otherwise protected species or their habitat on a particular farm or ranch, including but not limited to observations, records, correspondence and communications, shall be confidential to the extent permitted by the Public Records Act and other applicable laws. Confidentiality shall be ensured by the local program, members of the program committee, all public agencies and each of their respective agents and employees who obtain such information to the extent permitted by law. Confidential information may only be used or shared as necessary for the administration, approval or denial of a local program, or as otherwise required by law or expressly authorized in this article. Nothing in this article waives, compromises or eliminates any right of confidentiality recognized in the state's Public Records Act or Evidence Code. Waiver of

any right of confidentiality for such information shall not be a condition for approval of a local program or participation in a local program. The confidentiality provisions of this section extend to the reports prepared pursuant to section 786.7 of this article unless the release of information is authorized in writing by an individual landowner specifically for that purpose.

(11) Annual Report. The annual report shall include a summary of the acreage benefitting from the local program and a summary of the success of the management practices listed pursuant to subsection (d)(3) of this section and recommendations, if any, on how to further improve voluntary participation by farmers and ranchers and further improve benefits to wildlife. The annual report shall not include information generated by a voluntary local program or an individual landowner that identifies or indicates the existence of endangered, threatened or otherwise protected species or their habitat on a particular farm or ranch.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068, 2080 and 2086, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).
2. Amendment of section heading and section filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.3. Voluntary Local Program Review and Authorization.

A voluntary local program shall be submitted, reviewed and authorized in accordance with this section. During its review of a local program, the Department may extend any of the time periods specified in this section for a period of no more than 15 days by providing written notice of the extension to the designated representative, and including an explanation of the reason additional time is required.

(a) Early Review. Before submitting the voluntary local program including the environmental analysis element for review, the voluntary local program representatives may request a meeting with the Regional Manager or the Regional Manager's designee for an unofficial review of the voluntary local program. The Regional Manager or the Regional Manager's designee is encouraged to meet with representatives of the voluntary local program upon request.

(b) Department liaison. Within 14 days of receiving a request for consultation or the submittal of a voluntary local program, the Department shall designate a staff person at its appropriate regional office to serve as the primary contact with program sponsors during the consultation and review processes. This designated liaison will be responsible for working with the voluntary local program's designated representative and for responding to inquiries from voluntary local program sponsors, keeping program sponsors informed of the status of the Department's review of the voluntary local program, and assisting with communication of Department comments and questions to program sponsors.

(c) Review of Voluntary Local Program. The voluntary local program shall be submitted to the Department for review. The Department shall conduct an initial review of the plan to determine whether the submissions are complete. Within 60 days after receipt of the local program plan, the Department shall report to the local program designee whether the local program as submitted is complete.

(1) If the plan is not complete, the Department shall inform the designee about what additional elements, information or documents are required to complete the plan and environmental analysis.

(2) If the plan is complete, the Department shall conduct a review of the environmental analysis and make any revisions in the environmental analysis that the Department deems necessary or appropriate to accurately describe the voluntary local program and its potential effects on the environment. If the Department makes any revisions to the environmental analysis, the Department shall inform the designee about the revisions before making the materials, including the program plan and the revised environmental analysis, available for public review in order to give the voluntary local program the opportunity to withdraw the proposed program before public review.

(d) Lead Agency — Public Review and Comment. When the Department is acting as CEQA lead agency, after the program plan and any environmental analysis have been reviewed, the Department shall make all materials, including the local program plan and environmental analysis, available for public review at the headquarters of the region in which the plan was submitted and at the Department's headquarters in Sacramento.

(1) Notice of Public Availability. The Department shall distribute copies of a Notice of Public Availability announcing that the voluntary local program and related documents are being made available for public review and comment. A minimum of 30 days shall be allowed for public review and comment after distribution of a Notice of Public Availability. The Notice of Public Availability shall include the following:

(A) The date on which the Department accepted the voluntary local program as complete.

(B) A brief description of the geographic area covered by the application and of the activities proposed to be covered by the local program.

(C) The location where the application is available for public review and the name and telephone numbers of a contact person within the Department who can answer questions regarding the application.

(D) A statement that the Department seeks written comments from the public regarding the plan, an address to which written comments regarding the application should be submitted, and the deadline for submission of the comments.

(2) Publication and Distribution of the Notice. The Department shall publish the Notice of Public Availability at least once in a newspaper of general circulation in the area affected by the local program. Copies of the Notice of Public Availability shall also be distributed as follows:

(A) A copy to the office of the County Clerk of the county or counties in which the proposed activity would occur for posting at the customary place for posting notices of environmental matters.

(B) A copy to the Office of Planning and Research.

(C) A copy to any other person upon written request.

(D) Copies may also be posted or made available at such other locations as the Department deems desirable and reasonably required to provide adequate public notice.

(3) Response to Public Comment. After the public comment period has closed, the Department shall:

(A) Review all public comments received, including those from public agencies with which the Department consults; and

(B) Prepare a written summary and response to all significant environmental points raised during the review of the application.

(e) External Consultation. The Department shall consult with and request written comments from the Department of Food and Agriculture, county agricultural commissioner(s) of the county or counties in which the local program is proposed, and all public agencies with jurisdiction by law over the activity to be covered by the local program. The consultations shall occur during the public comment period when the Department is acting as CEQA lead agency and during the 75–day local program review period when the Department is acting as CEQA responsible agency. In their comments, the Department of Food and Agriculture and the county agricultural commissioner(s) shall consider if the proposed voluntary local program is consistent with the economics of the agricultural operations.

(f) Department's Authorization of the Voluntary Local Program. Within 75 days of the close of the public comment period when the Department is acting as CEQA lead agency, and within 75 days of the Department's determination that the submitted local program is complete when the Department is acting as CEQA responsible agency, the Department shall take one of the following actions:

(1) Make the findings required by subsection (g) of this section and authorize the voluntary local program.

(2) If the Department determines that changes in the voluntary local program are necessary, the Department shall promptly communicate that determination and proposed changes to the voluntary local program's designated representative. With the consent of the voluntary local program designee, the Department may make changes in the voluntary local

program and authorize the revised local program provided the revisions do not require further environmental analysis or public notice.

(3) If major changes requiring additional time or further environmental review are needed, the Department shall reject the voluntary local program and convey the identified deficiencies in the local program plan to the designee for further revisions.

(g) Mandatory Findings for Authorization of Local Program. The director shall authorize a voluntary local program only upon making the following written findings in support of that authorization:

(1) That the voluntary local program includes management practices that will, to the greatest extent practicable:

(A) avoid the take of listed species,

(B) minimize take of species that cannot be avoided,

(C) encourage the enhancement of habitat; and

(D) maximize wildlife benefits without compromising the economics of agricultural operations.

(2) That the local program is consistent with the goals and policies of the California Endangered Species Act and is supported by the best available scientific information.

(3) For every significant adverse environmental effect that has been identified for a local program, one or more of the findings required by section 21081 of the Public Resources Code. The Department may not approve any local program for which significant adverse environmental effects have been identified if feasible alternatives or feasible mitigation measures are available that would substantially lessen a remaining significant adverse environmental effect and those alternatives or measures have not been incorporated into the local program. For purposes of these findings:

(A) "Feasible" means "feasible" as defined in section 21061.1 of the Public Resources Code.

(B) "Environmental impact report" means an environmental impact report prepared pursuant to CEQA or, if the Secretary for Resources certifies this article under section 21080.5 of the Public Resources Code, an environmental analysis prepared pursuant to this article.

(C) Mitigation measures shall consist of new or revised management practices designed to reduce or avoid significant adverse environmental effects.

(h) Notice of Decision. Within five working days of authorizing or amending a voluntary local program, the Director shall file a Notice of Decision with the Secretary for Resources. The Notice of Decision shall include a statement that the Director authorized or amended the local program.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068 and 2086, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).
2. Amendment of section heading and repealer and new section filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.4. Amendments to the Voluntary Local Program.

(a) The voluntary local program may initiate an amendment to a local program by providing written notification to the Department and by providing the Department with the necessary information for review. The Department review and approval of such amendments shall be governed by the following provisions. The Director shall approve any minor or major program amendment if the amended program would continue to meet the standards in section 786.3(g) of this article.

(1) Minor Amendments. Amendments that the Department determines will not significantly modify the scope or nature of the local program; will not likely result in a significant adverse impact on candidate, threatened, or endangered species beyond that anticipated from the originally approved plan; will not likely diminish the habitat–enhancing benefits of the local program; and will otherwise meet the standards in section 786.3(g) of this article shall be considered minor amendments to the local program. The Director shall approve minor amendments and incorporate them into the local program, or shall deny the minor amendments, within 30 days of submission of a minor amendment to the Department. Minor amendments may be used to adapt a local program's management practices based on experience in implementing the local program to make those practices more effective in meeting the standards in section 786.3(g) of this article, provided the Department determines the changes meet the criteria in this subsection (a)(1) for minor amendments. For a minor amendment of a local program for which the Department adopted an environmental analysis, the Department may prepare an addendum to the environmental analysis or other appropriate document.

(2) Major Amendments. Amendments that the Department determines would significantly modify the scope or nature of the local program, likely result in a significant adverse impact on candidate, threatened, or endangered species beyond that anticipated from the originally approved plan, diminish the habitat–enhancing benefits of the local program, or require additional environmental review pursuant to section 21166 of the Public Resources Code or California Code of Regulations, Title 14, section 15162, shall be considered major amendments to the local program. Requests for major amendments shall be reviewed according to the process established in this article for new local programs, except that the information and analysis provided in support of an application for a major amendment may rely on supplemental information to the analysis used in the initial submittal for the local program.

(b) The Department may initiate an amendment to a local program pursuant to this subsection if it believes that an amendment is reasonably necessary to bring the local program into compliance with the provisions in section 2086(b) of the Fish and Game Code or any other relevant provision of law.

(1) To make minor amendments as defined in subsection (a)(1) of this section, the Department shall notify in writing the voluntary local program designee of the proposed minor amendment and give the voluntary local program participants 60 days to accept or decline the proposed minor amendments. If the voluntary local program decides to decline the proposed minor amendments, the Department may initiate steps necessary to allow for the termination of the program or allow individuals to withdraw from the voluntary local program. If the voluntary local program accepts the amendments or fails to respond within the 60 days, the Department may approve the minor amendments with no further consultation.

(2) To make major amendments as defined in subsection (a)(2) of this section, the Department must make a finding that the program is not in compliance with section 2086(b) of the Fish and Game Code and state its rationale. The local program designee shall be notified in writing of the findings and rationale and be given 60 days to respond to deficiencies outlined by the Department. If the voluntary local program fails to amend the program, as directed by the Department, the Department may initiate steps necessary to terminate the program and allow individuals to withdraw from the voluntary local program.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068, 2080 and 2086, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).
2. Renumbering of former section 786.4 to new section 786.6 and new section filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.5. Department Termination of a Voluntary Local Program.

If the Department terminates a voluntary local program because it no longer complies with section 2086(b) of the Fish and Game Code, termination shall be conducted consistently with the terms and conditions established pursuant to section 786.2(d)(9) of this article. Individual participants following the terms and conditions of withdrawal shall continue to receive take authorization until withdrawal has been completed.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2080 and 2086, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

2. Renumbering of former section 786.5 to new section 786.7 and new section filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.6. Take Authorization.

Any taking of candidate, threatened or endangered species incidental to routine and ongoing agricultural activities is not prohibited by Division 3, Chapter 1.5 of the Fish and Game Code if the take occurs while management practices in a voluntary local program authorized pursuant to this article are being followed, except that this section does not authorize the take of fish species that are a member of the class Osteichthyes. The Department recognizes that management practices, if successful, will increase the number of individuals of candidate, threatened and endangered species in proximity to farms and ranches as a result of management practices. This article is intended to protect farmers and ranchers from legal liability for take that may result from their voluntary participation in a voluntary local program.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068, 2080, 2086(c) and 2088, Fish and Game Code.

HISTORY

1. New section filed 12–31–98; operative 12–31–98 pursuant to Government Code section 11343.4(d) (Register 99, No. 1).

2. Renumbering of former section 786.6 to new section 786.8 and renumbering and amendment of former section 786.4 to section 786.6 filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.7. Reports to the Legislature.

(a) Beginning in 2000, and every five years thereafter, the Department shall submit a written report to the appropriate policy committees of the Legislature regarding the effects of voluntary local programs.

(b) The Department shall consult with the Department of Food and Agriculture in evaluating the voluntary local programs and preparing the report.

(c) The report shall contain:

(1) A summary of voluntary local programs currently established;

(2) An analysis of trends in temporary and permanent acreage benefitting from the voluntary local programs, including an estimate of the amount of land upon which routine and ongoing agricultural activities are conducted;

(3) Examples of farmer and rancher cooperation in designing and implementing the voluntary local programs; and

(4) Recommendations to improve voluntary participation by farmers and ranchers.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Section 2086(d)(2), Fish and Game Code.

HISTORY

1. Renumbering and amendment of former section 786.5 to new section 786.7 filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

§ 786.8. Construction with Other Statutes.

Nothing in this Article precludes the Department from authorizing agricultural conservation programs pursuant to other provisions in Division 3, Chapter 1.5 of the Fish and Game Code. Take that occurs incidental to farm or ranch operations may independently be authorized by the Department under section 2081 or 2835 of the Fish and Game Code, provided the requirements of those sections are satisfied. In addition, the specific provisions in this Article that authorize incidental take by participants in a voluntary local program shall not be construed to limit the application of section 2087 of the Fish and Game Code, which provides that accidental take of candidate, threatened and endangered species is not prohibited during routine and ongoing agricultural activities without regard to whether a voluntary local program has been established.

NOTE: Authority cited: Sections 702 and 2086, Fish and Game Code. Reference: Sections 2062, 2067, 2068, 2080, 2086, 2087 and 2835, Fish and Game Code.

HISTORY

1. Renumbering and amendment of former section 786.6 to new section 786.8 filed 8–28–2002; operative 9–27–2002 (Register 2002, No. 35).

Article 3. Incidental Take Permit Guidelines for Timber Operations

§ 787.0. Purpose and Scope of Regulations.

(a) The purpose of this article is to establish rules and guidelines in accordance with Section 2112 of the Fish and Game Code to implement Fish and Game Commission policies regarding the issuance of incidental take permits pursuant to Section 2081 of the Fish and Game Code for timber operations or activities that may take coho salmon, a species that is listed as threatened or endangered under the California Endangered Species Act, Fish and Game Code sections 2050, et seq. ("CESA"). The Fish and Game Commission approved the *Recovery Strategy for California Coho Salmon (Oncorhynchus kisutch)* (February 2004), and approved for inclusion specified policies pursuant to Section 2112 of the Fish and Game Code to guide the issuance of incidental take permits under Section 2081 of the Fish and Game Code for timber operations or activities. This article sets forth rules and guidelines to implement those policies. In accordance with section 2112 of the Fish and Game Code, this article specifies conditions and circumstances when: (1) take is prohibited; (2) an incidental take permit is required; and (3) an incidental take permit is not required. This article outlines various ways to obtain incidental take permits for timber operations and activities, including an expedited process for obtaining incidental take permits by certification pursuant to these regulations, and through the normal permitting process set forth in CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.*. The standards for issuance of incidental take permits are the permit issuance criteria set forth in section 2081(b) and (c) of the Fish and Game Code. This article is not intended to create a presumption that any particular timber operation or activity will incidentally take coho salmon.

(b) This article does not affect the Department's authority to authorize take pursuant to any other provision of the Fish and Game Code or any other provision of the California Code of Regulations including, but not limited to, take authorizations issued or approved by the Department pursuant to section 2835 of the Fish and Game Code.

NOTE: Authority cited: Sections 702, 2080, 2081(d) and 2112, Fish and Game Code. Reference: Sections 702, 2080, 2081(b), 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New article 3 (sections 787.0–787.9) and section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.1. Definitions.

(a) The terms used in this article are defined by the definitions provided in the Forest Practice Rules, California Code of Regulations, title 14, section 895.1, *et seq.*, except as specifically provided in this article:

(1) Coho Salmon Impact Evaluation. A "coho salmon impact evaluation" is an evaluation by the Department of potential impacts of proposed timber operations to coho salmon, conducted in accordance with section 787.9.

(2) Jeopardy Determination. A "jeopardy determination" is the Department's determination, made in accordance with section 787.6 as to whether issuance of an incidental take permit for proposed timber operations activities would jeopardize the continued existence of coho salmon.

(3) Recovery Unit. A "recovery unit" is a group of watersheds related hydrologically, geologically and ecologically which constitute unique and important components of an Evolutionarily Significant Unit for coho salmon. The coho salmon recovery units are delineated and described in the *Recovery Strategy for California Coho Salmon (Oncorhynchus kisutch)* (February 2004), inclusive of amendments.

(4) Watersheds with Coho Salmon. "Watersheds with coho salmon" means any planning watershed(s) where coho salmon (Oncorhynchus kisutch) have been documented by the Department of Fish and Game to be present during or after 1990. A list of watersheds with coho salmon is available at http://www.dfg.ca.gov/habcon/timber/index.html

NOTE: Authority cited: Sections 702, 2081(d) and 2112, Fish and Game Code. Reference: Sections 702, 2081(b), 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.2. Take Determination for Timber Operations.

(a) When acting as a Lead, Responsible or Trustee Agency under the California Environmental Quality Act, Public Resources Code section 21000 *et seq.* ("CEQA"), where timber operations are proposed in watersheds with coho salmon, subject to the availability of staff, the Department will prepare a "coho salmon impact evaluation" in accordance with section 787.9 and determine whether the proposed timber operations will or are likely to take one or more life stages of coho salmon. Any determination that take will or is likely to occur shall include a description of the activities and project specific conditions which may lead to take.

(b) The following is a list of activities that could potentially take coho salmon. This list is not exhaustive and there is no presumption that take will necessarily occur whenever these activities are implemented.

(1) Construction, maintenance, replacement and removal of watercourse crossings (e.g., culverts, bridges and Humboldt crossings);

(2) Watercourse bank stabilization;

(3) Construction, maintenance, replacement, removal and use of fords (i.e., low water crossings);

(4) Development, maintenance and operation of water diversion and drafting sites;

(5) Construction, maintenance, and use of segments of roads, skid trails, landings and associated drainage facilities hydrologically connected to watercourses;

(6) Any physical modification of a channel zone including removal of large wood from a Class I channel zone;

(7) Landslides initiated or accelerated by timber operations;

(8) Timber operations in a Class I watercourse and lake protection zone, accessible to coho salmon;

NOTE: Authority cited: Sections 702, 711.7, 2080, 2081(d) and 2112, Fish and Game Code; and Sections 21067, 21069, 21070, 21080.1, 21080.3, 21080.4, 21080.5, 21082.2 and 21104.2, Public Resources Code. Reference: Sections 702, 711.7, 2080, 2081(b), 2081(c) and 2112, Fish and Game Code; and Sections 21067, 21069, 21070, 21080.1, 21080.3, 21080.4, 21080.5, 21082.2 and 21104.2, Public Resources Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.3. Take of Coho Salmon from Timber Operations Prohibited.

Any unauthorized take of coho salmon is prohibited and may be subject to criminal action pursuant to the Fish and Game Code.

NOTE: Authority cited: Sections 702, 2080 and 2112, Fish and Game Code. Reference: Sections 702, 2080 and 2112, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.4. Incidental Take Permit for Timber Operations Required.

(a) If the Department determines that proposed timber operations, including activities specified in section 787.2(b) could potentially take coho salmon, and the proposed project is not revised to avoid take in accordance with section 787.5, the Department may authorize incidental take of coho salmon by issuing a permit under the authority of Section 2081 of the Fish and Game Code using any of the following processes if subsection (b) of this section is met:

(1) Incidental take permit by certification. The Department may issue an incidental take permit by certification pursuant to section 787.7 for timber operations that are not the subject of a timberland conversion permit when timber operations in watersheds with coho salmon incorporate all of the minimization and mitigation measures set forth in Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1) (a)–(t), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2).

(2) Incidental take permit incorporating selected measures. An applicant may propose, and the Department will consider an incidental take permit application prepared in accordance with CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.*, for timber operations that incorporate selected measures from Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2). The Department may issue an incidental take permit in accordance with CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.*

(3) Incidental take permit incorporating watershed evaluation–based measures. An applicant may propose, and the Department will consider an incidental take permit application prepared in accordance with CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.*, for timber operations that incorporate minimization and mitigation measures based on a watershed evaluation. The watershed evaluation must include the components set forth below and shall be included in addition to the requirements of California Code of Regulations, title 14, section 783.2(a). The Department may issue an incidental take permit in accordance with CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.*, for timber operations that incorporate minimization and mitigation measures based upon an evaluation of watershed conditions, risks and limiting factors for coho salmon where the timber operations are proposed.

(A) The following are required components of a watershed evaluation:

(i) Description of assessment area.

(ii) Status of coho salmon within each planning watershed in the assessment area.

(iii) Status of coho salmon habitat conditions and water quality within each planning watershed in the assessment area.

(iv) Identification and prioritization of limiting factors. A reasoned analysis shall assign ratings of high, moderate and low to those factors which may individually or cumulatively limit coho salmon distribution and abundance in the watershed.

(v) Proposed planning watershed specific management practices to prevent or control discharges and environmental impacts from timber operations that could contribute to the identified high and moderate risk limiting factors, and; corrective actions that would reduce or eliminate the high and moderate risk limiting factors on the landscape and mitigate the impacts of timber operations which cause or contribute to those limiting factors.

(vi) A plan and schedule for implementing proposed management practices.

(vii) A program for monitoring implementation and effectiveness of the management practices and, where the plan is not effective in limiting or eliminating the limiting factors as planned, an adaptive management strategy for changing the plan and schedule to ensure that limiting factors are reduced or eliminated in the watershed.

(4) Incidental take permit incorporating alternative measures. An applicant may propose, and the Department will consider an incidental take permit application in accordance with CESA implementing regulations, California Code of Regulations, title 14, section 783.0 *et seq.* The application submitted in accordance with California Code of Regulations, title 14, section 783.2 may specify minimization and mitigation measures included in the Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2) and/or project specific minimization and mitigation measures developed by the applicant. The Department will review and render a decision on the application in accordance with California Code of Regulations, title 14, sections 783.3, 783.4, and 783.5

(b) In order to issue an incidental take permit under the processes outlined in this section, the permit issuance criteria set forth in Section 2081(b) of the Fish and Game Code must be met. In addition, as required by Section 2081(c) of the Fish and Game Code, the Department shall not

issue an incidental take permit for coho salmon if issuance of the permit would jeopardize the continued existence of the species. The Department will determine whether issuance of the permit would jeopardize the continued existence of the species in accordance with section 787.6.

NOTE: Authority cited: Sections 702, 2080, 2081(d) and 2112, Fish and Game Code. Reference: Sections 702, 2080, 2081(b), 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.5. Incidental Take Permit for Timber Operations Not Required.

(a) If the Department determines proposed timber operations will avoid take of coho salmon, an incidental take permit under section 2081 of the Fish and Game Code is not required.

(b) If the Department determines proposed timber operations, including activities specified in section 787.2(a), could potentially take coho salmon, and as a result of a request by the project proponent or Lead Agency to consult with the Department, the project proponent revises or incorporates specific measures into the proposed project or the Lead Agency requires specific measures to be incorporated into the proposed project that the Department determines will avoid take, an incidental take permit under section 2081 of the Fish and Game Code is not required.

(c) If the Department determines, pursuant to section 2080.1 of the Fish and Game Code, that an incidental take statement or permit for coho salmon issued by the Secretary of Commerce for proposed timber operations is consistent with CESA, no further authorization or approval is necessary.

(d) Regardless of whether the Department first makes a determination regarding the take of coho salmon, the Department and any project proponent who intends to meet the requirements of the Natural Community Conservation Planning Act (Fish and Game Code section 2800 *et seq*) may enter into a planning agreement pursuant to section 2810. The planning agreement must include an interim process during plan development for project review. The interim process may include measures for timber operations or activities which the Department concludes will avoid take. Timber operations or activities carried out in accordance with any such interim process that avoids take will not require an incidental take permit under section 2081 of the Fish and Game Code.

NOTE: Authority cited: Sections 702, 2080, 2080.1, 2081, 2112 and 2810, Fish and Game Code. Reference: Sections 702, 2080, 2080.1, 2081, 2112 and 2810, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.6. Jeopardy from Timber Operations Prohibited.

(a) If the Department determines that take will, or is likely to result from proposed timber operations, the Department must conduct an additional analysis to determine if issuance of an incidental take permit for the proposed timber operations will jeopardize the continued existence of coho salmon. This means determining whether issuance of an incidental take permit for proposed activities would be expected, directly or indirectly, to substantially reduce the likelihood of survival of coho salmon in the wild by reducing the reproduction, numbers or distribution of the species.

(b) A jeopardy determination will be made using an analysis at the scale of the coho salmon recovery unit and will be made for the Evolutionarily Significant Unit. A jeopardy determination must be based upon the best scientific and other information that is reasonably available, which may include, but not necessarily be limited to, consideration of:

(1) coho salmon's ability to survive and reproduce; and

(2) any adverse impacts of the taking on coho salmon's ability to survive and reproduce in light of:

(A) known population trends;

(B) known threats to the species; and

(C) reasonably foreseeable impacts on the species from other related projects and activities.

(c) The Department could determine that proposed timber operations will jeopardize the continued existence of coho salmon if one or more of the following criteria are met and the impact will likely reduce the numbers of coho salmon in the recovery unit returning to spawn successfully in future years.

(1) One or more cohorts of coho salmon within the recovery unit return in very low numbers, or not at all, and timber operations will likely "take" a substantial number of any life stage of coho salmon.

(2) Timber operations will create a barrier to passage or substantially reduce access by coho salmon to any habitat used for migration, spawning or rearing.

(3) One or more cohorts of coho salmon within the recovery unit return in very low numbers, or not at all, and timber operations will directly or incrementally through cumulative effects render existing spawning or rearing habitat unsuitable for continued use by coho salmon.

(4) Exceptional project specific circumstances exist or are proposed which will reduce the numbers of coho salmon in the recovery unit returning to spawn successfully in future years.

(d) Where the Department determines that proposed timber operations are likely to jeopardize the continued existence of coho salmon, the Department shall consult, upon request by the project proponent or Lead Agency, and specify reasonable and prudent minimization and mitigation measures which, if fully implemented, will avoid jeopardy while maintaining the project purpose to the greatest extent possible.

(e) Where, following such consultation, the project proponent declines to incorporate any of the specified reasonable and prudent minimization and mitigation measures into the proposed project, the Department shall not issue an incidental take permit. If, however, the project proponent agrees to incorporate all of the specified reasonable and prudent minimization and mitigation measures into the proposed project to avoid jeopardy, the Department may issue an incidental take permit if the permit issuance criteria set forth in Section 2081(b) are met.

NOTE: Authority cited: Sections 702, 2080, 2081(c) and 2112, Fish and Game Code. Reference: Sections 702, 2080, 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.7. Incidental Take Permit by Certification for Timber Operations.

(a) The Department may permit incidental take of coho salmon from timber operations by certification of compliance under this section if all of the following are satisfied:

(1) The permittee certifies in writing that the permittee agrees to comply with and incorporate into its timber operations all minimization and mitigation measures specified in Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2) as identified and described in a THP or Notice of Timber Operations attached to the certification. Preconsultation with the Department prior to submittal of the certification and attached THP or Notice of Timber Operations is strongly recommended in order to facilitate acceptance and return receipt of the certification.

(2) The permittee includes implementation and effectiveness monitoring procedures and schedules in the Timber Harvesting Plan (THP) or Notice of Timber Operations. Monitoring which is specified in the THP or Notice of Timber Operations to meet other regulatory requirements may be determined by the Department to satisfy the issuance criteria for an incidental take permit

(3) The permittee provides a financial security for performance with terms and in an amount acceptable to the Department in accordance with section 787.8.

(4) The permittee provides written consent to the Department for access to inspect timber operations during and following completion of operations for compliance monitoring.

(5) The Department returns a signed receipt of the certification finding that it meets the requirements of Sections 2081(b) and (c) of the Fish and

Game Code. If any requirement is not met (e.g., a financial security in a form and amount acceptable to the Department is not provided), the Department shall deny the certification and notify the permittee.

(6) The THP or Notice of Timber Operations which is the subject of the certification is approved by the California Department of Forestry and Fire Protection.

(b) Effect of Certification.

(1) A certification that is signed by the Department is an incidental take permit for coho salmon that becomes effective only after both of the following have occurred:

(A) The permittee receives the signed certification from the Department from the appropriate regional office; and

(B) The THP or Notice of Timber Operations attached to the certification, which contains the required minimization and mitigation measures, is approved by the California Department of Forestry and Fire Protection;

(2) The incidental take permit by certification authorizes incidental take of coho salmon from the timber operations described in the THP or Notice of Timber Operations that is attached to the certification. Any incidental take from operations that deviate from such timber operations, whether under subsequent amendments to the THP or Notice of Timber Operations or otherwise, is not authorized by this permit by certification.

(3) CESA implementing regulations governing permit revocation and suspension (California Code of Regulations, title 14, section 783.7) apply to an incidental take permit by certification.

(c) Form of Certification. The certification required by section 787.7 shall take substantially the following form:

CERTIFICATION OF COMPLIANCE

I certify that all of the minimization and mitigation measures set forth in Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2) including any alternative measures provided in these sections are included as enforceable elements of the attached Timber Harvesting Plan (THP) or Nonindustrial Timber Management Plan (NTMP) Notice of Timber Operations.

I acknowledge that these measures are roughly proportional in extent to the impact of the authorized take of the species, the measures maintain my project objectives to the greatest extent possible, and they are capable of successful implementation. I understand that this permit allows incidental take of coho salmon pursuant to CESA; it does not authorize the violation of any Federal, State or local laws or regulations. I understand that this incidental take permit becomes effective after both of the following have occurred: (1) the THP or Notice of Timber Operations containing the required measures is approved by the Department of Forestry and Fire Protection; and (2) I have received receipt of the certification signed by the Department of Fish and Game from the appropriate address below. I understand that this certification permits incidental take of coho salmon from the timber operations described in the attached THP or Notice of Timber Operations. Any incidental take from operations that deviate from such timber operations, whether under subsequent amendments to the THP or Notice of Timber Operations or otherwise, is not authorized by this permit by certification.

I certify that the information submitted in this certification is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein or failure to comply with the terms of the permit (e.g., unauthorized take under CESA for undertaking a project that differs from the one described in the attached THP or Notice of Timber Operations, or failure to properly implement required minimization and mitigation measures) may subject me to suspension or revocation of this permit and to civil and criminal penalties under the laws of the State of California.

THP or NTMP designation: _____

Proposed beginning date of timber operations: _____

End date for timber operations: _____

Attached is the security for performance, calculated in accordance with section 787.8, ensuring adequate funding to implement measures to minimize and fully mitigate impacts of authorized take, and for monitoring compliance with and effectiveness of, those measures. The undersigned is responsible for immediately notifying the Department of Fish and Game of any deviations from the above.

_____

(RPF or authorized signature) Date

The undersigned is authorized to provide consent to the Department of Fish and Game to access and inspect the subject timber operations during and following completion of operations, and hereby provides such authorization to the Department of Fish and Game.

_____

(authorized representative signature) Date

For Del Norte, Humboldt, Mendocino, Siskiyou or Trinity Counties

REGIONAL MANAGER
DEPARTMENT OF FISH AND GAME
601 LOCUST STREET
REDDING, CA 96001
(530) 225.2300

For Santa Cruz, San Mateo, Marin, or Sonoma Counties

REGIONAL MANAGER
DEPARTMENT OF FISH AND GAME
P.O. BOX 47
YOUNTVILLE, CA 94599
(707) 944.5500

The Department of Fish and Game [circle one: finds/does not find] that: (1) the activities identified in the attached THP or NTMP Notice of Timber Operations may result in take of coho salmon incidental to an otherwise lawful activity; where the Department of Fish and Game finds that the activities may result in incidental take, the Department of Fish and Game finds that: (2) the impacts of authorized take will be minimized and fully mitigated; the measures required to meet this obligation are roughly proportional in extent to the impact of the authorized take; where various measures are available to meet this obligation, the impacts of take, the measures maintain the applicant's objectives to the greatest extent possible; and the measures are capable of successful implementation; (3) this permit by certification of compliance is consistent with regulations adopted pursuant to Sections 2112 and 2114 of the Fish and Game Code; (4) the permittee has assured adequate funding to implement the required measures and for monitoring compliance with and effectiveness of those measures; (5) and issuance of the permit by certification which is approved by the signature below will not jeopardize the continued existence of coho salmon. The Department of Fish and Game's findings are based upon the certification submitted; the approved THP or Notice of Timber Operations and associated environmental review and impact analysis; the administrative records supporting the incorporated Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1), 916.9.2, (936.9.2), 923.9.1 (943.9.1), and 923.9.2 (943.9.2), and the Incidental Take Permit Guidelines for Timber Operations, section 787.0 *et seq.*, and other information the Department of Fish and Game had before it at the time of the certification.

_____

DFG Regional Manager Date

(d) Department Review and Response. The Department shall review and approve or deny the certification as soon as possible and no later than 30 days following receipt of all information specified in California Code of Regulations, title 14, section 783.4 by the appropriate Regional Manager.

NOTE: Authority cited: Sections 702, 2081(d) and 2112, Fish and Game Code. Reference: Sections 702, 2081(b), 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.8. Security for Performance for Incidental Take Permits.

(a) As required by Fish and Game Code section 2081(b)(4) and CESA implementing regulations, California Code of Regulations, title 14, sec-

tion 783.4(a)(4), the permit applicant must assure adequate funding to implement the required measures and for monitoring compliance with, and effectiveness of, those measures. Acceptable instruments of financial security include a pledged savings or trust account, certificate of deposit, or irrevocable letter of credit, the terms of which must be approved by the Department. Other instruments and their terms must be approved by the Department. Security must be provided to the appropriate Department Regional Manager by certified mail together with the Certification of Compliance.

(b) Where incidental take is authorized through section 787.5(c), no additional security for performance is required.

(c) Where incidental take is authorized through section 787.4(a)(2), (3) or (4), security for performance is required and shall be determined on a project specific basis.

(d) Where incidental take is authorized through section 787.4(a)(1), security shall be provided in accordance with the following and shall include a Road Component and an Area Component.

(1) Road Component

(A) The security for performance for the Road Component shall be calculated according to the following schedule for all roads appurtenant to the proposed THP or Notice of Timber Operations, which lie within a watershed with coho salmon.

(i) $5,000/mile for all road segments within Class I watercourse and lake protection zones

(ii) $2500/mile for all road segments within Class II watercourse and lake protection zones

(iii) $1000/mile for all road segments within Equipment Exclusion Zones and Equipment Limitation Zones which are established for Class III Watercourses, inner gorges and connected headwall swales.

(iv) For each new, reconstructed or temporary Class I watercourse crossings additional security in the amount of $2000/crossing shall be required. Where an existing Class I watercourse crossing will be used without modification, additional security in the amount of $500/crossing shall be required.

(v) For each new, reconstructed or temporary Class II watercourse crossing, additional security in the amount of $1000/crossing shall be required. Where an existing Class II watercourse crossing will be used without modification, additional security in the amount of $500/crossing shall be required.

(vi) For each new, reconstructed or temporary Class III watercourse crossings additional security in the amount of $500/crossing shall be required. Where an existing Class III watercourse crossing will be used but not reconstructed, additional security in the amount of $250/crossing shall be required.

(B) The security for performance for the Road Component will be returned following a written request by the permittee to the Department upon completion of the Prescribed Maintenance Period provided that each requirement of Forest Practice Rules, California Code of Regulations, title 14, sections 923.9.1 (943.9.1), and 923.9.2 (943.9.2) has been properly implemented. The Department shall make its best effort to return the security within 45 days of receipt of said request.

(C) The security for performance for the Road Component will be forfeited by the permittee if each requirement of Forest Practice Rules, California Code of Regulations, title 14, sections 923.9.1 (943.9.1), and 923.9.2 (943.9.2) has not been properly implemented, except that the Department may, at its discretion, return all or part of the security for performance of an applicable component if in the Department's judgment the Permittee has completely remedied its failure to properly implement a required measure or measures.

(2) Area Component

(A) The security for performance for the Area Component shall be calculated at the rate of $500/acre for all proposed Watercourse and Lake Protection Zones and those Equipment Exclusion Zones and Equipment Limitation Zones which are established for Class III Watercourses, inner gorges and connected headwall swales.

(B) The security for performance for the Area Component will be returned to the permittee upon filing of the Notice of Completion, and after receipt of a written request from the permittee to the Department, provided that all requirements of Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1) and 916.9.2, (936.9.2) have been properly implemented. The Department shall make its best effort to return the security within 45 days of receipt of said request.

(C) The security for performance for the Area Component Security will be forfeited by the permittee if any requirement of Forest Practice Rules, California Code of Regulations, title 14, sections 916.9.1 (936.9.1) and 916.9.2, (936.9.2) has not been properly implemented, except that the Department may, at its discretion, return all or part of the security for performance of an applicable component if in the Department's judgment the Permittee has completely remedied its failure to properly implement a required measure or measures.

(e) The full amount of the required security for performance must remain in place for the life of the permit. In the event that the Department accesses all or part of the security for performance, within 30 days thereof the permittee will be required to replenish the amount of security to the full amount required by the Department.

(f) Notwithstanding, Section 787.7(a) the Department may, at its discretion, refuse to permit incidental take of coho salmon from timber operations by certification of compliance under this article if the applicant previously obtained an incidental take permit by certification of compliance under this article and the security for performance for that permit was forfeited in whole or part for a failure to properly implement a required measure or measures.

NOTE: Authority cited: Sections 702, 2081(d) and 2112, Fish and Game Code. Reference: Sections 702, 2081(b), 2081(c) and 2112, Fish and Game Code.

HISTORY

1. New section filed 2-11-2008; operative 2-11-2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

§ 787.9. Coho Salmon Impact Evaluation.

(a) When acting as a Lead, Responsible, or Trustee Agency under CEQA, and, subject to the availability of sufficient staff, the Department will evaluate potential impacts of proposed timber operations on coho salmon. Where the Department is a Responsible or Trustee Agency, the Department shall provide a reasoned analysis and determination, to the extent possible within the time frames established by regulation for environmental review and within any written communication to the Lead Agency addressing any other trustee responsibilities of the Department.

(b) The Department may determine that proposed timber operations will have potentially significant impacts within watersheds with coho salmon if one or more of the following criteria are met:

(1) One or more cohorts of coho salmon return in low numbers or not at all, and timber operations will contribute net additional sediment to spawning and rearing habitat in the planning watershed where timber operations are proposed or the planning watershed immediately downstream.

(2) One or more cohorts of coho salmon return in very low numbers, or not at all, and timber operations will further reduce shading within a Class I watercourse and lake protection zone accessible to coho salmon, in a planning watershed where water temperatures limit habitat suitability for any life stage of coho salmon.

(3) One or more cohorts of coho salmon return in very low numbers, or not at all, and timber operations will reduce the potential for recruitment of functional large woody material from the Class I watercourse and lake protection zone into a Class I watercourse accessible to coho salmon in a planning watershed where excessive sediment impairs coho salmon spawning or rearing.

(4) A substantial number of coho salmon will likely be taken by the proposed timber operations. For this determination, "substantial" means that the impact will, by itself, reduce the likelihood of coho salmon returning to spawn successfully in future years.

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(5) The proposed timber operations will likely reduce access to habitat used by coho salmon for migration, spawning or rearing.

(c) Where the Department determines that project impacts are likely to be significant, Department staff shall identify and propose mitigation measures intended to reduce potentially significant impacts to a level which is less than significant.

(d) Where timber operations incorporate all of the measures set forth in Forest Practice Rules, California Code of Regulations, title 14, sections 895.1; 916.9 and 936.9 and 956.9; 923.9, 943.9 and 963.9; 916.9.1 and 936.9.1; 916.9.2 and 936.9.2; 916.11.1 and 936.11.1; 923.9.1 and 943.9.1; and 923.9.2 and 943.9.2, the Department shall conclude that any impacts pursuant to 787.9(b)(1–5) have been sufficiently mitigated to a level which is less than significant.

NOTE: Authority cited: Sections 702, 711.7 and 2112, Fish and Game Code; and Sections 21067, 21069, 21070, 21080.1, 21080.3, 21080.4, 21080.5, 21082.2 and 21104.2, Public Resources Code. Reference: Sections 702, 711.7 and 2112, Fish and Game Code; and Sections 21067, 21069, 21070, 21080.1, 21080.3, 21080.4, 21080.5, 21082.2 and 21104.2, Public Resources Code.

HISTORY

1. New section filed 2–11–2008; operative 2–11–2008 pursuant to Government Code section 11343.4 (Register 2008, No. 7).

Chapter 7. Regulations for Implementation of Section 4526 of the Government Code

Article 1. General Provisions

§ 789.0. Definitions.

As used in these regulations:

(a) "Small business" firm is one which meets the definition of small business firm as set forth in Title 2, California Code of Regulations, section 1896(n).

(b) "Department" means the Department of Fish and Game.

(c) "Director" is the Director of the Department of Fish and Game, or any person authorized by the Director to act on behalf of the Director.

(d) "Firm" means any individual, firm, partnership, corporation, association, or other legal entity permitted by law to practice the profession of architecture, landscape architecture, engineering, environmental services, land surveying, or construction project management.

(e) "Architectural, landscape architectural, engineering, environmental, and land surveying services" includes those professional services of an architectural, landscape architectural, engineering, environmental, or land surveying nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform.

(f) "Contract" shall mean those contracts entered into by the Department for architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Sections 4525–4529, Government Code.

HISTORY

1. New chapter 7 (articles 1–2, sections 789.0–789.6), article 1 (section 789.0) and section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

Article 2. Specific Provisions

§ 789.1. Establishment of Criteria.

The Director shall establish criteria which will comprise the basis for selection for each contract. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability of the firm, location, and other considerations deemed relevant. Such factors shall be weighed by the Director according to the nature of the contract, the needs of the State and complexity and special requirements of the specific contract for which the services will be provided.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Section 4526, Government Code.

HISTORY

1. New article 2 (sections 789.1–789.6) and section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

§ 789.2. Request for Qualifications.

(a) When a project requires architectural, landscape architectural, engineering, land surveying, construction project management, or environmental services, the Director shall make a statewide announcement through the publications of the respective professional societies.

(b) The announcement shall contain the following information: the nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The Director shall endeavor to provide to all small business firms which have indicated an interest in receiving such, a copy of each announcement for projects for which the Director concludes that small business firms could be especially qualified. A failure of the Director to send a copy of an announcement to any firm shall not operate to preclude any contract.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Section 4527, Government Code.

HISTORY

1. New section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

§ 789.3. Selection of Services.

(a) After expiration of the period stated in the publication, the Director shall evaluate statements of qualifications and performance data on file with the Department. Discussions shall be conducted with no less than three firms regarding the required service. From the firms with which discussions are held, the Director shall select, for contract negotiation, no less than three, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required. Where three firms cannot be found which could provide the required service, the Director may then select from the available applicant firms. Selections based on less than three firms must be documented with the names and addresses of firms contacted by the Director and the reasons why the provisions of this section could not be met. This documentation shall be maintained in the Department's contract file.

(b) The Director shall attempt to negotiate a contract with the best qualified firm. If the Director is unable to negotiate a satisfactory contract with this firm at a fair and reasonable price, negotiations with that firm shall be terminated. The Director shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The Director shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be termined. If the Director is unable to negotiate a satisfactory contract with any of the selected firms, the Director shall select additional firms in the manner prescribed and continue the negotiation procedure.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

§ 789.4. Conflict of Interest/Unlawful Activity.

Department employees who are related to persons or have interests in business entities seeking to contract under these regulations shall not participate in any aspect of the contract review or selection process.

Further, any practice that results in an unlawful activity including, but not limited to, rebates, kickbacks or any other unlawful consideration shall be prohibited.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Sections 4526 and 87100, Government Code.

HISTORY

1. New section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

§ 789.5. Amendments.

If the Department makes a necessary change in the project during performance of the contract and the amount of work to be performed by the contractor has changed from the work originally contemplated by the parties, the contractor's compensation may be adjusted in a fair and reasonable amount by negotiation of a mutual written agreement.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

§ 789.6. Contracting in Phases.

Should the Department determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions at the time the initial phase is negotiated, provided that the Department shall have determined that the firm is the best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the State, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to negotiation provided for in section 6106 of the Public Contract Code shall be applicable.

NOTE: Authority cited: Section 4526, Government Code; and Section 702, Fish and Game Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 1–7–2000; operative 2–6–2000 (Register 2000, No. 1).

Subdivision 4. Office of Spill Prevention and Response

Chapter 1. General Definitions and Abbreviations

§ 790. Definitions and Abbreviations.

Unless the context requires otherwise, the following definitions shall govern the construction of this subdivision.

(a)(1) "Act" means the Lempert–Keene–Seastrand Oil Spill Prevention and Response Act of 1990 (Statutes of 1990, Chapter 1248) and amendments thereto.

(a)(2) "Administrator" means the administrator for oil spill response appointed by the Governor pursuant to Government Code Section 8670.4.

(a)(3) "Adverse weather" means the weather conditions that will be considered when determining the appropriate oil spill response systems and equipment for a particular operating environment. Factors that will be considered include wind, significant wave height, temperature, weather–related visibility, and the tides and currents within the response area in which the equipment is intended to function.

(a)(4) "Anchorage or Anchorage designation" means an area designated by the U.S. Army Corps of Engineers or the United States Coast Guard for the anchoring of vessels.

(a)(5) "Assets", as defined by GAAP, means probable future economic benefits obtained or controlled by a particular entity as a result of past transactions or events.

(a)(6) "Assist/Escort Tug" see "Escort Tug".

(a)(7) "Area Contingency Plan" (ACP) means an oil spill response plan required by the Coast Guard for each of six regions along the California coast. These six regions are the Federal Area Plan Zones, and are defined in this subchapter under "Geographic Regions."

(b)(1) "Balance of the Coast" means those areas of the California coast that are not designated as either a high volume port or as a facility transfer area.

(b)(2) "Barge" means any vessel that carries oil in commercial quantities as cargo but is not equipped with a means of self–propulsion.

(b)(3) "Barrel" means 42 United States gallons of oil at 60 degrees Fahrenheit.

(b)(4) "Best achievable protection" means

(A) the highest level of protection which can be achieved through the use of both of the following;

1. the best achievable technology, and

2. those manpower levels, training procedures, and operational methods which provide the greatest degree of protection achievable.

(B) The Administrator's determination of which measures provide the best achievable protection shall be guided by the critical need to protect valuable coastal resources and marine waters, while also considering all of the following;

1. the use of current and historical protection provided by the measures,

2. the technological achievability of the measures, and

3. the cost of the measures.

(C) The Administrator shall not use a cost–benefit or cost–effectiveness analysis or any particular method of analysis in determining which measures provide the best achievable protection. The Administrator shall instead, when determining which measures provide best achievable protection, give reasonable consideration to historical and current prevention methods, historical and current improvements in technology, and response readiness. Additionally the Administrator shall consider the protection provided by the measures, the technological achievability of the measures, and the cost of the measures when establishing the requirements to provide the best achievable protection for coastal and marine resources.

(b)(5) "Best achievable technology" means historical, current or future technology which provides the greatest degree of protection taking into consideration, the following;

(A) processes which are being developed, or could feasibly be developed anywhere in the world, given overall reasonable expenditures on research and development, and

(B) processes which are currently in use anywhere in the world, taking into account historical and current effectiveness provided by the measures already in place.

(C) In determining what is the best achievable technology, the Administrator shall consider the effectiveness and engineering feasibility of the technology and if there would be an improvement over the technology currently in place.

(b)(6) "Bollard Pull" means the force, in pounds, that a tug is capable of exerting against a stationary object. Bollard pull can be measured for either or both of the following:

(A) astern force, which is the force applied when the tug is pushing or pulling astern.

(B) ahead force, which is the force applied when the tug is pushing or pulling ahead.

(b)(7) "Braking Force" means astern bollard pull (at zero speed) for conventional tugs, and ahead bollard pull (at zero speed) for tractor tugs.

(b)(8) "Bulk" see "Oil in Bulk".

(b)(9) "Bunkering" or "Bunkering Operation" means the transfer of oil via hoses, pipelines, or loading arms for the purpose of providing fuel or lubricants to a tank vessel or nontank vessel. A Bunkering Operation includes all phases of the operation from the beginning of mooring activities between the transfer unit and the receiving unit to the departure of either the transfer unit or the receiving unit.

(b)(10) "Bunkering oil" means that product used as fuel for a vessel's propulsion system.

(c)(1) "California marine waters" see "Marine Waters".

(c)(2) "Cleaned–up" means spilled oil has been removed to the extent that it no longer poses a threat to human health and safety or the environment, as determined by either:

(A) the unified command, consisting of the Federal On–Scene Coordinator (FOSC), the responsible party, if designated, and the Staff (as defined in this chapter); or

(B) the State Incident Commander (as designated by the Administrator) if the unified command is not established.

(c)(3) "Clearing House" means an individual, organization, corporation or agency designated by the Administrator to carry out responsibilities related to tug escort requirements for specific harbors in California.

(c)(4) "Coast Guard Designated Area" see "Geographic Region".

(c)(5) "COLREGS" is a shortened form of the term 'Collision Regulations', and refers to the International Regulations for the Prevention of Collisions at Sea.

(c)(6) "Competitive aspects" means the cost of materials, labor, services, property or other necessities required to carry out a recommendation of a harbor safety committee. These costs shall be compared to other alternative costs for the same or similar requirements and may vary from port to port within a harbor area. Competitive aspects shall be addressed in any economic feasibility report or study made part of any such recommendation.

(c)(7) "Containment area" means that area designated for the containment of any spilled oil with the intent of preventing the oil from reaching open water.

(c)(8) "Conventional Tug" means a tug with screws or propellers which are fixed to provide thrust either fore or aft, parallel to the keel or longitudinal axis of the tug.

(c)(9) "Crude oil" means petroleum in an unrefined or natural state, including condensate and natural gasoline.

(c)(10) "Culturally Sensitive Sites" means locations which include, but are not limited to, historical and archaeological sites, and areas of cultural or economic significance to Native Americans.

(c)(11) "Current assets", as defined by GAAP, means cash or other assets or resources commonly identified as those which are reasonably expected to be realized in cash, or sold or consumed during the normal operating cycle of the business.

(c)(12) "Current liabilities", as defined by GAAP, means those obligations whose liquidation is reasonably expected to require the use of existing resources, properly classifiable as current assets, or the creation of other current liabilities.

(d)(1) "Deadweight tonnage" means the weight of the cargo, fuel, water, and stores necessary to submerge a vessel from its light draft to its load draft. This measurement shall be obtained from the following:

(A) the most current Lloyds Register, or

(B) from the country of registry, or

(C) by documentation from a recognized classification society, or

(D) as reflected in the International Load Line Certificate posted on each vessel.

(d)(2) "Dedicated Response Resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the timeframes for which the equipment and personnel are rated.

(d)(3) "Department" means the California Department of Fish and Game.

(d)(4) "Discharge" see "Spill".

(d)(5) "Discharge Container System" means any system designed to enclose or restrain spilled oil and prevent it from spreading further and/or reaching open water. Such a system may be fixed or portable, depending upon the application, and may involve specific equipment for certain applications.

(d)(6) "Displacement" means the total weight of water, as measured in long tons, displaced by a vessel at a given load level.

(e)(1) "Economically Sensitive Sites" means locations which include, but are not limited to, public beaches, parks, marinas, boat ramps, diving areas, industrial and drinking water intakes, power plants, salt pond intakes and other similarly situated underwater structures, intertidal and subtidal drilling leases, and major waterways and vessel traffic.

(e)(2) "Effective Daily Recovery Capacity" (EDRC) means that value computed by taking the manufacturer's rating for the recovery capacity of a piece of skimming equipment and reducing that amount to reflect the limitations of the response equipment's efficiency. Limitations on efficiency may be the result of such variables as weather, sea state, velocity of the ocean currents, hours of operation per day, or visibility. The EDRC shall be calculated as 20% of the manufacturer's rated skimming capacity (SC) for the equipment for a 24 hour period, [(SC x 24 hours)20% = EDRC].

(e)(3) "Environmentally Sensitive Site" means sites defined pursuant to the applicable Area Contingency plans, as created and revised by the U.S. Coast Guard and the Administrator.

(e)(4) "Escort/Assist Tug" see "Escort Tug".

(e)(5) "Escort Tug" means a tug that is designed primarily for pushing or pulling ahead or astern, or towing alongside another vessel. A tug is considered to be designed for escort work whether or not it is involved in such activity. Escort tugs are further defined for specific harbors as follows:

(A) In the harbors of Los Angeles/Long Beach, an "Assist/Escort Tug" means any tug that is accepted by the tank vessel master and/or pilot to escort a tank vessel that is transiting waters where an assist/escort is required.

(B) In the harbor of Port Hueneme, an "Escort/Assist Tug" means any tug that is authorized by the Oxnard Harbor District and/or the U.S. Navy for use in Port Hueneme and is equipped with at least 500 horsepower to escort/assist a tanker or barge transiting waters where escort/assistance is required.

(e)(6) "Escort Vessel" see "Escort Tug".

(f)(1) "Facility" see "Marine Facility".

(f)(2) "Facility Transfer Areas" means the areas where oil or oil products are transferred within marine waters, excluding High Volume Ports.

(f)(3) "Facility Transfer Point" means a fixed location where oil or oil products are or can be transferred between a vessel and a facility.

(f)(4) "Federal breakwater" means the line of demarcation as specified in Title 33 Code of Federal Regulations, Section 80.1114.

(f)(5) "Fiscal Year" means the period commencing on the first day of July and ending on June 30 of the following year.

(g)(1) "GAAP" means the Generally Acceptable Accounting Principles in the United States.

(g)(2) "Geographic Region" means one of six regions along the California coast defined by the Coast Guard as the Federal Area Plan Zones. These Coast Guard regions are as follows;

(A) Area 1, North Coast: the Oregon border to the Sonoma/Mendocino County line;

(B) Area 2, San Francisco and the Delta: the Sonoma/Mendocino County line to the Santa Cruz/San Mateo County line, including San Francisco Bay and the portions of the Sacramento/San Joaquin Delta covered under Article 5, Section 8670.28(a)(1) of the Government Code;

(C) Area 3, Central Coast: the Santa Cruz/San Mateo County line to the San Luis Obispo/Monterey County line;

(D) Los Angeles/Long Beach, as follows:

(1) Area 4, Northern Sector: San Luis Obispo, Ventura and Santa Barbara Counties;

(2) Area 5, Southern Sector: Los Angeles and Orange Counties;

(E) Area 6, San Diego: San Diego/Orange County line to the Mexico border.

(g)(3) "Geographic Response Plan" (GRP) means the plan that addresses the response strategies for a Geographic Response Plan Area.

(g)(4) "Geographic Response Plan Areas" (GRA) mean subdivisions of an ACP Area, and are based on natural basins or other natural features, landmarks, or general planning demarcations as described in the appropriate ACP. Each GRP contains all the sensitive sites in its natural basin.

(g)(5) "Gross Registered Tons", now changed to "Gross Tons", means a measure of the tanker, barge or nontank vessel's tonnage by volume.

(h)(1) "Harbor Safety Committee" means a committee comprised of those individuals, appointed by the Administrator pursuant to Section 8670.23 of the Government Code, to determine harbor safety needs for the harbors of San Diego; Los Angeles/Long Beach; Port Hueneme; San Francisco, San Pablo, Suisun Bays; and Humboldt Bay.

(h)(2) "Hazardous Materials" means any material that, because of its quantity, concentration or physical or chemical characteristics, would pose a significant present or potential hazard to human health and/or safety, or to the environment if released into the environment. This definition includes, but is not limited to, "oil" as defined in the Act.

(h)(3) "High Volume Ports" means either of the following:

(A) for the San Francisco Bay/Sacramento–San Joaquin Delta; all California marine waters that are within a 50 nautical mile radius of the San Francisco Approach, Lighted Horn Buoy (SF) (LNB) (LLNR 360) [located at 37–45.0N, 122–41.6W] on the San Francisco Bay Chart #18645. This does not include the Ports of Stockton and Sacramento;

(B) for the Los Angeles/Long Beach Harbor; all California marine waters that are within a 50 nautical mile radius of the Approach Lighted Whistle Buoy "LB" (LLNR 3010) [33–42.1N, 118–11.0W] outside the entrance to the Los Angeles/Long Beach Harbors on the Los Angeles and Long Beach Harbor Chart #18751.

(i)(1) "Incident Commander" means the individual responsible for overseeing the Incident Command Structure (as outlined in the State Marine Oil Spill Contingency Plan) during an oil spill response or response drill. This person may be the Administrator or his/her designee.

(i)(2) "Independently audited" means an audit performed by an independent certified public accountant in accordance with generally accepted auditing standards.

(i)(3) "Infrequent Transfer" means a transfer of oil or oil product that is conducted on the average of one time per month or not more than twelve times in a twelve month period.

(i)(4) "Intangible assets" means assets, such as trademarks, goodwill, patents, organization costs, computer programs, etc., which lack physical substance.

(i)(5) "Involved Parties" means a responsible party, potentially responsible party, their agents and employees, the operators of all tankers, barges and nontank vessels docked at a marine facility which is the source of a discharge, and all state and local agencies involved in a spill or spill response.

(j) (Reserved)

(k)(1) "Kips" means a thousand pounds of force.

(*l*)(1) "Liabilities", as defined by GAAP, means probable future sacrifices of economic benefits arising from present obligations of a particular entity to transfer assets or provide services to other entities in the future as a result of past transactions or events.

(*l*)(2) "Linefill capacity" means the volume of fluid in a pipeline or pipeline segment as determined by multiplying the cross-sectional area of the inside of the pipeline in square feet, times the length of the pipeline in feet, times 7.48 gallons per cubic foot. [Linefill capacity in gallons equals $7.48(3.1416\ r^2 * L)$ where 7.48 = gallons per cubic foot; 3.1416 is the constant, pi; r = inside radius in feet; * = times; and L = length in feet].

(*l*)(3) "Line Haul Tug" means that tug that provides the primary power to push or pull a barge.

(*l*)(4) "Lightering" or "Lightering Operation" means the transfer of a cargo of oil in bulk from one vessel to another. Lightering includes all phases of the operation from the beginning of mooring activities between the transfer unit and the receiving unit to the departure of either the transfer unit or receiving unit. A lightering operation does not include bunkering.

(*l*)(5) "LOA" means the actual Length Overall of a vessel measured in meters. This is the length for each vessel as listed in Lloyds Register or with the country of registry.

(*l*)(6) "Local government" means any chartered or general law city, chartered or general law county, or any city and county.

(*l*)(7) "Long tons" means a unit of weight equal to 2,240 pounds avoirdupois.

(m)(1) "Marine facility" means:

(A) A drill ship, semisubmersible drilling platform, jack-up type drilling rig, or any other floating or temporary drilling platform.

(B) Any facility of any kind, other than a tanker or barge which;

1. is or was used for the purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil, including pipelines, and

2. is located in marine waters, or is located where a discharge could impact marine waters.

(C) The following facilities are not included in the definition of "marine facility":

1. facilities which are subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.75 (commencing with Section 25299.10) of Division 20 of the Health and Safety Code; or

2. facilities which are placed on a farm, nursery, logging site, or construction site and do not exceed a 20,000 gallon capacity in any single storage tank; or

3. small craft refueling docks.

(m)(2) "Marine Terminal" means any marine facility used for transferring oil to or from tankers or barges. This would include all piping not integrally connected to a tank facility as defined in Section 25270.2(k) of the Health and Safety Code relating to above ground storage tanks.

(m)(3) "Marine Waters" means those waters subject to tidal influence and includes the waterways used for waterborne commercial vessel traffic to the Port of Sacramento and the Port of Stockton.

(m)(4) "Master" means the master of the tug engaged in towing a barge or the master of a tanker or nontank vessel.

(m)(5) "Mobile Transfer Unit (MTU)" means a vehicle, truck, or trailer, including all connecting hoses and piping, used for transferring oil at a location where a discharge could impact marine waters.

(m)(6) "Mobilization Time" means the time in which initial response personnel are able to begin movement of spill response resources to the site of an oil spill.

(m)(7) "MTU" means Mobile Transfer Unit.

(n)(1) "Navigational Aid" means any device used by a tanker, barge or nontank vessel that is intended to assist a navigator in determining the tanker, barge or nontank vessel's position or a safe course, or to warn of dangers or obstructions to navigation.

(n)(2) "Non-dedicated Response Resources" means those response resources identified by an Oil Spill Response Organization for oil spill response activities that are not dedicated response resources.

(n)(3) "Non-persistent or Group 1 oil" means a petroleum-based oil, such as gasoline, diesel or jet fuel, which evaporates relatively quickly. Such oil, at the time of shipment, consists of hydrocarbon fractions of which:

(A) at least 50 percent, by volume, distills at a temperature of 340 degrees C (645 degrees F); and

(B) at least 95 percent, by volume, distills at a temperature of 370 degrees C (700 degrees F).

(n)(4) (Nontank Vessel) means a vessel of 300 gross tons or greater that carries oil, but does not carry oil as cargo.

(o)(1) "Office of Spill Prevention and Response" means the California Department of Fish and Game, Office of Spill Prevention and Response established pursuant to the Act.

(o)(2) "Offshore Marine Facility" includes but is not limited to a drill ship, semi-submersible drilling platform, jack-up type drilling rig, facilities located on production piers, artificial islands and platforms, any floating or temporary drilling platform and any facility of any kind which is or was used for purposes of exploring for, drilling for, producing, storing, handling, transferring, processing, refining, or transporting oil and is located in, under, on, or above marine waters. This includes facilities in the process of abandonment, re-drilling, well maintenance and repairs.

(o)(3) "Offshore Marine Terminal" means any marine terminal at which tank vessels or barges are made fast to a buoy or buoys.

(o)(4) "Oil" means any kind of petroleum, petroleum-based liquid hydrocarbons, petroleum products or any fraction or residues therefrom. This shall include, but is not limited to: crude oil, bunker fuel, gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and liquid distillates from unprocessed natural gas.

(o)(5) "Oil In Bulk" means any volume of oil carried in the cargo tanks of a vessel. Bulk oil does not include oil carried in packaged form, and does not include residue or clingage remaining in the cargo tanks after the cargo oil has been discharged. During a bunkering or lightering operation, bulk oil may also be that oil which is transferred to or from a marine portable tank or independent tank on board a vessel.

(o)(6) "Oil Spill Contingency Plan" or "contingency plan" means the oil spill contingency plan required pursuant to Sections 815.03 and 825.03 of this subdivision.

(o)(7) "Oil Spill Response Organization" or OSRO means an individual, organization, association, cooperative, or other entity that provides, or intends to provide, equipment, personnel, supplies, or other services directly related to oil spill containment, cleanup, or removal activities.

(A) A "Rated OSRO" means an OSRO that has received a satisfactory rating from the Administrator for a particular rating level established pursuant to Section 819.01 of this subdivision.

(B) "OSRO" does not include an owner or operator with an oil spill contingency plan approved by the Administrator or an entity that only provides spill management services, or who provides services or equipment that are only ancillary to containment, cleanup, or removal activities.

(o)(8) "Oil Transfer System" means that system as described in 33 CFR Part 154, Subpart (c).

(o)(9) "Operator" see "Owner or Operator".

(o)(10) "Operating" means, in terms of a tanker, barge or nontank vessel, either:

(A) the transferring and/or transporting of oil, or

(B) that the tanker, barge or nontank vessel is not at anchor, is not made fast to the shore or an anchored tanker, barge or nontank vessel, or not aground.

(o)(11) "OSPR" means the Office of Spill Prevention and Response in the Department of Fish and Game.

(o)(12) "OSRO" means Oil Spill Response Organization.

(o)(13) "Owner or Operator" means any of the following:

(A) in the case of a tanker, barge, or nontank vessel, any person who owns, has ownership interest in, operates, charters by demise, or leases the tanker, barge, or nontank vessel;

(B) in the case of a marine facility or a marine terminal, any person who owns, has an ownership interest in, or operates the marine facility or the marine terminal;

(C) except as provided in subparagraph (D), in the case of any tanker, barge, nontank vessel or marine facility, title or control of which was conveyed due to bankruptcy, foreclosure, tax delinquency, abandonment, or similar means, to an entity of state or local government, the owner or operator is any person who owned, held an ownership interest in, operated, or otherwise controlled activities concerning the tanker, barge, nontank vessel or marine facility immediately before the conveyance;

(D) an entity of the state or local government which acquired ownership or control of a tanker, barge, nontank vessel or marine facility, when the entity of the state or local government has caused or contributed to a spill or discharge of oil into marine waters;

(E) "Owner" or "Operator" does not include a person who, without participating in the management of a tanker, barge, nontank vessel or marine facility, holds indicia of ownership primarily to protect his or her security interest in the tanker, barge, nontank vessel or marine facility;

(F) "Operator" does not include any person who owns the land underlying a marine facility or the facility itself if the person is not involved in the operations of the facility.

(o)(14) "Owners' equity", as defined by GAAP, means the difference between total assets and total liabilities.

(p)(1) "P&I Club" see "Protection and Indemnity Club".

(p)(2) "Persistent Oil" means a petroleum–based oil that does not meet the distillation criteria for a non–persistent oil. Persistent oils are further classified based on both specific and American Petroleum Institute (API) observed gravities corrected to 60 degrees Fahrenheit, as follows:

(A) Group 2 – specific gravity greater than or equal to 0.8000 and less than 0.8500. API gravity less than or equal to 45.0 and greater than 35.0;

(B) Group 3 – specific gravity greater than or equal to 0.8500 and less than 0.9490. API gravity less than or equal to 35.0 and greater than 17.5;

(C) Group 4 – specific gravity greater than or equal to 0.9490 and up to and including 1.0. API gravity less than or equal to 17.5 and greater than 10.0;

(D) Group 5 – specific gravity greater than 1.0000. API gravity equal to or less than 10.0.

(p)(3) "Person" means any individual, trust, firm, joint stock company, or corporation, including, but not limited to, a government corporation, partnership, and association. Also included is any city, county, city and county, district and the state or any department or agency thereof, and the federal government or any department or agency thereof, to the extent permitted by law.

(p)(4) "Petroleum Barge" see "Barge".

(p)(5) "Pilot" means a person duly licensed by the U.S. Coast Guard as a Federal First Class Pilot authorized to serve as a pilot on tankers and nontank vessels transiting in specified harbors in California. This person may or may not be the "Master" as defined in this chapter.

(p)(6) "Pipeline" means any line or conduit used at any time to transport oil. A pipeline will be considered a marine facility if it is located in marine waters or where a discharge from the pipeline could impact marine waters.

(p)(7) "Point of Transfer", means a position either physically located on the receiving or transferring tanker, barge, or nontank vessel, or in the case of a response vessel, located within 1/2 miles of the actual oil transfer operation.

(p)(8) "Port Authority" means the person, governmental agency or civilian organization responsible for the operation, control and administration of a port or harbor area.

(p)(9) "Production pier" means a structure supported above marine waters by pilings, columns or caissons which is connected to land and upon which is situated an oil and gas production operation.

(p)(10) "Protection and Indemnity (P&I) Club" means a mutual insurance organization formed by a group of ship owners or operators in order to secure cover for various risks of tanker, barge, or nontank vessel operation, including oil spill costs, not covered by normal hull insurance.

(q)(1) "QI" see "Qualified Individual".

(q)(2) "Qualified Individual (QI)" means a shore–based representative of a tanker, barge, nontank vessel or facility owner or operator. The QI can be an individual or company that provides QI services. The QI must be fluent in English, located in the continental United States, available on a 24–hour basis, and have full written authority to implement the tanker, barge, nontank vessel or facility's contingency plan. A person stationed on a fixed, off–shore platform is considered to be shore–based for purposes of this definition. A QI is not necessarily the responsible party unless otherwise considered a responsible party as defined in this chapter. The duties of the QI shall include:

(A) activating and engaging in contracting with required oil spill response organizations;

(B) acting as liaison with, and following the orders of, the State Incident Commander and/or Federal On–Scene Coordinator through the Unified Command during all phases of spill response. This would include the ability to make changes to the plan when so ordered by the Administrator or the Federal On–Scene Coordinator;

(C) obligating, either directly or through prearranged contracts, any funds necessary to carry out all required or directed oil spill response activities detailed in the tanker, barge, nontank vessel or facility's contingency plan or specified by order of the Incident Commander and/or Federal On–Scene Coordinator.

(r)(1) "Rated OSRO" means an OSRO that has received a satisfactory rating from the Administrator for a particular rating level established pursuant to Section 819.01 of this subdivision.

(r)(2) "Reasonable Worst Case Oil Spill" is defined in the chapters of this subdivision where the term is used.

(r)(3) "Regional Response Team (RRT)" means the federal, interagency organization that is responsible for granting approval for the use of cleanup agents during an oil spill response. The RRT was established under the federal Oil Spill Act of 1990 and is composed of representatives of the federal agencies enumerated in 40 CFR §300.175(b), as well as state and local representatives.

(r)(4) "Remove" or "Removal" means the extraction of oil from the water and shorelines, or taking other action as necessary to minimize or mitigate oil–related damage to the environment, or to safeguard the public health or welfare.

(r)(5) "Response Area" means the area in which spill response activities are occurring. This shall include the designated routes that response vessels will transit to and from temporary storage facilities or other locations as specified by the Administrator and/or the Federal On–Scene Coordinator during the course of an oil spill incident.

(r)(6) "Response Resources" means all the personnel, equipment, supplies, and services necessary to perform oil spill response activities.

(r)(7) "Response Vessel" means any tanker, barge or other waterborne craft used in the course of response activities during an oil spill incident.

(r)(8) "Responsible Party (or Party Responsible)" means any of the following:

(A) the owner or transporter of oil or a person or entity accepting responsibility for the oil;

(B) the owner, operator or lessee of, or person who charters by demise, any tanker, barge, nontank vessel or marine facility;

(C) a person or entity who accepts responsibility for vessel or marine facility; or

(D) the person who fulfills the role of the Qualified Individual during spill response only if that person is also one of the individuals as described in subparagraphs (A) through (C) above.

(r)(9) "Risk and Hazard Analysis" means a study in which process hazards and potential operating problems that could lead to oil spills are identified using systematic methods recommended by the American Institute of Chemical Engineers, or other means approved by the Administrator. This is the study referred to as the Hazard and Operability Study in Section 8670.28 of the Government Code.

(r)(10) "Risk Zone" means one of the areas along the California coast that has been differentiated by the relative risk of an oil spill occurring in that area. The areas so designated shall be termed: High Volume Ports; Facility Transfer Areas; or the Balance of the Coast; and are further defined in this chapter.

(s)(1) "Santa Barbara Channel Area" see "Facility Transfer Area".

(s)(2) "Sensitive Site Strategy Evaluation Program (SSSEP)" means the program to test and evaluate the effectiveness of the protection response strategies developed in the ACPs to protect the sensitive sites in California's marine waters. This program, managed by the Administrator, will ensure that the strategies will be effective in an actual oil spill emergency.

(s)(3) "Shifting" means to move or transfer a tanker, barge, or nontank vessel from one place or position in the harbor to another in the harbor.

(s)(4) "Shoreline Protection Tables" or SP Tables, means the tables dated July 17, 2006, incorporated by reference herein, developed by the Office of Spill Prevention and Response and posted on the Office's website. These tables outline the shoreline protection requirements for California's coastal areas and applies to all vessels of 300 gross tons or greater. Small Harbor Tables are included to define the shoreline protection requirements for vessels that operate in the small harbors as listed.

(s)(5) "Short ton" means a unit of weight equal to 2,000 pounds, avoirdupois.

(s)(6) "Small Craft" means any vessel, other than a tanker or barge, that is less than 65 feet, 7 1/2 inches (20 meters) in length.

(s)(7) "Small Craft Refueling Dock" means a waterside operation that dispenses only non-persistent oil in bulk and small amounts of persistent lubrication oil in sealed containers, primarily to small craft, and meets both of the following criteria:

(A) has tank storage capacity not exceeding 20,000 gallons in any single storage tank or tank compartment;

(B) has a total useable tank storage capacity not exceeding 75,000 gallons.

(s)(8) "Small marine fueling facility" means either of the following:

(A) a mobile transfer unit, or

(B) a fixed facility that is not a marine terminal, which dispenses primarily nonpersistent oil, and may dispense small amounts of persistent oil, primarily to small craft, and meets all of the following criteria:

(1) has tank storage capacity not exceeding 40,000 gallons in any single storage tank or storage tank compartment,

(2) has total usable tank storage capacity not exceeding 75,000 gallons,

(3) had an annual throughput volume of over-the-water transfer of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(s)(9) "Small vessel" see "Small Craft".

(s)(10) "Spill (or Discharge)" means any release of at least one barrel (42 gallons) of oil which impacts marine waters that was not authorized by a federal, state, or local governmental entity.

(s)(11) "Staff" means the Administrator or any personnel within the California Department of Fish and Game authorized to act on behalf of the Administrator.

(s)(12) "State Fiscal Year" see "Fiscal Year"

(s)(13) "State Incident Commander" see "Incident Commander".

(s)(14) "State Liaison Officer" means that person responsible for the coordination of information between the State Incident Commander/ Federal On-Scene-Coordinator and other state and local government representatives. The State Liaison Officer is a function within the Incident Command System as described in the State Marine Oil Spill Contingency Plan.

(s)(15) "Static Bollard Pull" see "Bollard Pull".

(t)(1) "Tank Barge" see "Barge"

(t)(2) "Tank Ship", see "Tanker".

(t)(3) "Tank Vessel" means any tanker or barge that carries oil in commercial quantities as cargo.

(t)(4) "Tanker" means any self-propelled, waterborne vessel, constructed or adapted to transport oil in bulk or in commercial quantities as cargo.

(t)(5) "Terminal" see "Marine Terminal".

(t)(6) "Tractor Tug" means a tug which is propelled by blades or screws which may be manipulated or rotated to provide propulsive thrust to any part of a 360 degree arc relative to the keel or longitudinal axis of the tug.

(t)(7) "Transporting oil in bulk" see "Oil in Bulk".

(t)(8) "Tug" or "Tug Escort" see "Escort Tug".

(u) (Reserved)

(v)(1) "Vessel" means any watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

(v)(2) "Vessel Carrying Oil as Secondary Cargo" means any vessel that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

(v)(3) "Vessel of Opportunity" means any craft engaged in spill response activities that is otherwise normally and substantially involved in activities other than spill response.

(v)(4) "Vessel Traffic Service (VTS) System" means the system authorized pursuant to 33 CFR Part 161, or Government Code Section 8670.21.

(v)(5) "VTS" means Vessel Traffic Service System.

(w)(1) "Working Capital", as defined by GAAP, means current assets minus current liabilities.

NOTE: Authority cited: Sections 8670.7(a), 8670.13.1(a), 8670.13.2, 8670.17.2, 8670.23.1, 8670.28, 8670.32 and 8670.35, Government Code. Reference: Sections 8670.3, 8670.7(a), 8670.13(a), 8670.13.2, 8670.17.2, 8670.21, 8670.23.1, 8670.28, 8670.32 and 8670.35, Government Code.

HISTORY

1. New section filed 8-15-91 as an emergency; operative 8-15-91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12-1-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12-13-91 as an emergency; operative 12-14-91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4-13-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-13-91 order including amendment of NOTE and amendment of subsections (c), (m)(2), (r)(1), (w)(1), (w)(2), (x)(2), (z), (aa), (ab), adoption of subsection (m)(3), redesignation of subsection (f) to subsection (d) and subsection relettering transmitted to OAL 4-10-92 and filed 5-22-92 (Register 92, No. 22).
4. Editorial correction of HISTORY 2 (Register 95, No. 12).
5. Amendment of section and NOTE and subsection renumbering filed 3-23-95; operative 4-24-95 (Register 95, No. 12).
6. Amendment of subsection (z) filed 6-23-95; operative 7-23-95 (Register 95, No. 25).
7. Change without regulatory effect renumbering former chapter 1 to chapter 2, renumbering and amending former section 790 to section 791, and adding new chapter 1 and section filed 7-12-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
8. Change without regulatory effect repealing subsections (g)(2)(D) and (g)(2)(E), subsection relettering, amending newly designated subsection (g)(2)(D), adding subsections (g)(2)(D)(1)-(2), amending subsections (m)(5), (s)(6) and (s)(6)(A), repealing subsection (s)(6)(C), and adding subsections (s)(7)-(s)(7)(B)(3) with subsection renumbering filed 10-21-96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
9. Amendment of section and NOTE filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
10. Amendment of subsections (m)(1)(C)1. and (o)(2), new subsection (v)(2), subsection relettering, and amendment of NOTE filed 11-13-97; operative

11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
11. Amendment of subsections (f)(2)(A), (f)(2)(D), (m)(1)(B)1. and (p)(2)–(p)(2)(D) and amendment of NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
12. New subsections (a)(7) and (r)(2) and subsection relettering filed 7–28–98; operative 8–27–98 (Register 98, No. 31).
13. Amendment of subdivision 4 heading filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
14. Amendment of section and NOTE filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
15. Amendment of subsection (n)(4) and amendment of NOTE filed 9–17–2001; operative 9–17–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 38).
16. Amendment of subsections (b)(9), (*l*)(4) and (m)(5), repealer of subsection (s)(2), subsection renumbering, amendment of newly designated subsections (s)(4), (s)(5), (s)(8) and (s)(9), repealer of subsections (t)(5) and (v)(3) and subsection renumbering filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).
17. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 790.5. Schedule of Compliance.

NOTE: Authority cited: Section 8670.37.54(b), Government Code. Reference: Sections 8670.37.51–8670.37.57, Government Code.

HISTORY

1. New section filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
2. Change without regulatory effect renumbering former section 790.5 to section 791.5 filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).

Chapter 2. Financial Responsibility

Subchapter 1. Certificates of Financial Responsibility

§ 791. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede any definition in Chapter 1:

(a) "Certificant" means an owner or operator or a person accepting responsibility for the oil who has been issued a Certificate of Financial Responsibility under this subchapter.

An owner or operator may also include any person or entity responsible for the specified tanker, barge, marine facility, nontank vessel or oil, or any authorized agent thereto as described in Sections 8670.37.52 and 8670.37.58(a) of the Government Code. It shall be a conclusive presumption that any party making an application for a Certificate of Financial Responsibility pursuant to Section 8670.37.53 of the Government Code is either an owner or operator as defined in this subchapter or is an authorized agent acting within the scope of employment, direction, and control of the owner or operator.

(b) "Large barge" for the purposes of determining financial responsibility, means a barge with a cargo capacity of 150,000 or more barrels of oil.

(c) "Nontank Vessel" means a vessel of 300 gross tons or greater, other than a tanker or barge, as those terms are defined in Chapter 1, Section 790 of this subdivision.

(d) "Proof of entry" means the documents that evidence that an owner of a tanker, barge, nontank vessel, or person named is covered for oil pollution liabilities by a Protection and Indemnity Club.

(e) "Small barge", for the purposes of determining financial responsibility, means a barge with a cargo capacity of less than 150,000 barrels of oil.

(f) "Vessel Carrying Oil as Secondary Cargo" means a tanker or barge that does not carry oil as a primary cargo, but does carry oil in bulk as cargo or cargo residue.

NOTE: Authority cited: Sections 8670.37.53 and 8670.37.54(b), Government Code. Reference: Sections 8670.3 and 8670.37.51–8670.37.58, Government Code.

HISTORY

1. New section filed 8–15–91 as an emergency; operative 8–15–91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12–1–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12–13–91 as an emergency; operative 12–14–91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4–13–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–13–91 order including amendment of NOTE and amendment of subsections (b)(5), (c), (d) and (f), repealer of subsections (c)(1) and (d)(1), and subsection renumbering transmitted to OAL 4–10–92 and filed 5–22–92 (Register 92, No. 22).
4. Amendment of section heading, section and NOTE and subsection renumbering filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Amendment filed 6–23–95; operative 7–23–95 (Register 95, No. 25).
6. Change without regulatory effect renumbering former chapter 1 to chapter 2, renumbering and amending former section 790 to section 791, and renumbering and amending former section 791 to new section 791.7 filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
7. Amendment of first paragraph, subsection (a) and NOTE filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
8. Amendment of section and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
9. New subsections (c) and (d), subsection relettering, amendment of newly designated subsection (e) and amendment of NOTE filed 2–4–2000 as an emergency; operative 2–4–2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6–5–2000 or emergency language will be repealed by operation of law on the following day.
10. Reinstatement of section as it existed prior to 2–4–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
11. Amendment of subsection (c) and amendment of NOTE filed 12–21–2000 as an emergency; operative 12–21–2000 (Register 2000, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–20–2001 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsection (c) and amendment of NOTE refiled 4–16–2001 as an emergency; operative 4–16–2001 (Register 2001, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–2001 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 4–16–2001 order, including further amendment of section, transmitted to OAL 8–3–2001 and filed 9–17–2001 (Register 2001, No. 38).
14. Change without regulatory effect amending subsection (a) and amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
15. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

§ 791.5. Schedule of Compliance.

(a) Unless a Certificate of Financial Responsibility (hereinafter referred to as a certificate) is suspended pursuant to Section 797 of this subchapter, all certificates issued by the Administrator shall remain in effect and satisfy the requirements of this subchapter according to the terms printed on the certificate. Any applicant who does not have a valid certificate issued by the Administrator, must comply with the provisions of this subchapter. Any certificant, upon application for renewal of a Certificate of Financial Responsibility, must comply with the provisions of this subchapter.

NOTE: Authority cited: Section 8670.37.54(b), Government Code. Reference: Sections 8670.37.51–8670.37.58, Government Code.

HISTORY

1. Change without regulatory effect renumbering former section 790.5 to new section 791.5 filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
2. Amendment filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
3. Amendment of NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
4. Change without regulatory effect amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
5. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

§ 791.7. Procedures for Application for California Certificate of Financial Responsibility.

(a) All operators or owners of marine facilities, where a spill could impact the marine waters of the state, and operators or owners of vessels or

the owners of the oil contained therein, or the operators or owners of nontank vessels, shall obtain a California Certificate of Financial Responsibility (hereafter referred to as a certificate) before operating in California. The following applications shall be used to obtain a certificate:

(1) Application for Certificate of Financial Responsibility for Operators or Owners of Tank Vessels (application), referred to as FG OSPR Form 1925 (11/05);

(2) Application for Certificate of Financial Responsibility for Operators or Owners of Nontank Vessels (application), referred to as FG OSPR Form 1972 (05/06);

(3) Application for Certificate of Financial Responsibility for Marine Facilities, (application), referred to as FG OSPR Form 1924 (11/05);

(4) Application for Certificate of Financial Responsibility for Owners of Oil (application), referred to as FG OSPR Form 1947 (11/05); and

[The next page is 200.7.]

(5) Application for Certificate of Financial Responsibility for Mobile Transfer Units (application), referred to as FG OSPR Form 1946 (11/05).

(6) These forms shall collectively be referred to as applications and incorporated by reference herein.

(7) The applications shall be obtained from and, upon completion, submitted to the Office of Spill Prevention and Response (OSPR) at the following address:

DEPARTMENT OF FISH AND GAME
OFFICE OF SPILL PREVENTION AND RESPONSE (OSPR)
P.O. BOX 944209
SACRAMENTO, CA 94244-2090

(b) Any facility owner/operator may request exemption from the requirement to obtain a certificate on the basis that a spill from the facility could not reasonably be expected to impact marine waters.

(1) Such request must be submitted to the Administrator and must provide specific, technical justification for the request.

(2) Prior to granting or denying the request, the Administrator may inspect the facility to determine if a spill from the facility could potentially impact marine waters.

(3) Within forty-five (45) business days of receipt of a request for exemption, the Administrator shall inform the facility owner/operator in writing if the justification is complete and the exemption is granted, or that it is deficient and what specific information or documentation is required.

(4) If the exemption request is deemed deficient:

(A) within fifteen (15) business days of receipt of the notice of deficiency, the facility owner/operator must submit the required information or documentation to the Administrator.

(B) within twenty-one (21) business days of receipt of this information, the Administrator shall notify the facility owner/operator if the exemption has been granted or denied.

(5) If the request for exemption is denied, the facility owner/operator must submit an application for a certificate within ten (10) business days of the date the notice of denial is received by the owner/operator, unless a request for reconsideration is submitted pursuant to Section 791.7(g).

(c) General Application Procedures.

(1) All applications and supporting documents shall be prepared in English and all monetary terms shall be in U.S. currency.

(2) All spaces on the application shall be completed with either the requested information or the phrase "Not applicable".

(3) All applications shall be signed by the applicant or authorized representative of the applicant, whose title shall be indicated in the space provided on the application.

(4) All applications shall be accompanied by a written delegation of authority to submit the application on behalf of the applicant where the person signing the application is an individual other than the individual applicant in the case of a sole proprietorship, a partner in the case of a partnership applicant, or an authorized signatory or official of a corporate applicant.

(5) Operator(s) or owner(s) of nontank vessels shall submit a nonrefundable fee per vessel with each new or renewal application as follows: Do not deduct any processing fees from the per vessel fee.

(A) Operator(s) or owner(s) of nontank vessels with a carrying capacity of over 6,500 barrels, or over 7,500 barrels for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable USD $2,500 fee per vessel, or;

(B) Operator(s) or owner(s) of nontank vessels that have a carrying capacity greater than 500 barrels of oil and less than or equal to 6,500 barrels of oil, or a carrying capacity greater than 500 barrels of oil and less than or equal to 7,500 barrels of oil for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable USD $1,500 fee per vessel, or;

(C) Operator(s) or owner(s) of nontank vessels that have a carrying capacity of 500 barrels of oil or less shall submit a nonrefundable USD $500 fee per vessel.

(6) If, prior to certificate issuance, an applicant becomes aware of a material change in any of the facts contained in the application or supporting documents, the applicant shall, within five (5) business days of becoming aware of the change or changes, notify the Administrator in writing of the change.

(7) Each certificate issued by the Administrator shall:

(A) except as provided in Subsection (c)(8) below, expire no later than two years following its issuance date; and

(B) bear its expiration date clearly on its face.

(8) The Administrator may issue a certificate for a marine facility for a period of not longer than three years if the Administrator finds that:

(A) continued operation is necessary to finance abandonment of the marine facility; and

(B) the financial resources the operator is able to demonstrate are reasonably sufficient to cover any spill-related damages from the facility.

(9) The minimum, median, and maximum processing times for an application from the time of receipt until issuance of a certificate are as follows:

(A) The minimum time is same day processing;

(B) The median time is nineteen (19) days;

(C) The maximum time is ninety-two (92) days.

(d) Application processing by the OSPR – Tankers, Nontank Vessels, Large Barges, and Owners of Oil.

(1) Applications and evidence of financial responsibility submitted by owners or operators of tankers, nontank vessels, large barges, and owners of oil will be reviewed within twenty-one (21) calendar days of receipt by the OSPR. Certificates will be issued within that period provided that the following has been received: (1) adequate information was furnished in the application, (2) receipt of the nontank vessel fee, and (3) acceptable evidence of financial responsibility, as determined by the Administrator, has been received. The criteria for demonstrating financial responsibility are set forth in Section 795 of this subchapter. Amounts of financial responsibility that must be demonstrated are as follows:

(A) Operator(s) or owner(s) of tankers, large barges, or owners of, or persons accepting responsibility for the oil, shall demonstrate their current financial ability to pay at least one billion dollars ($1,000,000,000).

(B) Except as provided in (C) below, operator(s) or owner(s) of nontank vessels shall demonstrate their current financial ability to pay at least 300 million dollars ($300,000,000) for any damages arising from an oil spill during the term of the certificate.

1. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry any oil.

(C) Operator(s) or owner(s) of nontank vessels that have a carrying capacity of 6,500 barrels of oil or less, or a carrying capacity of 7,500 barrels of oil or less for nontank vessels owned and operated by California or a federal agency, shall demonstrate their current financial ability to pay the following appropriate amount of financial responsibility:

1. $2,000,000 for those that have a carrying capacity from less than 1 to not more than 10 barrels;

2. $5,000,000 for those that have a carrying capacity greater than 10 to not more than 50 barrels;

3. $10,000,000 for those that have a carrying capacity greater than 50 to not more than 500 barrels;

4. $18,900,000 for those that have a carrying capacity greater than 500 to not more than 1,000 barrels.

5. Those nontank vessels that have a carrying capacity greater than 1000 to not more than 6,500 barrels, or 7,500 barrels for nontank vessels owned and operated by California or a federal agency, shall determine the amount of financial responsibility as follows: subtract 1,000 barrels from the total carrying capacity of oil of the nontank vessel: multiply this amount by $5,670 (which represents 30% of the cargo multiplied by the maximum per barrel clean-up and damage cost of spilled oil of $18,900); then add $18,900,000.

6. The amount of financial responsibility shall not exceed the amount required for nontank vessels as set forth in Section 8670.37.58(a) of the Government Code.

7. Certificates of financial responsibility are not required for non-self propelled nontank vessels that do not carry any oil.

(2) The amounts in this subsection (d) are in effect unless amended by Section 8670.37.53(a), 8670.37.58(a) or 8670.41 of the Government Code.

(3) If the information contained in the application, evidence of financial responsibility, or any supplemental information provided is insufficient, the Administrator shall notify the applicant of the nature of such insufficiency within twenty–one (21) calendar days from the date of receipt of the application and evidence of financial responsibility, or any supplemental information or additional evidence, whichever is applicable. Applicants shall then have ten (10) business days from the date of notification to provide the missing information or additional evidence.

(A) Certificates will be issued within fifteen (15) calendar days of the submission of additional evidence or supplemental information provided that acceptable evidence or adequate information was received. In the event that acceptable evidence or adequate information is not received, the Administrator may deny the application by providing written notice specifying the reasons for the denial following the ten (10) day period set forth in Subsection (d)(3) above.

(e) Application processing by the OSPR – Small Barges, Marine Facilities, Small Marine Fueling Facilities, Mobile Transfer Units, and Vessels Carrying Oil As Secondary Cargo.

(1) Applications submitted by owners or operators of small barges, marine facilities, small marine fueling facilities (as defined in Section 790 of this subdivision), mobile transfer units, and vessels carrying oil as secondary cargo (as defined in Section 790 of this subdivision) will be reviewed and applicants notified of the amount of financial responsibility required within twenty–one (21) calendar days of receipt by the OSPR.

(2) The OSPR shall determine the amount of financial responsibility as follows:

(A) For small barges, except for those vessels carrying oil as secondary cargo addressed under Subsection (e)(2)(F) of this section:

1. the product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times thirty percent (30%) of the maximum cargo capacity, as measured in barrels, of the small barge.

2. The amount of financial responsibility shall not exceed the amount required for tankers as set forth in Section 8670.37.53(a) of the Government Code.

3. The amount of financial responsibility required for small barges used exclusively to transfer, transport, store, or mechanically treat oily waste water may be reduced if allowed by the Administrator following reconsideration pursuant to the procedures established in Subsection 791.7(g). If a reduced financial responsibility amount is allowed, it shall be based on: $12,500 times thirty percent (30%) of the maximum concentration of oil found in the oily waste water, as measured in barrels.

4. However, the amount of financial responsibility will, in no case, be reduced below the minimum of $1,000,000.

(B) For marine facilities except for those offshore marine facilities, small marine fueling facilities, and mobile transfer units addressed under Subsections (e)(2)(C), (e)(2)(D) and (e)(2)(E), respectively, of this section:

1. the product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the certificant's oil spill contingency plan, in accordance with Sections 817.02(d)(1)(A), 817.02(d)(1)(B), and 817.02(d)(1)(E) of Title 14 of the California Code of Regulations.

2. The amount determined pursuant to this paragraph shall not be less than $1,000,000 or in excess of $300,000,000, unless otherwise determined by the Administrator following reconsideration pursuant to subsection 791.7(g).

(C) For offshore marine facilities engaged in drilling operations which may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters:

1. the product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times the reasonable worst case spill volume, as measured in barrels. This volume is based on calculations and parameters proposed by the offshore marine facility in the certificant's oil spill contingency plan, in accordance with Sections 817.02(d)(1)(C)–(E) of Title 14 of the California Code of Regulations; plus:

2. The amount determined pursuant to this paragraph shall not be less than $10,000,000 or in excess of $300,000,000, unless otherwise determined by the Administrator following reconsideration pursuant to subsection 791.7(g).

(D) For small marine fueling facilities except for those mobile transfer units addressed under Subsection (e)(2)(E) of this section:

1. the product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times the reasonable worst case spill volume, as measured in barrels, calculated in the certificant's oil spill contingency plan, in accordance with Section 817.03(d)(1)(A) of Title 14 of the California Code of Regulations.

(E) For mobile transfer units:

1. The product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times thirty percent (30%) of the maximum cargo capacity, as measured in barrels, of the unit.

2. The amount of financial responsibility required for mobile transfer units used exclusively to transport oil–water mixture may be reduced if allowed by the Administrator following reconsideration pursuant to the procedures established in Subsection 791.7(g). If a reduced financial responsibility amount is allowed, it shall be based on: $12,500 times thirty percent (30%) of the maximum concentration of oil found in the oily waste water, as measured in barrels.

(F) For Vessels Carrying Oil As Secondary Cargo:

1. the product derived by multiplying the maximum per barrel clean–up and damage cost of spilled oil ($12,500) times thirty percent (30%) of the maximum oil cargo capacity, as measured in barrels, of the vessel.

2. The amount of financial responsibility shall not exceed the amount required for tankers as set forth in Section 8670.37.53(a) of the Government Code.

3. However, the amount of financial responsibility will, in no case, be reduced below the minimum of $1,000,000.

(3) Evidence of financial responsibility must be submitted within twenty–one (21) calendar days from the date applicant receives notice of the amount of financial responsibility. The Administrator may waive the twenty–one (21) day period for submitting such evidence.

(4) Certificates will be issued for small barges, marine facilities, small marine fueling facilities, mobile transfer units, and vessels carrying oil as secondary cargo within ten (10) business days following the receipt of acceptable evidence of financial responsibility by the OSPR, as determined by the Administrator. The criteria for demonstrating financial responsibility are set forth in Section 795 of this subchapter.

(5) If the information contained in the application, evidence of financial responsibility, or the other supplemental information provided is insufficient, the Administrator shall notify the applicant of the nature of such insufficiency within twenty–one (21) calendar days from the date of receipt of either the application, evidence of financial responsibility, or supplemental information, whichever is applicable. Applicants shall then have ten (10) business days from the date of notification to provide the missing information or additional evidence.

(A) Certificates will be issued within ten (10) business days following the submittal of evidence of financial responsibility and any additional evidence required, provided that acceptable evidence and adequate information is received. In the event that acceptable evidence or adequate information is not received, the Administrator may deny the application by providing written notice specifying the reasons for the denial following the ten (10) day period set forth above.

(B) If no evidence of financial responsibility is submitted following issuance of the notice of financial responsibility or if the response to a notice of insufficiency is inadequate, the Administrator may deny the application by providing written notice specifying the reasons for the denial

following the twenty–one (21) day or ten (10) day submittal period specified above, whichever is applicable.

(f) Application renewals.

(1) Certificate renewal applications shall be accepted by the Administrator no earlier than ninety (90) calendar days prior to the expiration of the existing certificate. In order to renew a certificate prior to the expiration date of the existing certificate, renewal applications must be submitted no later than forty–five (45) calendar days prior to the expiration date.

(2) If at any time after a certificate has been issued, a holder of a certificate becomes aware of a material change in any facts contained in the application or supporting documents, including the holder ceasing to be the owner or operator of the tanker, barge, nontank vessel, or marine facility, or the owner of the oil, the holder of the certificate shall notify OSPR, in writing, within five (5) business days of becoming aware of the change.

(3) Operator(s) or owner(s) of nontank vessels shall submit a nonrefundable fee per vessel, as set forth in Section 791.7(c)(5) of this subchapter. Do not deduct any processing fees from the per vessel fee.

(g) Requests for Reconsideration.

(1) Applicants may submit a written request to the Administrator requesting reconsideration of the amount of financial responsibility that the applicant must demonstrate to obtain a certificate, or any decision to deny issuance of a certificate or a renewal certificate, or any decision to deny exemption from the requirement to obtain a certificate. Requests must be submitted within ten (10) business days from the date that the applicant receives notice of denial or of the amount of financial responsibility to be demonstrated. The Administrator may waive the ten (10) day period for submitting a request.

(2) The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the Administrator's denial of the application, renewal application, exemption, or financial responsibility determination.

(3) Within ten (10) business days from the date the request for reconsideration is received, the OSPR will advise the applicant of the Administrator's decision whether the request will be considered.

(4) Within fifteen (15) calendar days following the notice that the Administrator will consider the request, the applicant will either be sent a notice that the Administrator shall adhere to his or her earlier decision (i.e., deny the request for reconsideration); or a certificate shall be issued; or a revised notice of financial responsibility shall be issued; or an exemption shall be granted.

(h) Destruction or Loss of Certificate.

(1) In the event that a certificate has been lost or destroyed, the holder of the certificate shall immediately notify the Administrator of the certificate's loss or destruction.

(2) Certificate holders shall provide a written request which clearly states the reasons for the request to the Administrator for the issuance of a replacement certificate.

NOTE: Authority cited: Sections 8670.37.54(b), 8670.37.58 and 8670.41, Government Code. Reference: Sections 8670.37.53, 8670.37.54, 8670.37.58 and 8670.41, Government Code.

HISTORY

1. Change without regulatory effect renumbering and amending former section 791 to new section 791.7 filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
2. Change without regulatory effect repealing subsection (e)(2)(B)2. and subsection renumbering filed 7–18–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 29).
3. Change without regulatory effect amending subsections (e)(2)(A)3., (e)(2)(B), (e)(2)(B)2., (e)(2)(C)3. and (e)(2)(D)2. and repealing subsections (e)(2)(B)4.–5. filed 8–3–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 31).
4. Change without regulatory effect amending subsection (a) and adding (a)(1)–(6) designators, amending subsections (d)(1)(A)–(C), and amending forms incorporated by reference at subsections (a)(1), (a)(2), (a)(3) and (a)(4) filed 10–21–96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43). FG OSPR Forms 1924 (10/96), 1925 (10/96), 1926 (2/95), 1927 (2/95), 1928 (2/95), 1929 (2/95), 1930 (2/95), 1946 (2/96) and 1947 (8/96), which are incorporated by reference in Section 791.7, were removed from print but are still incorporated.
5. Amendment filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
6. Editorial correction of subsection (a) (Register 98, No. 30).
7. Change without regulatory effect amending subsections (a)(2), (e)(2)(B)1., and (e)(2)(D)1. filed 7–23–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 30).
8. Amendment of section and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
9. Amendment of subsections (a)(1), (d) and (d)(1) and new subsections (d)(1)(D)1. and 2. filed 2–4–2000 as an emergency; operative 2–4–2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6–5–2000 or emergency language will be repealed by operation of law on the following day.
10. Reinstatement of section as it existed prior to 2–4–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
11. Amendment of subsection (a)(2), repealer of subsection (d)(1)(A), subsection relettering, amendment of newly designated subsection (d)(1)(B)2., new subsections (d)(1)(C)–(d)(1)(C)8. and repealer and new NOTE filed 12–21–2000 as an emergency; operative 12–21–2000 (Register 2000, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–20–2001 or emergency language will be repealed by operation of law on the following day.
12. Amendment of subsections (a)(2) and (d)–(d)(1), repealer of subsections (d)(1)(A) and (d)(1)(D), subsection relettering, new subsections (d)(1)(C)–(d)(1)(C)8. and repealer and new NOTE refiled 4–16–2001 as an emergency, including further amendment of subsections (d)(1)(C)2.–5.; operative 4–16–2001 (Register 2001, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–14–2001 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 4–16–2001 order, including further amendment of section, transmitted to OAL 8–3–2001 and filed 9–17–2001 (Register 2001, No. 38).
14. Change without regulatory effect amending subsections (d)(1)(C)6. and (d)(1)(C)8. and amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
15. Change without regulatory effect amending subsections (a)(1)–(2) and (a)(4) filed 7–25–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 30).
16. Amendment of subsections (a)(2) and (c)(5), new subsections (c)(5)(A)–(C), repealer of subsections (d)(1)(B)1. and (d)(1)(C)7., subsection renumbering, redesignation and amendment of portion of subsection (d)(1)(C) as subsection (d)(2), subsection renumbering and amendment of subsection (f)(3) filed 11–21–2002 as an emergency; operative 1–1–2003 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
17. Editorial correction of subsection (d)(1)(B)1. (Register 2002, No. 49).
18. Amendment of subsections (a)(2) and (c)(5), new subsections (c)(5)(A)–(C), repealer of subsections (d)(1)(B)1. and (d)(1)(C)7., subsection renumbering, redesignation and amendment of portion of subsection (d)(1)(C) as subsection (d)(2), subsection renumbering and amendment of subsection (f)(3) refiled 4–30–2003 as an emergency; operative 5–2–2003 (Register 2003, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–2–2003 or emergency language will be repealed by operation of law on the following day.
19. Certificate of Compliance as to 4–30–2003 order, including further amendment of section and NOTE, transmitted to OAL 5–15–2003 and filed 6–26–2003 (Register 2003, No. 26).
20. Change without regulatory effect amending subsections (a)(1)–(5) and forms OSPR–1924, OSPR–1925, OSPR–1946, OSPR–1947 and OSPR–1972 (incorporated by reference) filed 8–21–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 34).
21. Amendment of subsections (a)(1)–(5) filed 4–17–2006; operative 5–17–2006 (Register 2006, No. 16).
22. Change without regulatory effect amending subsection (a)(2) and form FG OSPR–1972 (incorporated by reference) filed 6–5–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 23).

§ 792. Certification Requirements: Tankers, Nontank Vessels, Large Barges, and Owners of Oil.

(a) Each tanker or barge operator or owner who transports oil across California marine waters or the owner(s) of all the oil contained in and to be transferred to or from the tanker or barge, or the person accepting responsibility for the oil, or each nontank vessel operator or owner entering the marine waters of the state, shall obtain a certificate issued by the Administrator prior to operating in California marine waters. The certificate(s) shall be kept in their possession or control and, if applicable, on board the tanker, barge or nontank vessel.

(b) To obtain a certificate, the operator(s) or owner(s) of tankers, nontank vessels, large barges, or owner(s) of oil contained therein, or the per-

son accepting responsibility for the oil, shall demonstrate the required amounts of financial responsibility found in Subsection 791.7(d).

(c) The required amounts of financial responsibility in no way restricts or sets financial limitations on any duty, obligation or liability of the responsible party to the State of California or any other public or private entity. This includes civil penalties assessed pursuant to all applicable federal, state and local laws.

(d) When the owner(s) of all of the oil contained in the tanker, barge or nontank vessel, or the person accepting responsibility for the oil, hold the certificate(s) in lieu of the tanker, barge or nontank vessel operator or owner, the owner(s) or person accepting responsibility for the oil, shall provide a copy of documentation demonstrating ownership of, or responsibility for, all the oil contained in the vessel, a written statement authorizing application of the certificate(s) to the tanker, barge or nontank vessel, and a copy of the certificate to the tanker, barge or nontank vessel operator.

(e) The original or a certified copy(s) of certificate(s) issued to the responsible party (e.g., the tanker, barge or nontank vessel operator or owner, or, if applicable, the owner(s) of all the oil contained in the tanker, barge or nontank vessel or the person accepting responsibility for the oil), shall be carried on the tanker, barge or nontank vessel and be available for inspection at all times. As used in this subsection, a certified copy means either a notarized copy or a copy with an attached declaration, signed by an official of certificant, declaring the copy to be a true and accurate copy of the original certificate. If applicable, the documentation required pursuant to Subsection (d) shall be carried on the tanker, barge or nontank vessel and be available for inspection at all times.

(f) If the operator or owner of a vessel intends to rely on the certificate(s) issued to the owner(s) of or person(s) accepting responsibility for the oil cargo, the vessel operator shall, at least twenty–four (24) hours prior to transporting the oil across California marine waters, provide the Administrator with the following:

(1) a copy or copies of the certificate(s) applicable to all of the oil at all times during the transport; and

(2) a copy of a written statement by the holder(s) of the applicable certificate(s) authorizing its (their) application to the vessel.

(g) Operators who are not also the owners of the certificated tankers, barges or nontank vessels, shall carry on board such tankers, barges or nontank vessels a copy of the charter–party or any other written document which demonstrates that the operators are the operators designated on the certificates.

(h) Owners or operators of tankers, barges or nontank vessels used exclusively to respond to, contain, and clean up oil spills shall be exempt from the financial responsibility requirements set forth in this chapter, provided the responsible party or the Administrator agrees to indemnify the owner or operator, or the owner or operator is subject to the qualified immunity provisions set forth in Government Code Section 8670.56.6.

NOTE: Authority cited: Sections 8670.37.54(b), 8670.37.51, 8670.37.53 and 8670.37.58, Government Code. Reference: Sections 8670.37.51–8670.37.58 and 8670.56.6, Government Code.

HISTORY

1. New section filed 8–15–91 as an emergency; operative 8–15–91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12–1–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12–13–91 as an emergency; operative 12–14–91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4–13–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–13–91 order including amendment of subsections (c), (d), (g), (j) and (k), transmitted to OAL 4–10–92 and filed 5–22–92 (Register 92, No. 22).
4. Amendment of section heading and section filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Change without regulatory effect amending subsection (b) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
6. Amendment of subsections (b) and (e) filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
7. Amendment of section heading, section and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
8. Amendment of subsections (a), (b), (d) and (e) filed 2–4–2000 as an emergency; operative 2–4–2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6–5–2000 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 2–4–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
10. Change without regulatory effect amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
11. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

§ 793. Certification Requirements: Small Barges, Marine Facilities, Small Marine Fueling Facilities, Mobile Transfer Units, and Vessels Carrying Oil As Secondary Cargo.

(a) Operators or owners of small barges, marine facilities, small marine fueling facilities, mobile transfer units, and vessels carrying oil as secondary cargo shall demonstrate the financial ability to pay for any damages arising from an oil spill resulting from the operations of the small barge, marine facility, small marine fueling facility, mobile transfer unit, or vessel carrying oil as secondary cargo.

(b) Each operator or owner of a small barge, marine facility, small marine fueling facility, mobile transfer unit, or vessel carrying oil as secondary cargo shall obtain a Certificate of Financial Responsibility from the Administrator.

(c) The original or certified copy of the certificate shall remain on–board the barge, the marine facility premise, the small marine fueling facility premise, with the mobile transfer unit, or on–board the vessel carrying oil as secondary cargo and be available for inspection at all times. As used in this subsection, a certified copy means either a notarized copy or a copy with an attached declaration, signed by an official of certificant, declaring the copy to be a true and accurate copy of the original certificate.

(d) Each operator or owner of a marine terminal within the state may only transfer oil to or from a vessel following receipt and verification of a copy(s) of the certificate(s) issued by the Administrator to the operator of the vessel or owner(s) of or persons accepting responsibility for the oil contained in the vessel, as well as all the oil to be transferred to or from the vessel.

(e) Each marine terminal operator or owner may only transfer oil to a vessel which is intended to be used for transporting oil to a second vessel located within twelve (12) miles of the California shoreline and which is intended to be used for transporting such oil as cargo, following receipt and verification of a copy(s) of the certificate(s) issued to the person(s) responsible for both vessels or all of the oil contained in both vessels, as well as all the oil to be transferred to both vessels.

(f) Each marine terminal operator or owner may only transfer oil from a vessel which has been used for transporting oil cargo from a second vessel located within twelve (12) miles of the California shoreline, following receipt and verification of a copy(s) of the certificate(s) issued to the person(s) responsible for both vessels or all of the oil contained in both vessels, as well as all the oil to be transferred from both vessels.

(g) Each marine terminal operator or owner shall be determined to have met the verification requirements set forth in Subsections (d), (e), and (f) of this regulation, when, at the time of oil transfer, the marine terminal operator or owner has:

(1) obtained verbal verification that the certificate (s) is (are) current and applicable to the vessel(s) and, if applicable, all of the oil contained in or to be transferred to or from the vessel from the person(s) responsible for the vessel(s) or from person(s) responsible for the oil to be transferred to or from the affected vessels or from person(s) authorized to provide this verification; and

(2) visually inspected all relevant manifests or similar documentation (e.g., U.S. Customs Cargo Declarations) to confirm the information ascertained pursuant to Subsection (g)(1), above; and

(3) assured that the information contained in Certificates of Financial Responsibility, required to be obtained pursuant to this subchapter, is

consistent with the information acquired in Subsections (g)(1) and (2), above.

(h) The operator or owner of the marine terminal must retain a copy of the certificate(s) obtained in accordance with Subsections (d), (e), and (f) of this section for a period of not less than one year.

(i) The Administrator shall determine the amount of financial responsibility that owners or operators of small barges, marine facilities, small marine fueling facilities, mobile transfer units, and vessels carrying oil as secondary cargo must demonstrate. The amount shall be based on the procedures described in Subsection 791.7(e)(2) of this subchapter.

(j) The required amounts of financial responsibility in no way restricts or sets financial limitations on any duty, obligation or liability of the responsible party to the State of California or any other public or private entity. This includes civil penalties assessed pursuant to all applicable federal, state and local laws.

(k) Owners or operators of mobile transfer units used exclusively to respond to, contain, and clean up oil spills shall be exempt from the financial responsibility requirements set forth in this subchapter, provided the responsible party or the Administrator agrees to indemnify the owner or operator, or the owner or operator is subject to the qualified immunity provisions set forth in Government Code Section 8670.56.6.

(*l*) Special procedures for owners or operators of offshore marine facilities engaged in drilling operations.

(1) The operator or owner of any offshore marine facility from which drilling operations are being carried out, where the drilling operations may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters, shall demonstrate the financial ability to pay for any damages resulting from the operations of the offshore marine facility during an oil spill from the facility or from the drilling operations. The amount shall be based on the procedures described in Subsection 791.7(e)(2)(C).

(2) At such time as an operator or owner described in Subsection (*l*)(1) of this section submits an application to the State Lands Commission or the Division of Oil, Gas and Geothermal Resources in the Department of Conservation for permission to carry out drilling operations which may have the potential for resulting in an uncontrolled release of oil from the reservoir into marine waters, that operator or owner shall apply for and obtain from the Administrator an amended Certificate of Financial Responsibility to reflect the requirements of Subsection (*l*)(1) of this section. The amended certificate shall no longer be required once the drilling operations are completed.

NOTE: Authority cited: Sections 8670.37.51, 8670.37.53(b) and 8670.37.54(b), Government Code. Reference: Sections 8670.37.51–8670.37.57 and 8670.56.6, Government Code.

HISTORY

1. New section filed 8–15–91 as an emergency; operative 8–15–91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12–1–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12–13–91 as an emergency; operative 12–14–91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4–13–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–13–91 order including amendment of subsections (a), (c) and (i) transmitted to OAL 4–10–92 and filed 5–22–92 (Register 92, No. 22).
4. Amendment of section heading, section and NOTE filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Change without regulatory effect amending subsections (i) and (*l*)(1)filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
6. Amendment of section heading and section filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
7. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).
8. Amendment of subsections (a), (e)–(g) and (h) filed 4–17–2006; operative 5–17–2006 (Register 2006, No. 16).

§ 794. Multiple Vessels/Facilities Certifications.

(a) Original certificates shall be issued, one for each tanker, barge or nontank vessel or facility listed on the completed application, following approval of the application by the OSPR.

(b) Total financial responsibility for multiple small barges, multiple marine facilities, multiple small marine fueling facilities, multiple mobile transfer units, or multiple vessels carrying oil as secondary cargo shall be based on the barge, facility, unit, or tanker, barge or nontank vessel which poses the greatest financial risk during an oil spill as determined pursuant to Subsection 791.7(e)(2).

(c) An oil spill or spills occurring from one or more tankers, barges or nontank vessels, or marine facilities within or outside of California marine waters, which cause the certificate holder(s) to be liable for damages exceeding five percent (5%) of the total financial resources reflected by the certificate, as determined by the Administrator, shall cause the Administrator to:

(1) immediately review the certificate holder's financial resources to determine the applicability of this section to the certificate holder and notify the holder of the results of the review prior to issuing a determination that the certificate is inapplicable to any tanker, barge or nontank vessel, or marine facility not associated with the spill; and

(2) where a determination is made that the certificate is inapplicable, provide the certificate holder reasonable time to cease necessary operations; and

(3) consider the certificate inapplicable to any tanker, barge or nontank vessel, or marine facility not associated with the spill.

(d) Operators or owners holding certificates deemed inapplicable to any tanker, barge or nontank vessel, or marine facility not associated with the spill(s), pursuant to Subsection (c) above, shall reapply for a certificate for any or all tanker(s), barge(s) or nontank vessel(s), or marine facility(s) not associated with the spill. Upon reapplication, the operator(s) or owner(s) shall demonstrate to the satisfaction of the Administrator that:

(1) the operator(s) or owner(s) has (have) the amount of financial ability required pursuant to this subchapter; and

(2) the operator(s) or owner(s) has (have) the financial ability to pay all damages which arise or have arisen from the spill or spills which have occurred.

NOTE: Authority cited: Sections 8670.37.54(b), 8670.37.55 and 8670.37.58, Government Code. Reference: Section 8670.37.55, Government Code.

HISTORY

1. New section filed 8–15–91 as an emergency; operative 8–15–91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12–1–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12–13–91 as an emergency; operative 12–14–91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4–13–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–13–91 order including amendment of subsection (c) transmitted to OAL 4–10–92 and filed 5–22–92 (Register 92, No. 22).
4. Repealer of subsection (a), subsection relettering, and amendment of newly designated subsections (a), (b) and (d) filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Change without regulatory effect amending subsection (b) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
6. Amendment filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
7. Amendment of section and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
8. Amendment of subsections (b), (c), (c)(1), (c)(3) and (d) filed 2–4–2000 as an emergency; operative 2–4–2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6–5–2000 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 2–4–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
10. Editorial correction removing erroneous HISTORY 10 (Register 2001, No. 16).
11. Change without regulatory effect amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
12. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

§ 795. Evidence of Financial Responsibility.

(a) Insurance.

(1) The whole or portion of the amount of financial responsibility required may be demonstrated by providing evidence that the operator or owner is insured up to the amount determined pursuant to Section 791.7 of this subchapter.

(2) Operators or owners of tankers, barges or nontank vessels or marine facilities, or owners of oil, or persons accepting responsibility for the oil may submit any of the following:

(A) an insurance policy or other documentation, and a certificate of insurance that is acceptable to the Administrator specifying the nature, type, and amount of insurance. At a minimum, the insurance policy or certificate must include the following information:

1. Name and address of insured;

2. Name and principal characteristics of tanker(s), barge(s) or nontank vessel(s) or facility covered;

3. Name and address of insurer(s);

4. Policy number(s);

5. Effective date and term of coverage;

6. All conditions and limitations of the policy or certificate which may affect coverage in the event of discharge of oil;

7. Language that the policy covers damages as specified in Government Code Section 8670.56.5, except as provided in (D) below:

8. Evidence of dollar amounts of insurance policy or certificate of insurance and;

9. Amount of deductibles and/or self–insured retention (SIR).

(B) a certificate of insurance that is acceptable to the Administrator and an endorsement executed by the underwriter or insurer which contains the language set forth in the California standard endorsement. Refer to the Endorsement for Vessels Calling Upon California — Oil Spill Liabilities, FG OSPR Form 1929 (10/05) for endorsements to policies for tankers, barges or nontank vessels; and to Endorsement for Marine Facilities — Oil Spill Liabilities, FG OSPR Form 1962 (10/05) for endorsements to policies for marine facilities (other than mobile transfer units); and to the Endorsement for Mobile Transfer Units and Transportable Treatment Units — Oil Spill Liabilities, FG OSPR Form 1930 (10/05) for endorsements to policies provided as evidence of coverage for mobile transfer units and transportable treatment units, incorporated by reference herein.

(C) similar or comparable evidence of insurance acceptable to the Administrator.

(D) If an insurance policy or broker's cover note is being submitted as as evidence for excess coverage over and above a P&I Club policy, then one of the following is required:

1. Language that the policy covers damages as specified in Government Code Section 8670.56.5(h); or

2. The insurance policy shall be signed by the underwriter and shall state that the insurance policy covers the assured's legal liability for oil pollution claims, and is issued under the same terms and conditions as the underlying P&I Club policy; or

3. The underwriter shall acknowledge in writing that the broker has the authority to include language in the broker's cover note that the insurance policy covers the assured's legal liability for oil pollution claims, and is issued under the same terms and conditions as the underlying P&I Club policy.

When multiple underwriters are providing coverage, the underwriter who sets rates and conditions shall execute the appropriate documents.

(E) If an insurance policy is being submitted for excess coverage over and above the primary policy, then one of the following is required:

1. language that the policy covers damages as specified in Government Code Section 8670.56.5(h); or

2. a copy of the "following form" language which states that the policy is issued under the same terms and conditions as the primary or underlying policy or policies.

(3) Certificants or applicants, whichever is applicable, shall notify the OSPR within five (5) business days of the date such certificant or applicant knows, or has reason to believe, that the policy of insurance submitted as evidence of financial responsibility will be terminated or any coverage thereunder will cease.

(4) At the Administrator's discretion, a deductible provision or self–insured retention (SIR) layer which is greater than $250,000, in any policy of insurance or certificate is only acceptable if:

(A) the applicant shows supplemental coverage for the amount of the deductible or SIR by means of other acceptable insurance, surety, guaranty, self–insurance, letter of credit, or other proof of financial responsibility acceptable to the Administrator; or

(B) the deductible provision provides for a loss reimbursement plan which contains language guaranteeing that the insurer will be responsible for payment of all claims on a first dollar basis, without waiting for the insured to pay the amount of the deductible.

(5) No later than thirty (30) calendar days following the expiration of the current policy period, certificants using insurance as evidence of financial responsibility shall submit a certificate of insurance, or other written documentation acceptable to the Administrator evidencing the renewal of certificant's insurance policy.

Certificant shall also submit additional written documentation acceptable to the Administrator within ninety (90) calendar days. Acceptable written documentation includes a copy of the renewal policy that incudes language that the policy covers damages as specified in Government Code Section 8670.56.5(h); an Endorsement form (FG OSPR Form 1929 (10/05), FG OSPR Form 1930 (10/05), or FG OSPR Form 1962 (10/05); other documentation which contain the minimum information set forth in Subsection (a)(2) above; or similar or comparable evidence of insurance acceptable to the Administrator. Any additional terms or limitations which may affect coverage, including the renewal and new expiration dates, shall be included.

(6) The Administrator may require the certificant to submit a supplemental certificate of insurance executed by the certificant's insurance company and/or the certificant's insurance broker or agent confirming that the certificant's insurance coverage used to demonstrate financial ability remains current and/or agreeing to notify the Administrator within thirty (30) calendar days of cancellation of the policy for any reason.

(7) If an insurance policy is submitted which for any reason cannot be used as evidence of financial responsibility, the applicant must submit a declaration from the underwriter, or a broker designated and authorized by the underwriter, containing the information required in Subsection (a)(2), above.

(8) For insurance coverage to be acceptable, the insurer providing coverage must be licensed or approved by the California Insurance Commissioner to do business in the State of California (i.e., be an admitted company) or, as a minimum, not be named in any order "not to place business with nonadmitted insurer" issued pursuant to Section 1765.1 of the Insurance Code by the California Commissioner of Insurance. The insurer providing coverage must also have a current AM Best rating of at least A–. The Administrator may waive this minimum rating requirement on a case–by–case basis if sufficient evidence such as, but not limited to, the insurer's ability to pay claims is provided.

(b) Qualification as a self–insurer.

(1) An applicant may satisfy financial responsibility requirements by demonstrating, to the Administrator's satisfaction, that the applicant meets the requirements specified in this subsection. To qualify as a self–insurer, the applicant must meet the criteria of either Subsections (b)(1)(A) (Test I), or (b)(1)(B) (Test II) below.

(A) Test I – The applicant must have:

1. one of the following two ratios:

a. a ratio of total liabilities to net worth less than 1.5;

b. a ratio of cash flow (the sum of net income, after taking into consideration the effect of any extraordinary items, plus depreciation, depletion, and amortization) minus $20 million to total liabilities greater than 0.1; and

2. worldwide owners' equity minus intangible assets (i.e., "tangible net worth") equal to at least $20 million plus two times the amount of self–insurance to be established; and

3. assets in the United States amounting to at least ninety percent (90%) of total assets or at least two times the amount of self–insurance to be established.

(B) Test II – The applicant must have:

1. a current rating of the applicant's most recent bond issuance of AAA, AA, A, or BBB– stable or better, as issued by Standard and Poors or Aaa, Aa, A, or Baa as issued by Moody's or commercial paper rating of A1, A2, or the equivalent; and

2. worldwide owners' equity minus intangible assets (i.e., "tangible net worth") of at least $20 million plus two times the amount of self–insurance to be established; and

3. assets in the United States amounting to at least ninety percent (90%) of total assets or at least two times the amount of self–insurance to be established.

(2) Applicants relying upon self–insurance provisions set forth in subsection (b)(1) of this section as evidence of financial responsibility shall submit the following additional documentation to the Administrator with the application:

(A) a letter signed by a financial officer if the applicant is a corporation; a general partner if the applicant is a partnership; or the proprietor if the applicant is a sole proprietorship stating:

1. he or she is a financial officer, general partner, or proprietor (as applicable) of the organization or business entity; and

2. that the letter supports the applicant's use of the financial test to demonstrate financial responsibility in the amount and manner stated (the letter must state the specific amount of financial responsibility being demonstrated by self–insurance and show specifically how the tests have been applied) pursuant to this section; and

3. the applicant or a subsidiary of the applicant is the owner or operator of the tankers, barges or nontank vessels, or facilities described in the applications or the owner of oil; and

4. the applicant or certificant, whichever applies, agrees to notify the Administrator by certified mail within five (5) business days if, at any time, the applicant or certificant fails to meet the self–insurance test criteria.

(B) annual financial statements audited by an independent certified public accountant for the fiscal year ending immediately before each initial application. The applicant may submit, in lieu of audited financial statements, copies of the most recent Form 10–K and any subsequent Forms 10–Q filed pursuant to the Securities Exchange Act of 1934 providing that the Form 10–K includes audited financial statements.

(3) Certificants relying upon self–insurance as the method for demonstrating financial responsibility, and any persons required to demonstrate to the satisfaction of the Administrator that they continue to meet the self–insurance requirements set forth in this section, shall submit annually the letter described in Subsection (2)(A) above and the most current documents described in Subsection (2)(B) above, within thirty (30) days of completion of the audit or forms described in Subsection (2)(B).

(c) Surety bond.

(1) An applicant may demonstrate financial responsibility by obtaining and submitting to the Administrator a surety bond which conforms to the requirements of this subsection. The surety bond form shall be in the form provided by Title 11, California Code of Regulations, Chapter 2, Section 44.2. Refer to bond form titled "Surety Bond for Oil Spill Response and Damages". The surety company issuing the bond must, at a minimum, be among those listed as acceptable sureties on Federal bonds in Circular 570 of the U.S. Department of the Treasury.

(2) Upon written request, the Administrator may waive the thirty (30) day notice period for terminations prior to the bond's expiration date pursuant to item 10 of the bond form with respect to any unloaded tanker(s), barge(s) or nontank vessel(s), covered by the surety bond.

(3) The bond shall contain no additional terms or conditions which limit the surety company's obligation to pay for costs and damages arising under Government Code Section 8670.56.5.

(4) Under the terms of the bond, the bond shall be subject to and governed by the laws of the State of California.

(5) Applicants utilizing surety bonds to demonstrate evidence of financial responsibility shall establish a standby trust fund. The Trust Agreement shall be in the form prescribed by this subchapter. Refer to FG OSPR Form 1926 (3/99) for tankers, barges or nontank vessels/owners of oil and FG OSPR Form 1961 (3/97) for marine facilities, incorporated by reference herein, for approved language. Under the terms of the bond, all payments made thereunder shall be deposited by the surety directly into the standby trust fund in accordance with the Administrator's instructions.

(d) Letter of Credit.

(1) An applicant may satisfy financial responsibility requirements by obtaining and submitting to the Administrator an Irrevocable Standby Letter of Credit in favor of the State of California. The issuing institution must be an entity which is acceptable to the Administrator and which has the authority to issue letters of credit and whose letter of credit operations are regulated and examined by a federal or state agency. The letter of credit shall be in the form prescribed by this section. Refer to FG OSPR Form 1927 (3/97), incorporated by reference herein. The Irrevocable Letter of Credit shall:

(A) be effective on or before the approval date of the Certificate of Financial Responsibility; and

(B) be addressed to the Administrator.

(2) The letter of credit shall contain no additional terms or conditions which limit the issuing institution's obligation to make funds available for costs and damages arising under Government Code Section 8670.56.5.

(3) An applicant utilizing a letter of credit to demonstrate evidence of financial responsibility shall establish a standby trust fund. The Trust Agreement shall be in the form prescribed by this section. Refer to FG OSPR Form 1926 (3/99) for tankers, barges or nontank vessels/owners of oil and FG OSPR Form 1961 (3/97) for marine facilities for approved trust agreement language. Under the terms of the letter of credit, all amounts paid pursuant to a draft by the State of California shall be deposited by the issuing institution directly into the standby trust fund in accordance with the Administrator's instructions.

(e) Guaranty:

(1) An applicant may satisfy the financial responsibility requirements determined pursuant to this chapter by obtaining a written guaranty which conforms to the requirements of this subsection. The Guaranty of Financial Responsibility for Oil Spill Response and Damages shall be in the form prescribed by this section. Refer to FG OSPR Form 1928 (3/97), incorporated by reference herein, for approved language.

(2) Applicants utilizing guarantees to demonstrate evidence of financial responsibility must submit a properly executed guaranty to the OSPR.

(3) Upon written request, the Administrator may waive the thirty (30) day notice period for terminations prior to the guaranty's expiration date pursuant to item 9 of the guaranty form with respect to any unloaded tanker(s), barge(s) or nontank vessel(s) covered by the guaranty.

(4) The guaranty shall contain no additional terms or conditions which limit the guarantor's obligation to pay for costs and damages arising under Government Code Section 8670.56.5.

(5) Except in circumstances where the guarantor itself is a responsible party, no guarantor shall be held liable for any cleanup costs and damages which exceed the amount of financial responsibility that the guarantor has provided.

(6) Applicants utilizing guarantees shall establish a standby trust fund.

(A) The Trust Agreement shall be in the form prescribed by this section. Refer to FG OSPR Form 1926 (3/99) for tankers, barges or nontank vessels/owners of oil and FG OSPR Form 1961 (3/97) for marine facilities for approved language.

(B) Under the terms of the guaranty, all payments made thereunder shall be deposited by the guarantor directly into the standby trust fund in accordance with the Administrator's instructions.

(C) Where the guarantor is the parent corporation of the applicant, the requirement to establish a standby trust fund is waived.

(f) Other evidence of financial responsibility. Applicants may provide other evidence of financial responsibility that is not specifically mentioned in this subchapter and which is acceptable to the Administrator. Acceptable evidence pursuant to this subsection includes, but is not lim-

ited to, documentation that provides proof of entry of each tanker, barge or nontank vessel, into a protection and indemnity club (P&I Club) and which reflects that each entered tanker, barge or nontank vessel, is covered for pollution risk in the amount set forth in Section 791.7 above and which names the applicant as an assured or member, all addenda which pertain to pollution risk and deductibles, and a copy of the applicable P&I Club rules.

(1) At the Administrator's discretion, an applicant submitting evidence of P&I Club cover containing a deductible or similar provision which is greater than $250,000 may be required to submit the following additional proof before applicant's evidence of financial responsibility shall be deemed acceptable:

(A) the applicant shows supplemental coverage for the amount of the deductible by means of other acceptable insurance, surety, guaranty, self-insurance, letter of credit, or other proof of financial responsibility acceptable to the Administrator; or

(B) the deductible provision provides for a loss reimbursement plan which contains language guaranteeing that the P&I Club will be responsible for payment of all claims on a first dollar basis, without waiting for the member to pay the amount of the deductible.

(2) No later than thirty (30) calendar days following renewal of the P&I Club coverage, certificants using P&I Club membership as the method of evidence of financial responsibility shall self certify in writing that the certificant's membership in the P&I Club has been renewed.

Certificants shall also submit additional written documentation acceptable to the Administrator evidencing renewal of the certificant's membership in the P&I Club, no later than ninety (90) calendar days following renewal of the P&I Club coverage. Acceptable written evidence includes a copy of the addendum or renewal certificate of entry, both of which contain the information required by Subsection (f), and any additional terms or conditions which may affect cover, including the renewal and new expiration dates.

(3) If requested by the Administrator, the certificant shall submit documentation executed by the certificant's P&I Club confirming that the certificant's coverage used to demonstrate financial responsibility remains current. The certificant shall agree to notify the Administrator within thirty (30) calendar days, or five (5) days prior to a tanker, barge or nontank vessel entering into the state waters of California, of cancellation of the cover for any reason.

(g) Combination of methods. Any one or a combination of the above-described methods may be utilized to establish the amount of financial responsibility required pursuant to this subchapter.

NOTE: Authority cited: Sections 8670.37.53, 8670.37.54(b) and 8670.37.58, Government Code. Reference: Sections 8670.37.53, 8670.37.54 and 8670.56.5, Government Code.

HISTORY

1. New section filed 8-15-91 as an emergency; operative 8-15-91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12-1-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12-13-91 as an emergency; operative 12-14-91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4-13-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-13-91 order including amendment of subsections (a)(4), (a)(5), (b)(1), (b)(1)(c), (c)(5), (c)(6), (d)(1), (d)(2), (e)(1)(E), (e)(1)(H), (f)(1) and (f)(2) transmitted to OAL 4-10-92 and filed 5-22-92 (Register 92, No. 22).
4. Amendment of section and NOTE filed 3-23-95; operative 4-24-95 (Register 95, No. 12).
5. Renumbering of subsections (b)(1)(A)1.-3., (b)(1)(B)1.-3., and (b)(2)(A)1.-4. filed 6-23-95; operative 7-23-95 (Register 95, No. 25).
6. Change without regulatory effect amending subsection (a)(1) filed 7-12-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
7. Change without regulatory effect amending subsections (b)(3) and (f) filed 10-21-96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
8. Amendment filed 11-13-97; operative 11-13-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
9. Amendment of section and NOTE filed 12-28-99; operative 2-3-2000 (Register 99, No. 53).
10. Amendment of subsection (a)(2) filed 2-4-2000 as an emergency; operative 2-4-2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6-5-2000 or emergency language will be repealed by operation of law on the following day.
11. Change without regulatory effect amending subsections (a)(2)(B) and (a)(5) filed 6-30-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 26).
12. Reinstatement of section as it existed prior to 2-4-2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
13. Amendment of subsection (a)(2)(B), new subsections (a)(2)(E)-(a)(2)(E)2. and amendment of subsections (a)(4), (a)(5), (b)(1)(B)1. and (f)(1) filed 9-17-2001; operative 9-17-2001 pursuant to Government Code section 11343.4 (Register 2001, No. 38).
14. Change without regulatory effect amending subsections (a)(2)(A)7., (a)(2)(D), (a)(2)(E)1. and (a)(5) and amending NOTE filed 6-24-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
15. Amendment of NOTE filed 6-26-2003; operative 6-26-2003 (Register 2003, No. 26).
16. Amendment of subsections (a)(2)(A)7., (a)(2)(B) and (a)(5) filed 4-17-2006; operative 5-17-2006 (Register 2006, No. 16).

§ 796. Certificate Revocation.

(a) A certificate may be revoked, following (10) ten business days written notice by the Administrator to certificant unless the certificant requests reconsideration as specified in Subsection (d) below, for any of the following reasons:

(1) negligently making an false material statement in connection with an application for or renewal of a certificate; or

(2) failure to establish or maintain evidence of financial responsibility as required by this subchapter.

(b) A certificate may be revoked immediately with concurrent written notice by the Administrator to certificant for any of the following reasons:

(1) when the holder of the certificate is no longer the owner or operator of the tanker, barge or nontank vessel or marine facility, or owner of the oil in question; or

(2) willfully making any false statement in connection with an application for or renewal of a certificate.

(c) Erasures or other alterations to a certificate or copy are prohibited and automatically void a certificate or copy.

(d) Request for Reconsideration.

(1) Certificants may submit a written request to the Administrator requesting reconsideration of any decision to revoke a certificate. Requests must be submitted within ten (10) business days from the date the applicant receives notice of revocation. The Administrator may waive the ten (10) day period for submitting a request.

(2) The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the Administrator's revocation of the certificate. The certificate shall remain valid while the request for reconsideration is reviewed.

(3) Within ten (10) business days from the date the request for reconsideration is received, the OSPR will advise the certificant of the Administrator's decision whether the request will be considered.

(4) Within fifteen (15) calendar days following the notice that the Administrator will consider the request, the certificant will either be sent a notice that the Administrator shall adhere to his or her earlier decision (i.e., deny the request for reconsideration), or the notice of revocation shall be rescinded.

(e) If a certificate is revoked, a new application and fee, if applicable, are required.

NOTE: Authority cited: Sections 8670.37.54(b), 8670.37.56 and 8670.37.58, Government Code. Reference: Sections 8670.37.54-8670.37.56, Government Code.

HISTORY

1. New section filed 8-15-91 as an emergency; operative 8-15-91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12-1-91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12-13-91 as an emergency; operative 12-14-91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4-13-92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12-13-91 order transmitted to OAL 4-10-92 and filed 5-22-92 (Register 92, No. 22).

4. Amendment of subsection (d) filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Amendment filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
6. Amendment of subsection (b)(1) and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
7. Amendment of section heading and section filed 9–17–2001; operative 9–17–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 38).
8. Change without regulatory effect amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
9. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

§ 797. Reporting and Suspension.

(a) The certificant shall provide written notification to the Administrator of an event which could produce a material change that affects the certificant's ability to comply with the financial responsibility requirement. Such events include, but are not limited to, an oil spill or discharge occurring within or outside of California marine waters from one or more tankers, barges or nontank vessels, or marine facilities or other facilities for which the certificant may be liable for damages, or other significant action against the certificant (e.g., bankruptcy, insolvency). Additionally, the certificants must notify the Administrator in writing of any potential liability that could produce a material change that affects the certificant's ability to comply with the financial responsibility requirement. Written notification must be submitted within ten (10) business days of knowledge of the incident or knowledge of sufficient facts which would lead a reasonably prudent person to investigate and learn of the incidents. For purposes of this subsection, "material change" means an event or action which could cause the certificant to be liable for damages in an amount exceeding five percent (5%) of the total financial resources reflected by the certificate or, if owners' equity exceeds the total amount of financial resources reflected by the certificate, five percent (5%) of the owners' equity.

(b) Upon notification of the oil spill or discharge or other action or potential liability, as required by Subsection 797(a), the Administrator shall reevaluate the validity of the Certificate of Financial Responsibility.

(c) Upon a determination by the Administrator that the certificant lacks sufficient financial resources to assume financial responsibility for both the current spill or liability and have adequate resources remaining available to meet the requirements of this subchapter, the Administrator shall suspend the certificate following ten (10) business days written notice.

(d) Suspension of the certificate shall continue until the responsible party demonstrates, to the satisfaction of the Administrator, that the responsible party has the financial resources needed to meet the requirements of this subchapter.

(e) Request for Reconsideration.

(1) Certificants may submit a written request to the Administrator requesting reconsideration of any decision to suspend a certificate. Requests must be submitted within ten (10) business days from the date the applicant receives notice of suspension. The Administrator may waive the ten (10) day period for submitting a request.

(2) The request must contain the basis for requesting reconsideration, and, if applicable, provide evidence which rebuts the basis for the Administrator's suspension of the certificate. Upon a showing of good cause, the Administrator may reinstate the certificate pending a final decision by the Administrator.

(3) Within ten (10) business days from the date the request for reconsideration is received, the OSPR will advise the certificant of the Administrator's decision whether the request will be considered.

(4) Within fifteen (15) calendar days following the notice that the Administrator will consider the request, the certificant will either be sent a notice that the Administrator shall adhere to his or her earlier decision (i.e., deny the request for reconsideration), or the notice of suspension shall be rescinded.

NOTE: Authority cited: Sections 8670.37.54(b), 8670.37.56 and 8670.37.58, Government Code. Reference: Sections 8670.37.54–8670.37.56, Government Code.

HISTORY

1. New section filed 8–15–91 as an emergency; operative 8–15–91 (Register 92, No. 3). A Certificate of Compliance must be transmitted to OAL 12–1–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 12–13–91 as an emergency; operative 12–14–91 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 4–13–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–13–91 order including amendment of subsection (a) transmitted to OAL 4–10–92 and filed 5–22–92 (Register 92, No. 22).
4. Amendment of subsections (a) and (c), new subsection (e), and new forms filed 3–23–95; operative 4–24–95 (Register 95, No. 12).
5. Change without regulatory effect removing FG OSPR Forms 1924 (10/96), 1925 (10/96), 1926 (2/95), 1927 (2/95), 1928 (2/95), 1929 (2/95), 1930 (2/95), 1946 (8/96) and 1947 (8/96) from print filed 10–21–96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
6. Amendment filed 11–13–97; operative 11–13–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 46).
7. Amendment of subsection (a) and NOTE filed 12–28–99; operative 2–3–2000 (Register 99, No. 53).
8. Amendment of subsection (a) filed 2–4–2000 as an emergency; operative 2–4–2000 (Register 2000, No. 5). A Certificate of Compliance must be transmitted to OAL by 6–5–2000 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to 2–4–2000 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 31).
10. Amendment of subsection (a) filed 9–17–2001; operative 9–17–2001 pursuant to Government Code section 11343.4 (Register 2001, No. 38).
11. Change without regulatory effect amending NOTE filed 6–24–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 26).
12. Amendment of NOTE filed 6–26–2003; operative 6–26–2003 (Register 2003, No. 26).

Chapter 3. Oil Spill Prevention and Response Planning

Subchapter 1. Harbor Safety Committees and Harbor Safety Plans

§ 800. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this Subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Vessels" means any watercraft or ship of any kind, including every structure adapted to be navigated from place to place for the transportation of merchandise or persons.

NOTE: Authority cited: Section 8670.23, Government Code. Reference: Sections 8670.3, 8670.21 and 8670.23, Government Code.

HISTORY

1. New chapter 2, subchapter 1 and section filed 1–12–93; operative 1–12–93 (Register 93, No. 8).
2. Change without regulatory effect renumbering former chapter 2 to chapter 3, amending subchapter 1 heading, adding new first paragraph, repealing subsections (a)–(m) and subsection relettering filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of subsection (a) and NOTE filed 1–10–2005; operative 2–9–2005 (Register 2005, No. 2).

§ 800.5. Harbor Safety Committees.

(a) The Administrator shall create harbor safety committees for the harbors and adjacent regions of San Diego Bay; Los Angeles/Long Beach Harbor; Port Hueneme; San Francisco, San Pablo, and Suisun Bays; and Humboldt Bay. In consultation with each harbor safety committee, the Administrator shall determine its geographic region of responsibility which shall be clearly reflected in the committee's plan as described in Section 802(b)(2) of this Subchapter.

(b) In the event that a designee of a port authority is not able to participate as a harbor safety committee member due to military affiliations, the

civilian counterpart for that harbor may serve in place of the port authority designee.

(c) All meetings of harbor safety committees, their subcommittees, workgroups or organizations, as defined in Government Code Section 54952, are subject to the open meeting requirements contained in Government Code Sections 54950 through 54962.

NOTE: Authority cited: Sections 8670.23 and 8670.23.1, Government Code. Reference: Section 8670.23, Government Code.

HISTORY

1. New section filed 1–12–93; operative 1–12–93 (Register 93, No. 8).
2. Change without regulatory effect adding new subsection (d) and amending NOTE filed 3–21–95; operative 4–20–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 12).
3. Amendment of subsection (a), repealer of subsection (b), subsection relettering, amendment of newly designated subsection (c) and amendment of NOTE filed 1–10–2005; operative 2–9–2005 (Register 2005, No. 2).

§ 800.6. Harbor Safety Committee Membership.

(a) The Administrator shall appoint to each harbor safety committee, for a term of three years, all of the following members and their alternates:

(1) A designee of each of the port authorities within the region, except that the harbor safety committee for the San Francisco, San Pablo and Suisun Bay region shall have four designees.

(2) A representative of dry cargo vessel operators, except that the harbor safety committee for the San Francisco, San Pablo and Suisun Bay region may have two representatives.

(3) A representative of tank ship operators, except that the harbor safety committee for the San Francisco, San Pablo and Suisun Bay region shall have one additional representative of either tank ship operators or marine oil terminal operators.

(4) For the harbor safety committees for the Los Angeles/Long Beach Harbor region, Port Hueneme region, and Humboldt Bay region a representative of marine oil terminal operators.

(5) A representative of tug or tank barge operators, who is not also engaged in the business of operating either tank ships or dry cargo vessels, except that the harbor safety committees for the San Francisco, San Pablo and Suisun Bay region and Humboldt Bay region shall have one representative of tug operators and one representative of tank barge operators, neither of whom is also engaged in the business of operating either tank ships or dry cargo vessels.

(6) For the harbor safety committees for the San Francisco, San Pablo and Suisun Bay region, Los Angeles/Long Beach Harbor region and San Diego Bay region, a representative of scheduled passenger ferry or excursion vessel operators.

(7) A representative of the pilot organizations within the region, except that the harbor safety committee for the Los Angeles/Long Beach Harbor region shall have two pilot representatives: one a designee of the Port of Los Angeles pilot organization and one a designee of the Port of Long Beach pilot organization. Additionally, the harbor safety committee for the Los Angeles/Long Beach Harbor region have one representative of mooring masters who represents all mooring masters operating within the committee's geographic area of responsibility.

(8) A representative of a recognized labor organization involved with operations of vessels.

(9) A representative engaged in the business of commercial fishing.

(10) A representative of pleasure boat operators or a recreational boat organization.

(11) A representative of a recognized nonprofit environmental organization that has as a purpose the protection of marine resources, except that the harbor safety committee for the Los Angeles/Long Beach Harbor region may have two representatives.

(12) The United States Coast Guard Captain of the Port and a designee of each of the following federal agencies to the degree that each consents to participate on the committee: the United States Army Corps of Engineers, the National Oceanographic and Atmospheric Administration, and the United States Navy.

(13) A designee of the California Coastal Commission, except for the harbor safety committee for the San Francisco, San Pablo and Suisun Bay region, where the Administrator shall appoint a designee of the San Francisco Bay Conservation and Development Commission.

(b) A harbor safety committee may petition the Administrator with a request for new or additional membership positions for special needs to conduct ongoing harbor safety committee business and which reflect the makeup of the local maritime community. The qualifications for such positions shall be set either in committee bylaws or on the petition. The approval of such petitions shall be at the sole discretion of the Administrator.

(c) A harbor safety committee may petition the Administrator for the elimination of new or additional membership positions requested and approved pursuant to Subsection (b). The approval of such petitions shall be at the sole discretion of the Administrator.

(d) The members appointed from the categories listed in Subsections (a)(2), (3), (4), (5), (6), and (7) above shall have navigational expertise. An individual is considered to have navigational expertise if the individual meets any of the following conditions:

(1) Has held or is presently holding a United States Coast Guard Merchant Marine Deck Officer's license.

(2) Has held or is presently holding a position on a commercial vessel that includes navigational responsibilities.

(3) Has held or is presently holding a shoreside position with direct operational control of vessels.

(4) Has held or is currently holding a position having responsibilities for permitting or approving the docking of vessels in and around harbor facilities.

(e) The Administrator shall appoint a chairperson and vice chairperson, for a term not to exceed the balance of their current membership appointment, for each harbor safety committee from the membership specified in Subsection (a) above. The Administrator may withdraw such appointments at his or her sole discretion.

(f) Upon request of the committee chairperson, pursuant to the committee's bylaws, the Administrator may remove a member or alternate appointed under authority of Subsection (a) above.

NOTE: Authority cited: Sections 8670.23 and 8670.23.1, Government Code. Reference: Section 8670.23, Government Code.

HISTORY

1. New section filed 1–10–2005; operative 2–9–2005 (Register 2005, No. 2).

§ 801. General Provisions.

(a) Each harbor safety committee shall be responsible for planning for the safe navigation and operation of vessels within its geographic region of responsibility. As part of meeting this responsibility, each committee shall prepare and submit to the Administrator its harbor safety plan which encompasses all vessel traffic within its region and addresses the region's unique safety needs.

(b) All harbor safety plans shall be consistent with both the California Oil Spill Contingency Plan and the National Contingency Plan.

(c) All harbor safety plans shall be in writing and shall include a reference to any federal, state or local laws or regulations if those laws or regulations were relied upon to develop the plan.

(d) Harbor safety plans which meet the requirements of this subchapter shall be implemented by the Administrator in consultation with the respective committee.

(e) On or before July 1 of each year, each harbor safety committee shall assess maritime safety or security within its region, including tank vessel safety, and shall report its findings and recommendations for improvements to the Administrator by amending its current harbor safety plan or instituting other alternatives to address its findings. All plans shall be reviewed by the Administrator to ensure their compliance with this subchapter.

(f) The Administrator may direct a harbor safety committee to address any issue affecting maritime safety or security, as appropriate, and to report findings and recommendations on those issues.

NOTE: Authority cited: Sections 8670.23 and 8670.23.1, Government Code. Reference: Section 8670.23, Government Code.

[The next page is 200.11.]

HISTORY

1. New section filed 1–12–93; operative 1–12–93 (Register 93, No. 8).
2. Amendment of section and NOTE filed 1–10–2005; operative 2–9–2005 (Register 2005, No. 2).

§ 802. Harbor Safety Plan Content.

(a) All harbor safety plans shall be written in consideration of the best achievable protection standard as that term is defined in Chapter 1 of this subdivision.

(b) Each harbor safety plan shall include, at a minimum, a discussion of the following:

(1) Tug Escorts

(A) One section of the plan shall be dedicated to the usage of tug escorts in the committee's geographic region of responsibility.

(B) This section shall allow for a case–by–cast determination of tug escort usage or need based on specified criteria which include, but are not limited to, all of the following factors:

1. the physical limitations of the tugs;

2. an analysis of commonly encountered weather and sea conditions including, but not limited to, wind, tidal and ocean currents;

3. the type of cargo carried by the tank vessel;

4. a determination of whether or not tug escorts are needed for unladen tank vessels; and

5. the effectiveness of tug escorts in steering and/or stopping assistance for heavily laden tank vessels given the geographic and navigational limitations of that region.

(C) This section shall also include, but not be limited to, all of the following:

1. an outline discussing tug boat capabilities when assisting a tank vessel;

2. a recommendation determining when tank vessels must be escorted by tug(s) while entering, leaving, or navigating in the region;

3. a determination of sufficient size, horsepower, and pull capacity of the tug(s) to assure maximum assistance capability;

4. a comprehensive inventory of the number and types of tugs available for tank vessel escort in each geographic region; and

5. an analysis, including factual data and studies relating to the analysis, which specifies the incident and location of accidents and the effects of the absence or presence of tug escorts at the time of those accidents.

(D) Each plan shall address its method for performing a continued study of tug escorts, which will rely in part on relevant information solicited by the harbor safety committee from pilots, masters, representatives from towing industries and builders, and other interested parties.

(2) Geographic Region of Responsibility

This section shall provide a written description of each committee's geographic region of responsibility and shall include a large scale chart, or chartlet, illustrating the entire region. The geographic region of responsibility described and illustrated shall be the one approved by the Administrator as outlined in Section 800.5(a) of this Subchapter.

(3) Regional Harbor Conditions

This section shall provide:

(A) A description of existing and expected conditions of weather, tidal ranges, tidal currents (directions and velocities) and other factors which might impair or restrict visibility or impact vessel navigation;

(B) a description of the procedures for routing vessel traffic, and any contingency or secondary routing plans which may be used during construction and dredging operations;

(C) a description of limitations of current anchorages (designations, proximity to heavily used fairways or channels) and any plans, if developed, to address those limitations; and

(D) a description of the current channel design (navigable channel width and advertised dredged depth) and any proposed changes to these plans.

(4) Vessel Traffic Patterns

This section shall provide, to the greatest extent possible:

(A) A description of the types of vessels which call on the ports or facilities within the region; and

1. identification of the types of cargo transported on the vessels; and

2. a determination of the amount of oil annually (using a three year average) shipped into or from the ports or facilities within the region.

(B) a history and types of all accidents and near–accidents which have occurred within the region during the past three years and any corrective actions or programs taken to alleviate recurrences. For purposes of this subsection, "near–accident" shall mean all situations where a risk of collision as defined by 33 USC 2007 existed;

(C) an assessment of current safety problems or conflicts with small vessels, sailing vessels, or vessels engaged in fishing as it relates to violation of Rule 9 (Narrow Channels Rule) of the Inland Navigational Rules Act (33 USC 2009);

(D) current procedures for routing vessels during emergencies or other contingencies which impact navigation;

(E) a review of existing and proposed federal, state or local laws, regulations or ordinances affecting the region to determine a need for any change;

(F) an assessment of the need for establishing or upgrading existing educational or public awareness programs for all waterway users.

(5) Aids to Navigation

This section shall:

(A) describe any fixed navigational hazards specific to the region and aids to navigation systems in place to minimize risk of contact with these hazards;

(B) evaluate the existing aids to navigation systems available to each region as established and maintained by the United States Coast Guard or other navigational aids as permitted by the United States Army Corps of Engineers, and determine the need for any changes; and

(C) evaluate current programs to determine accurate depth information in navigable channels, anchorages and berths used by tank vessels, and make recommendations necessary to increase the accuracy of such information.

(6) Communication

This section shall:

(A) review and evaluate the adequacy of current ship–to–ship and ship–to–shore communication systems used in the region;

(B) identify any low propagation, or silent areas within the region;

(C) if communication deficiencies exist, develop a strategy to address such deficiencies.

(7) Bridge Management Requirements

(A) This section shall assess the current schedule for bridge openings, the adequacy of ship–to–bridge communications, and the physical limitations affecting vertical and horizontal clearance.

(8) Enforcement

(A) This section shall include suggested mechanisms that will ensure that the provisions of the plan are fully, uniformly and regularly enforced.

(9) Project Funding

This section shall:

(A) provide recommendations for funding projects that the committee intends to recommend or initiate; and

(B) consider the imposition of user fees, and assess existing billing mechanisms as potential funding sources.

(10) Competitive Aspects

This section shall:

(A) identify and discuss the potential economic impacts of implementing the provisions of the harbor safety plan; and

(B) describe the significant differences in the restrictions that could vary from port to port within the region.

(11) Miscellaneous

(A) This section shall address any additional issues deemed necessary by the harbor safety committee that could impact safe navigation in the region including, but not limited to:

1. vessel pilotage;

2. vessel ballast procedures or requirements;

3. vessel mooring requirements;

4. navigation in reduced or restricted visibility; and

5. maintenance dredging necessary for safe vessel operation.

NOTE: Authority cited: Sections 8670.23 and 8670.23.1, Government Code. Reference: Section 8670.23, Government Code.

HISTORY

1. New section filed 1–12–93; operative 1–12–93 (Register 93, No. 8).
2. Change without regulatory effect amending subsection (a) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of section heading, section and NOTE filed 1–10–2005; operative 2–9–2005 (Register 2005, No. 2).

Subchapter 3. Oil Spill Contingency Plans

§ 815.01. General Outline.

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820.01 Drills and Exercises—Evaluation and Credit

HISTORY

1. New section filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Amendment filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).

§ 815.03. Purpose and Scope.

This subchapter sets forth planning requirements for oil spill prevention and response for tank vessels and marine facilities in California. The planning requirements specify that the owner/operator of a tank vessel or marine facility must own or have contracted for on–water recovery and storage resources sufficient to respond to all spills up to the calculated Response Planning Volume or the defined Daily Recovery Rate, whichever is less. A tank vessel owner/operator shall also demonstrate through contracts(s) or other approved means, the shoreline protection response resources necessary to protect each type of shoreline and all applicable sensitive sites as outlined in the applicable Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). Equipment in addition to that under contract must be identified, and a call–out procedure in place to access additional response resources if needed. For the purpose of meeting the regulatory requirements herein, contracts for booming, on–water recovery and storage, and shoreline protection services can only be made with OSROs Rated by the Office of Spill Prevention and Response. For other required services (e.g., shoreline clean–up, waste management, spill response management) contracts with non–rated OSROs may be used.

The equipment that the owner/operators have available must be applicable to the areas of intended use. This subchapter requires that trajectory analyses be conducted for marine facilities to determine the probable areas of the coastline that could be impacted by a spill. The applicable SP Tables shall be used for tank vessels. Based on these trajectories and tables the owner/operators will be able to ascertain the type of equipment that must be available, such as shallow–water skimmers, as well as the appropriate response strategies necessary to protect and clean up the shoreline types that could be affected. Tank vessel owner/operators shall demonstrate adequate emergency services as described, by sufficient in–house capability or a signed, valid contract with a vessel emergency services provider.

The information required by this subchapter must be submitted to the Office of Spill Prevention and Response (OSPR), and maintained by the owner/operator, in separate volumes. A principal volume will be compiled to contain all the required information, calculations, studies, maps and related data. A separate volume will be set up as a response manual and will contain only the information that response personnel will need at the time of a spill to facilitate the immediate notification and response actions that are mandated.

To the greatest extent possible, California has endeavored to be consistent with the scope and intent of the Federal oil spill response regulations and the Area Contingency Plans (ACP) completed by the U.S. Coast Guard, state agencies, and local governments, with public participation, as required by the Oil Pollution Act of 1990 (33 USC 2701, et seq.). Allowance has been made to accept response plans prepared for the U.S. Coast Guard, or other appropriate agencies, in lieu of some of the information required by this subchapter. Any additional information required by this subchapter can be submitted simply as an addendum to the plans prepared for other agencies. Information developed to demonstrate compliance with other applicable Federal, State, and International (e.g., International Maritime Organization) requirements may be used to demonstrate compliance with all or part of this subchapter.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.3, 8670.4, 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Editorial correction repealing duplicative chapter heading and amending HISTORY 1 (Register 94, No. 42).
3. Change without regulatory effect amending subchapter 3 heading filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
4. Amendment filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
5. Amendment of first and last paragraphs and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
6. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 815.05. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "*Area Exercise*" means an exercise of the Area Contingency Plan and selected oil spill contingency plans through the combination of tabletop and equipment deployment exercises in accordance with the National Preparedness for Response Exercise Program.

(b) "*Contract or Other Approved Means*":

(1) includes either of the following:

(A) A written, signed contract, or written certification of active membership, between a plan holder and an Oil Spill Response Organization(s) (OSRO) rated by OSPR (as specified in Section 819 of this subchapter) This contract shall identify and ensure the availability of the required personnel and equipment capable of responding to an oil spill within the stipulated response times and in the specified Geographic Regions in which the tank vessel or marine facility operates; or

(B) Written certification that the necessary personnel and equipment are owned or operated by the plan holder and are available within the stipulated response times and in the specified Geographic Regions;

(2) The owner/operator shall notify the Administrator within five days of a change in contracted resources/membership with a local or regional OSRO.

(3) A contract between a plan holder and an OSRO shall not contain a provision requiring the plan holder to notify the OSRO in advance, in order to guarantee response services for two hours and beyond (as specified in Section 819.04(b)(2) of this subchapter) for containment booming and on–water recovery services. It may contain provisions to notify the OSRO 24 hours in advance before entering California marine waters, to meet the 0–12 hour shoreline protection requirement. This advance notice requirement is only for vessels that operate in those areas not identified as High Volume ports. For immediate (less than 2 hours) spill re-

sponse coverage during oil transfer operations, advance notice to the OSRO is also allowed. A plan holder shall comply with all other applicable contractual provisions or the contingency plan will immediately be nullified, and the plan holder will be operating in marine waters without an approved contingency plan, which is in violation of Section 816.06(c) of this subchapter.

(c) "*Dedicated Response Resources*" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are Rated. Ratings of six hours or earlier require either dedicated response resources or OSRO owned and controlled response resources, as specified in Section 819.04(b)(2) of this subchapter.

(d) "*Equipment Deployment Exercise*" means an exercise of oil spill response equipment identified in an oil spill contingency plan or an OSRO application through its actual deployment and operation as it would be used in spill response efforts in an environment of similar water depth, current velocity, tidal range, and substrate, where the equipment may need to be used in an actual oil spill response.

(e) "*Full Scale Combination Exercise*" means an exercise of an oil spill contingency plan involving both the spill management response efforts and the actual deployment and operation of oil spill response equipment as it would be used in spill response efforts at a specific site.

(f) "*Implementation of the Plan*" means that all essential provisions have been taken to enable the plan or any portion of the plan to become operational.

(g) "*Innocent Passage*" means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

(h) "*Letter of Approval*" means a letter or other written document issued by the Office of Spill Prevention and Response to the owner/operator of a vessel or marine facility plan holder following verification, inspection and if required by the Administrator, satisfactory performance in an announced and unannounced drill, and final review of the facility or vessel plan holder's contingency plan.

(i) "*Marine Waters*" means those California marine waters subject to tidal influence and includes all waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(j) "*Non–Dedicated Response Resources*" means those response resources listed by an OSRO for oil spill response activities that are not dedicated response resources.

(k) "*OSRO–owned and controlled resources*" means equipment owned by the OSRO and personnel who are employed directly by the OSRO.

(*l*) "*OSRO Rating Letter*" (ORL) means a written document issued by the Office of Spill Prevention and Response to an OSRO following verification, inspection and unless exempted by the Administrator, satisfactory performance in an announced and unannounced drill, and final review of the OSRO's application.

(m) "*Plan Holder*" means the owner/operator of a tank vessel, nontank vessel, marine facility, small marine fueling facility, or vessel carrying oil as secondary cargo responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subchapter.

(n) "*Plan Recipient*" means a receiving agency and any other entity that has been designated in this subchapter to receive a copy of the vessel or marine facility oil spill contingency plan.

(o) "*Shallow–Draft Vessel*" means:

(*1*) for purposes of boom deployment, a vessel that must be able to operate in water depths of two feet or less;

(2) for purposes of skimming operations, a vessel and attendant skimming system that must be able to operate in water depths of three feet or less.

(p) "*Spill Management Team*" means the personnel identified in an oil spill contingency plan to staff the organizational structure that will manage response implementation and is able to fully integrate into an Incident Command/Unified Command structure, as required by the National Contingency Plan and the State Marine Oil Spill Contingency Plan.

(q) "*Systems Approach*" means an assessment of the infrastructure and the support resources that an OSRO must have to mobilize, transport, deploy, sustain, and support the equipment resources necessary for the level of response for which Rated.

(r) "*Tabletop Exercise*" means an exercise of an oil spill contingency plan and the spill management response efforts without the deployment of response equipment. A tabletop exercise usually involves the enactment of a response to a simulated spill.

(s) "*Unannounced Drill*" means an exercise of an oil spill contingency plan or an OSRO application initiated by OSPR without prior notice to the plan holder or oil spill response organization.

NOTE: Authority cited: Sections 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.3, 8670.28, 8670.29 and 8670.30, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Change without regulatory effect amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
4. Change without regulatory effect amending subsections (c) and (m) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
5. Amendment of section and NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
6. Amendment of subsections (b)(1)(A) and (b)(2)–(3), repealer and new subsection (g) and amendment of subsections (h), (i) and (n) filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).
7. Amendment of subsection (b)(3) filed 10–12–2007 as an emergency; operative 10–12–2007 (Register 2007, No. 41). A Certificate of Compliance must be transmitted to OAL by 4–9–2008 or emergency language will be repealed by operation of law on the following day.
8. Reinstatement of section as it existed prior to 10–12–2007 emergency amendment by operation of Government Code section 11346.1(f) (Register 2008, No. 18).
9. Amendment of subsection (b)(3) filed 4–28–2008 as an emergency; operative 4–28–2008 (Register 2008, No. 18). A Certificate of Compliance must be transmitted to OAL by 7–28–2008 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 4–28–2008 order transmitted to OAL 7–25–2008 and filed 8–6–2008 (Register 2008, No. 32).

§ 815.07. General Requirements.

(a) Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on–water recovery and storage, and shoreline protection services required. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked and shall be deemed to meet the requirements of this subchapter for three years from the date of the letter's issuance.

(b) No person shall load oil onto, nor unload oil from a tank vessel unless the following conditions are met prior to transfer operations:

(1) after initial submittal but prior to approval of the contingency plan, the tank vessel owner/operator must provide the owner/operator of the marine terminal with a copy of the letter acknowledging the receipt of the tank vessel's oil spill contingency plan by the Administrator, if the terminal owner/operator does not already have such a letter on file;

(2) after approval of the initial submittal of the contingency plan, the owner/operator of the tank vessel must provide the owner/operator of the marine terminal with a copy of the letter approving the current oil spill contingency plan for that tank vessel if the terminal owner/operator does not already have such a letter on file;

(3) the tank vessel owner/operator must notify the terminal owner/operator of any change in the approval status not reflected by the letter on file at that terminal; and

(4) the owner/operator of the tank vessel must certify that a complete copy of the response manual for that tank vessel is on board the tank vessel.

(c) Each plan shall provide for the best achievable protection of coastal and marine resources and shall ensure that all areas addressed by the plan are at all times protected by prevention, response, containment and clean-up equipment and operations.

(d) Each plan shall be consistent with the State Marine Oil Spill Contingency Plan and not in conflict with the National Oil & Hazardous Substances Pollution Contingency Plan, or the applicable Federal Area Contingency Plans.

(e) Nothing in this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission to review federal activities, federal development projects, or federally–permitted or licensed activities, as authorized pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C., Section 1451 et seq.). Nor shall this subchapter impair or limit the authority of the California Coastal Commission to ensure such activities or projects are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Management Program.

(f) All plans must be written in English, and for tank vessel plans, if applicable, the response manual portion shall also be in a language that is understood by the crew members responsible for carrying out the plan.

NOTE: Authority cited: Sections 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.28, 8670.29 and 8670.30, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of subsections (a)(1)–(4), (d) and (f) and repealer of subsection (g) filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. New subsection (a), subsection relettering and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
5. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816. Plan Submittal, Review and Approval.

HISTORY

1. New heading filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).

§ 816.01. Plan Submittal.

(a) Plans

Unless otherwise exempt, each owner/operator of a tank vessel or marine facility shall prepare and submit an oil spill contingency plan for that tank vessel or facility. The plan may be specific to an individual facility or tank vessel or may be composed as follows:

(1) Marine Facility Blanket Plans

(A) Blanket contingency plans may be submitted for marine facilities that are substantially similar to one another based on the criteria in this subsection. The owner/operator must request approval for the use of a blanket plan prior to submitting the plan to the Administrator. The request must include a justification for the use of a blanket plan based on the criteria outlined in this subsection.

(B) The Administrator shall determine whether a blanket plan is appropriate for any given group of marine facilities. In order to utilize a blanket plan, each marine facility covered by the blanket must demonstrate the following:

1. each facility must be substantially similar in layout and design, or must be an integral part of another facility, such as the pipeline connecting a platform to a shoreside facility;

2. each facility must handle the same products;

3. the Risk and Hazard Analysis for each facility must show substantially similar risks of a spill, and similar sites of potential leakage or spills;

4. the response equipment and personnel must be able to respond to any and all of the covered marine facilities in the same or essentially the same amount of time;

5. any spill from any of the marine facilities must pose similar risks in the same or essentially the same Geographical Region, including risks to the same environmentally, economically or culturally sensitive sites; and

6. The prevention measures as specified in Subsections 817.02.(c) or 817.03(c) must be substantially the same for each facility.

(C) A separate appendix for each marine facility covered by the Blanket Plan must be included as an attachment to the plan.

(2) Tank Vessel Fleet Plans

Fleet contingency plans may be submitted by an owner/operator that has a number of tank vessels that transit the same or substantially the same routes in California marine waters.

(A) All prevention and response elements required pursuant to Sections 818.02(c) or 818.03(c) must be the same for the tank vessels included in the Fleet Plan.

(B) A separate appendix for each tank vessel covered by the Fleet Plan must be included as an attachment to the plan.

(3) Substitute Plans

(A) Plans of other Federal and State Agencies

Any plan, or appropriate section thereof, submitted to the Federal Environmental Protection Agency, the Minerals Management Service, the U.S. Coast Guard, the Department of Transportation – Research and Special Programs Administration, the California State Lands Commission, the California Coastal Commission, other states, or other appropriate agencies may be submitted in substitution for all or part of the plan required under this subchapter. This substitution may include documents submitted in compliance with the International Safety Management (ISM) Code. Any information required by this subchapter that is not included in the substitute plan must be submitted as an appendix to that plan. The Administrator will determine if the use of a substitute plan is appropriate prior to final plan approval.

(B) OSRO Rating Letter:

An OSRO Rating Letter will be issued for the equipment, personnel, and services which may be provided to the owner/operator of a marine facility or tank vessel or nontank vessel. A copy of the Rating letter may be referenced or submitted in substitution for all or part of the response elements required under Sections 817.02, 817.03, 818.02 or 818.03.

1. An OSRO Rating does not guarantee the performance of an OSRO, nor does the use of an OSPR–Rated OSRO in a contingency plan relieve the plan holders of their ultimate statutory and regulatory responsibility to ensure the adequacy of the spill response resources identified in their contingency plan.

(b) Timeframes:

(1) A marine facility shall submit a plan that is received by OSPR at least 180 days prior to the beginning of operations. Changes in ownership of a marine facility will require a new plan to be submitted at least 60 days prior to the change in ownership.

(2) A tank vessel shall submit a plan that is received by OSPR at least five working days prior to entering California marine waters.

(c) Receiving Agencies:

(1) One copy of the plan (either hard copy or electronic media — see Section 816.02) for each marine facility and each tank vessel shall be delivered to the Marine Safety Branch of the Office of Spill Prevention and Response (OSPR) of the Department of Fish and Game. Delivery of the plan may be in person or by registered mail with return receipt requested, or the equivalent. Additional hard copies shall be provided to an OSPR regional office upon request.

(2) Two copies of the plan (hard copy or electronic media) for each marine facility shall be delivered by the plan holder to the California State Lands Commission.

(3) Within two working days of a request from the Administrator, additional copies (hard copy or electronic media) shall be mailed by the plan holder to other member agencies of the State Interagency Oil Spill Committee and the State Oil Spill Technical Advisory Committee.

(4) Any additional copies shall be submitted within 2 working days of a request by the Administrator.

(d) Confidentiality

(1) A plan holder may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the plan that is made available for public review.

(A) A plan holder may also request that any reports or studies prepared or submitted under any contingency plan requirements be designated as proprietary information. Such a request must include justification for

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designating the report or study, such as drill reports or any background information developed for the risk and hazard analysis, as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If a plan holder designates information as confidential, two different copies of the plan must be submitted as follows:

(A) one copy must contain the confidential information. This plan will be utilized by the Administrator in the review and approval process;

(B) one copy must be submitted with the confidential information removed. This copy will be available for public review. This plan must contain sufficient information in place of the confidential information so that any individual reviewing the plan will understand all the notification, prevention and response elements of the plan.

(C) Any plan submitted to any state agency, as required by this section, must include all confidential information.

NOTE: Authority cited: Sections 8670.28, 8670.29, 8670.30 and 8670.31, Government Code. Reference: Sections 8670.28, 8670.29, 8670.30, 8670.31 and 8670.36, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending subsection (a)(3)(A) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment of subsection (a)(3)(C), new subsection (a)(3)(C)1. and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
5. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816.02. Plan Format.

OSPR will accept either an original hard copy of the contingency plan or a CD–ROM formatted contingency plan with an original, signed copy of the "Feasibility and Executability Statement" required by this subchapter. Other documents required to be submitted with the contingency plan, such as signed contracts with Oil Spill Response Organizations, may be scanned on the CD using Adobe Acrobat. Although not required, it is requested that the Table of Contents be linked to the different sections of the plan. Also, if a Federal Vessel Response Plan (VRP) or other non–California plan format it used, it is requested that the plan be electronically linked to the plan sections that comply with California's requirements. Each plan shall be organized into separate volumes: a response manual and a principal volume or volumes with related appendices. The format for each is outlined below:

(a) Response Manual

A simplified response manual suitable for on–scene use in the event of a spill which summarizes key notification information and the initial response actions specified in the plan shall be prepared and submitted with each plan.

(1) The response manual is a subset of the information provided in the principal volume of the plan.

(2) The information contained in the response manual shall be sufficient to direct on–scene response personnel through the first 24 hours of a response.

(b) Principal Volume of the Plan

(1) The principal volume shall include all the required information including a summary of the conclusions of all studies, calculations and analyses.

(2) The principal volume of each plan shall be organized to facilitate access to information, and shall include:

(A) a detailed table of contents with chapters arranged, to the extent possible, in the same order in which the requirement for that information appears in Sections 817.02, 817.03, 818.02 or 818.03;

(B) a system of numbered chapters, sections and appendices;

(C) index tabs for locating plan chapters;

(D) a log sheet placed in the front of the plan for recording all amendments and updates; and

(E) amendments and updates that are consecutively numbered and dated.

(3) If hard copies of the plan are submitted, they shall be submitted in an 8 1/2 by 11 inch 3–ring binder, in a loose–leaf format to allow replacement of chapter or appendix pages without requiring replacement of the entire plan. Amendments and updates shall be hole–punched and in a format that will fit the binder that was submitted with the plan.

(4) If a fleet or blanket plan is used, the principal volume of the plan will include all the information generic to all the marine facilities or tank vessels covered by the plan.

(5) All hard copy and electronic documents submitted will become the property of the Administrator. The documents will be retained by the Administrator for a minimum of three (3) years, unless the contingency plan is withdrawn by the submitter.

(c) Appendices

(1) Tank Vessel–Specific Appendix

If a fleet plan is used, each plan must include an appendix for each tank vessel covered by the plan. The vessel–specific appendix must provide the descriptive information regarding layout and design unique to that tank vessel.

(2) Marine Facility–Specific Appendix

If a blanket plan is used each plan must include an appendix for each marine facility covered by the plan. The facility–specific appendix must address all the required information unique to that facility.

(3) Geographic–Specific Appendix to Tank Vessel Plans

Each tank vessel plan must include an appendix to address the geographic–specific elements along the tank vessel's normal routes of travel. This appendix must include:

(A) all required notification information for each Geographic Region in which the tank vessel operates;

(B) identification of the oil spill response organizations to be used in each of the six Geographic Regions, as defined in Chapter 1, Section 790 of this subdivision, along the tank vessel's normal routes of travel; and

(C) a copy of the written contract or other approved means (as defined in Section 815.05(b) of this subchapter) that will verify that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill.

(d) Substitute Plans

If a substitute plan is submitted, such as a plan prepared for the State Lands Commission, the Minerals Management Service, the California Coastal Commission, or the United States Coast Guard, the following must also be submitted:

(1) a listing of all the elements of the individual tank vessel or marine facility's contingency plan that will be replaced by elements in the substitute plan, with an index specifying the location of the required elements, by regulation section, within the substitute plan;

(2) any required prevention or response element not included in the substitute plan must be submitted as an appendix to the substitute plan; and

(3) a copy of the response manual required by this section.

NOTE: Authority cited: Section 8670.28, Government Code. Reference: Section 8670.28, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Editorial correction of subsection (d)(1) (Register 95, No. 41).
3. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
4. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
5. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816.03. Plan Review and Approval.

(a) Timeframes

(1) Each Plan shall be approved or denied within 180 days after receipt by the Administrator.

(2) Any state agency or committee that reviews the contingency plans shall submit any comments to the Administrator within 60 days of receipt of the plan by the agency or committee.

(3) The Administrator shall determine whether each plan complies with the regulations governing the contingency planning process. If it is determined that a plan is inadequate a written explanation of deficiencies, and, if practicable, suggested modifications or alternatives shall be sent to the plan holder.

(4) Upon notification of a plan's deficiencies, the plan holder will have 90 days to submit a new or modified plan. Such a re–submittal shall be treated as a new submittal and processed according to the provisions of this section.

(b) Determination of Adequacy

(1) A plan will be determined to be adequate if it provides for the best achievable protection of coastal and marine resources and meets the requirements of this subchapter. To be approved, the plan must also demonstrate that each owner/operator maintains a level of readiness that will allow for effective implementation of the plan.

(2) To be determined adequate, each plan shall provide for all of the following:

(A) Prevention Measures:

1. for marine facilities, all prevention measures to reduce or eliminate the hazards that could result in an oil spill as identified in the Risk and Hazard Analysis;

2. for tank vessels, all prevention measures to reduce the possibility of an oil spill occurring as a result of allisions, collisions, groundings, explosions or operator error;

(B) immediate notification and mobilization of response resources upon the discovery of a spill;

(C) procedures for deployment and delivery of response equipment and personnel within the timeframes specified in Sections 817.02, 817.03, 818.02 or 818.03;

(D) procedures to assure protection of the environment from oil spills;

(E) procedures for timely and adequate cleanup of all spills, up to and including the reasonable worst case spill;

(F) identification of response equipment, and the call–out procedures to acquire that equipment, to respond to any spill over and above the reasonable worst case spill, in a timely and efficient manner.

(G) all other prevention and response measures specified in Sections 817.02, 817.03, 818.02 or 818.03.

(3) In assessing the adequacy of a plan the Administrator shall consider:

(A) the volume and types of oil addressed by the plan;

(B) the history and circumstances of prior spills from the tank vessel, marine facility, small marine fueling facility, or vessel carrying oil as secondary cargo;

(C) existing operating hazards;

(D) the sensitivity and value of the natural, cultural and commercial resources of the geographic area encompassed by the plan;

(E) the spill prevention, notification and response measures addressed in the plan; and

(F) the site–specific characteristics of a marine facility that could affect response and cleanup operations, including: local topography, prevailing winds, current speed and direction, tidal fluctuations, and access to the potential spill sites; or

(G) the area–specific characteristics along a tank vessel's normal routes of travel that could affect response and cleanup operations, including: prevailing winds, current speed and direction, tidal fluctuations, and access to the potential spill response sites.

(4) Prior and subsequent to plan approval, the Administrator may make an on–site inspection and require a drill of all or part of any contingency plan submitted in order to determine the plan's adequacy.

(c) Public Review and Comment

Contingency plans will be made available for review by any interested member of the general public at a designated location.

(1) Any person interested in reviewing the plan shall contact the Administrator to request an appointment to review the plan at the office of OSPR. Copies of the plans will be provided at the cost of duplication.

(2) Any interested person may review a plan and submit written comments prior to the Administrator's approval of the initial plan or plan updates. Such comments will be taken into consideration in the Administrator's approval process. No comments will be accepted after final approval.

(d) Plan Approval

(1) A plan shall be approved if it addresses all the elements specified in Sections 817.02, 817.03, 818.02, or 818.03, as appropriate, and complies with the adequacy criteria enumerated in this section.

(2) Any revised plan submitted by an owner/operator in response to a notification of inadequacy shall be considered approved unless otherwise notified by the Administrator within the timeframes established in Section 816.03(a).

(3) Any comments submitted by other agencies or interested parties shall be considered when approving or disapproving the plan.

(4) The plan holder shall be notified when a plan has been approved. A Letter of Approval will be issued by the Administrator and will describe the conditions of approval, if any, and specify the expiration date of the Letter of Approval.

(5) A plan will be considered to be effective upon submittal unless and until the owner/operator is notified that the plan is inadequate. Exceptions to this requirement will be considered by the Administrator on a case–by–case basis.

(e) Interim Approval

(1) A plan may be approved with minor deficiencies as long as the following requisite elements are included in the plan:

(A) Information to clearly identify the tank vessel or marine facility, including but not limited to:

1. for tank vessels: vessel name, call sign, official number, classification and owner/operator name, address and phone number;

2. for marine facilities: name and address of facility, name, address and phone number of the owner/operator.

(B) A copy of the contract(s) or other approved means for the response resources that meet the requirements of this subchapter;

(C) Identification, including telephone number and facsimile number, of a Qualified Individual;

(D) Appropriate and adequate evidence of financial responsibility.

(2) An Interim Approval shall only remain valid for 30 calendar days.

(f) Denial or Revocation of Plan

(1) Approval shall be denied or revoked if a plan does not comply or maintain compliance with the criteria set forth in this Section (816.03).

(2) If approval is denied or revoked, the Administrator shall notify the plan holder in writing of the reasons for denial or revocation and provide an explanation of those actions necessary to secure approval.

(A) The plan holder shall have 90 calendar days from notification to submit a new or revised plan that incorporates the recommended changes, during which time the plan is considered effective pending final approval. If the plan holder fails to address plan deficiencies within 90 calendar days of notification, the plan may be denied a second time.

(B) No tank vessel shall operate in marine waters if it fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, until a subsequent submission is approved.

(C) If a marine facility fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, the administrator may order it to discontinue operations until a subsequent submission is approved.

(D) If a plan holder fails to address plan deficiencies within 90 calendar days from notification of a second plan denial, the Administrator may, without further notice, declare the plan null and void.

(g) Appeals

The plan holder may appeal a decision made by the Administrator regarding the contingency plan in accordance with the following provisions:

(1) the plan holder may submit a written request for reconsideration to the Administrator regarding any decision of interim approval, denial, revocation of approval, or a request for exemption. Requests must be submitted within 15 working days from the date the plan holder receives notice that approval of the plan has been denied. The request must contain the basis for the reconsideration and, if available, provide evidence which rebuts the basis for the Administrator's decision regarding the plan;

(2) within 15 working days following the receipt of the request for reconsideration, the plan holder will either be sent a notice that the Administrator shall adhere to the earlier decision or that the decision has been rescinded;

(3) the plan holder may, within 15 working days after receipt of notice that reconsideration has been denied, request a hearing in writing. No such hearing may be requested unless and until all remedies pursuant to this section have been exhausted. The Administrator shall conduct a reconsideration hearing upon request;

(4) the proceedings and hearings under this section shall be conducted in accordance with Chapter 4.5 (commencing with Section 11400) of Part I of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11460.80 of the Government Code.

(h) Proof of Approval

(1) Marine Facilities

The marine facility plan holder shall keep the Letter of Approval, or a copy certified to be true and accurate, filed in the front of the approved contingency plan. The approval letter shall be presented upon request to any representative of the Administrator.

(2) Tank Vessels

The Letter of Approval shall be presented upon request to the operator of a marine facility prior to an oil transfer.

(i) Liability

Approval of a plan does not constitute an express assurance regarding the adequacy of the plan in the event of a spill nor does it constitute a defense to liability on the part of the operator or owner.

(j) Coastal Protection Review

(1) Within one year of the adoption of this section, and within 18 months of subsequent updates, the Administrator shall conduct a comprehensive review of all the oil spill contingency plans for tank vessels and marine facilities.

(2) The comprehensive review shall be conducted to assure that the plans, as a whole, provide the best achievable protection of coastal resources. Each plan will be reviewed in conjunction with all the plans submitted by tank vessels and marine facilities located in or using the same Geographical Region. The Geographic Regions to be used for the review of overall coastal protection are defined in Chapter 1, Section 790 of this subdivision. .

(3) The Administrator shall evaluate the contingency plans for each Geographical Region to determine if deficiencies exist in equipment, personnel, training and other elements determined to be necessary to ensure the best achievable protection for that region.

(4) If deficiencies are found to exist in overall protection, the Administrator shall remand any contingency plans to the plan holder with recommendations for any amendments necessary to adequately protect coastal resources in that Geographical Region. Any plans returned for amendment shall be processed according to the procedures for initial submittal, review and approval of the contingency plan.

NOTE: Authority cited: Sections 8670.19, 8670.28 and 8670.31, Government Code. Reference: Sections 8670.19, 8670.28 and 8670.31, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Change without regulatory effect amending subsection (j)(2) and repealing subsections (j)(2)(A)–(G) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
4. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
5. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816.04. Plan Implementation and Use.

(a) Availability

(1) Marine Facility Plans

(A) A complete copy of the marine facility's approved plan must be maintained on–site if the facility is staffed, or at the nearest field office if the facility is not staffed.

(B) A copy of the response manual must be maintained at all sites covered by the plan.

(C) Response manuals for pipeline facilities shall be maintained at all sites covered by the plan or where operations and maintenance activities are conducted.

(2) Tank Vessel Plans

(A) A complete copy of the tank vessel's contingency plan, including the response manual, must be maintained by the owner/operator.

(B) A complete copy of the tank vessel's approved response manual must be maintained on board the tank vessel at all times.

(3) The plan, or response manual, whichever is required, must be in a central location accessible to key response personnel at all times.

(4) A complete copy of the contingency plan, including the response manual, must be maintained by the Qualified Individual and available for use in the event of an incident.

(5) A complete copy of the contingency plan, including the response manual, must be maintained by the owner/operator and made available for review and inspection by all relevant state agencies upon request.

(6) Immediate Notification Information

(A) Immediate response and notification information shall be summarized and posted in a conspicuous location with access to a telephone, or other similar means of communication.

(b) Implementation

(1) Each plan shall be effective upon submittal. Any element of the plan that can not be implemented upon submittal must be covered by a timetable for implementation. Elements included in the timetable may include such items as the purchase of equipment, or the implementation of specific prevention measures. The timetable must also include an explanation for the delay, and provide for full implementation within six months of plan submittal, unless an extension is authorized by the Administrator.

(2) The owner/operator must implement the plan according to any timetable submitted as part of the plan.

(3) An owner/operator, or any of his/her agents and employees shall use and implement the effective plan in the event of an oil spill or an oil spill drill.

(4) Any deviation from any major element of the contingency plan must be approved by the Administrator in advance of the change. A major element is one that will affect timely and adequate oil spill response.

(5) All involved parties, as defined, shall carry out whatever direction is given by the Administrator in connection with the response, containment, and cleanup of a spill. A responsible party or potentially responsible party may refuse to accept a directive from the Administrator if:

(A) the directions of the Administrator are in direct conflict with directions from the Federal On–scene Coordinator; and/or

(B) the party reasonably, and in good faith, believes that the directions or orders given by the Administrator will substantially endanger the public safety or the environment.

(6) If a party refuses to accept the directive of the Administrator, the party shall state the reason why they have refused at the time of refusal, and:

(A) the party that has refused a directive shall follow up a verbal explanation of their refusal with a written notice to the Administrator explaining in full the reason(s) for refusing the directive. The written notice must be submitted within 48 hours of the refusal;

(B) the burden of proof shall be on the party to demonstrate, by clear and convincing evidence, why refusal to follow orders was justified.

(7) Failure to implement the plan appropriately shall constitute a violation of this subchapter.

(c) Coordination With Other Plans

(1) Each plan shall be consistent with the State Marine Oil Spill Contingency Plan and not in conflict with the National Contingency Plan.

(2) Beginning with the first review and resubmission, each plan submitted shall be consistent with the appropriate Area Contingency Plan(s) completed by the Coast Guard, State Agencies, and Local Governments as required by the Oil Pollution Act of 1990 that are in effect on January 15 of the year in which the contingency plan update is required.

NOTE: Authority cited: Sections 8670.28 and 8670.31, Government Code. Reference: Sections 8670.27, 8670.28, 8670.28.5, 8670.29, 8670.30(a)(2) and 8670.57–8670.69.6, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of subsections (a)(1), (a)(4), (b)(1), (b)(7) and (c)(2) and amendment of NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816.05. Plan Updates.

(a) Timeframes

(1) Update and Review

(A) All plans shall be resubmitted for review on April 1, 1996, and on April 1, 1998, and then once every five years thereafter from the date of approval.

1. A complete new plan must be resubmitted for review only if there have been changes to the original plan or updates since the last submittal. If the original plan or submitted updates have not changed, or the relevant Area Plan has not been amended, the owner/operator may submit a letter to the Administrator stating that the plan currently on file with the OSPR is up–to–date and complete.

(B) The Administrator may require earlier or more frequent resubmission than that required in subparagraph (A). The owner/operator shall be notified in writing if an earlier update is required. The notice shall include an explanation for the reasons for the update. The circumstances that would warrant an earlier review or update include, but are not limited to, the following:

1. a change in regulations;

2. the development of new oil spill response technologies as determined by the Administrator during any review of Response Capability Standards;

3. deficiencies identified in the Administrator's review of all the oil spill contingency plans as part of the Coastal Protection Review;

4. an increased need to protect plant and wildlife habitat;

5. deficiencies in oil spill response capability identified during an oil spill;

6. deficiencies in oil spill response capability identified during an oil spill drill;

7. significant changes to the tank vessel or marine facility; and

8. any other situation deemed appropriate by the Administrator where deficiencies in the ability to provide timely and effective oil spill response are identified.

(2) Unscheduled Updates

(A) The Administrator shall be notified as soon as possible, but at least within 24 hours, of any significant change or update to an approved plan.

1. A significant change is one that could affect timely and adequate oil spill response including changes in tank vessel ownership and Financial Responsibility coverage.

2. Changes which are not significant include minor changes in equipment, personnel, or operating procedures which do not affect timely and adequate oil spill response.

3. As soon as administratively feasible, the Administrator will approve any change that would benefit the public health and safety, improve environmental protection, or facilitate more effective response, containment and cleanup.

(b) Review and Approval of Plan Updates

(1) The Administrator may deny approval of a resubmitted plan, or updated section(s) of a plan if it is no longer adequate according to the adopted regulations and policies in effect at the time of resubmission.

(2) The review will be processed in accordance with the same timeframes and procedures for submission of the initial plan.

(c) Logging and Distributing the Revised Plan

(1) The plan holder shall distribute the revised plan page(s) to all plan recipients within 15 days of the Administrator's approval of the revisions. Faxed updates for insertion into the plan are not acceptable.

(2) The updated page(s) shall have an update number and date revised on the bottom of each page, and shall be accompanied by an index of updates that includes update number, date revised, page(s) revised, and subject matter of update. As an alternative to the hard copy, this information may be submitted on electronic media, in a format approved by the Administrator (see Section 816.02(b)(3)).

(3) The log sheet, located in the front of the plan, shall be used to record the date the amendment was received, the initials of the individual who received the amendment, and a description of the change.

(d) Each plan recipient must incorporate and utilize all updated materials as provided by the plan holder.

NOTE: Authority cited: Sections 8670.28 and 8670.31, Government Code. Reference: Sections 8670.19, 8670.28 and 8670.31, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Change without regulatory effect amending subsections (a)(1)–(a)(1)(B) filed 10–21–96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
3. Amendment of subsections (a)(1)(A), (a)(1)(B)7. and (c)(1), new subsection (c)(2), subsection renumbering, and amendment of subsection (d) filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
4. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
5. Amendment of subsections (a)(1)(A)–(A)1., (a)(1)(B)5.–8., (a)(2)(A)1.–2. and (c)(2) filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 816.06. Compliance Requirements/Penalties.

Any person who knowingly, intentionally, or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, beginning with Section 8670.57 of the Government Code. Actions which constitute a violation of this subchapter shall include, but not be limited to, the following:

(a) failure to submit the plan in a timely manner;

(b) failure to implement any element of the plan as approved unless otherwise authorized by the Administrator or the U.S. Coast Guard through the Unified Command;

(c) operating without an approved plan;

(d) failure to contract with an OSRO Rated by OSPR for booming, on–water recovery and storage, and shoreline protection services; or

(e) failure to follow the direction or orders of the Administrator in connection with an oil spill, except as provided in Section 8670.27 of the Government Code.

NOTE: Authority cited: Sections 8670.28, 8670.29, 8670.30 and 8670.57–8670.69.6, Government Code. Reference: Sections 8670.29, 8670.30, 8670.31 and 8670.57–8670.69.6, Government Code.

HISTORY

1. Amendment of first paragraph and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
3. New subsection (d), subsection relettering and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).

§ 817. Marine Facility Contingency Plans.

HISTORY

1. New heading filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section heading filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).

§ 817.01. Applicability.

(a) Plans

Oil spill contingency plans shall be prepared, submitted and used pursuant to the requirements of this subchapter for all marine facilities located in the marine waters (as defined in Section 815.05 of this subchapter) of California, or where a discharge of oil could reasonably be expected to impact the marine waters of California.

(1) A facility will be considered to have potential impact on marine waters based on the geographical and locational aspects of the site. Such aspects shall include proximity to marine waters or adjoining shorelines, land contour, and local drainage patterns. The existence of dikes, equipment or other structures used to prevent a spill from reaching marine waters will not necessarily affect the determination of which facilities are required to submit a plan.

(2) Contingency plans shall not be required of facilities located outside of the zone as measured from the mean high tide line to three nautical miles offshore. Any pipelines connecting such facilities to the shoreline, however, will be subject to the contingency planning requirements of this subchapter.

(b) Exemptions/Evaluations

(1) Owners/operators of platforms, with a reasonable worst case spill of less than 250 barrels, may apply for an exemption from the contingency plan requirements if the following conditions are met:

(A) the platform has a plan approved by either the Minerals Management Service (MMS), or the California State Lands Commission (SLC); and

(B) the MMS or SLC approved plan is submitted to the Administrator; and

(C) the Administrator determines that adequate response capability is available to address a spill and provide for the best achievable protection of coastal and marine resources.

(2) Any facility owner/operator may request a determination from the Administrator whether their facility meets the definition of marine facility, on the basis that a spill from the facility could not reasonably be expected to impact marine waters.

(A) The request must be submitted to the Administrator at least 180 days prior to the beginning of operation of the marine facility, and must provide specific, technical justification for the request.

(B) The Administrator shall inspect the facility to determine if a spill from the facility could potentially impact marine waters before the request may be approved.

(C) The Administrator will review the request within 30 days of receiving the request.

(D) If a decision is made that the facility meets the definition of marine facility, the facility owner/operator must submit a contingency plan within 90 days receipt of the decision.

(E) If a spill from a facility does occur which impacts marine waters, and the facility had previously received an evaluation that it does not meet the definition of marine facility, the evaluation is automatically revoked and the facility has 90 days in which to meet the contingency plan and Certificate of Financial Responsibility (COFR) requirements of this subdivision.

NOTE: Authority cited: Sections 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.28, 8670.29, 8670.30 and 8670.31, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).

§ 817.02. Marine Facility Plan Content (Except for Those Small Marine Fueling Facilities Addressed in Section 817.03 of This Subchapter).

To the degree the information required by Subsections 817.02(b) through (k) exists elsewhere, copies of the pre–existing information may be submitted. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

(a) Introductory Material

(1) Each plan shall provide the following information:

(A) name and address of the marine facility, and mailing address if different. The name and address of the facility shall be referenced in the plan title or on a title page at the front of the plan;

(B) name, address, phone number, fax number and e–mail address, if available, of the owner and/or operator of the marine facility;

(C) name, address and phone number, fax number and e–mail address, if available, of the person to whom correspondence should be sent;

(D) a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holder's management structure who has the requisite training, knowledge, and experience. The certification shall be submitted according to the following format;

> "I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this contingency plan is true and correct and that the plan is both feasible and executable."
>
> _____(signature), (title), (date);

(E) The California Certificate of Financial Responsibility (COFR) number for the marine facility shall be included in the front of the plan. If the COFR is not available when the plan is submitted because the marine facility is not yet operational, the COFR number must be provided as soon as it becomes available. The COFR number must be provided before the plan can be approved.

(2) Each plan shall identify a Qualified Individual, as defined in Chapter 1, Section 790 of this subdivision, and any alternates that may be necessary for the purpose of implementing the plan. If the plan holder contracts for this service, documentation that the Qualified Individual or company, and any identified alternates, acknowledge this capacity shall be included in the plan. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive

legal documents on behalf of the plan holder. If the plan holder contracts for this service, documentation that the agent for service of process acknowledges this capacity shall be included in the plan. Such agent shall be located in California.

(4) Each plan shall identify a Spill Management Team (as defined in Section 815.05(p) of this subchapter). If the plan holder contracts for this service, documentation that the Spill Management Team acknowledges this capacity shall be included in the plan.

(5) Each plan shall contain a copy of the contract or other approved means (as defined in Section 815.05(b) of this subchapter) verifying that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill. This requirement can be met by a copy of the basic written agreement with an abstract of the recovery and/or cleanup capacities covered by the contract. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on–water recovery and storage, and shoreline protection services required.

(b) Marine Facility Description

(1) Each plan shall describe the marine facility's design and operations with specific attention to those areas from which an oil spill could occur. This description shall include, at a minimum, the following information:

(A) a piping and instrumentation diagram, and a tank diagram including the location of pumps, valves, vents and lines; the number, and oil storage capacity of each structure covered under the plan and its age, design, construction and general condition; the range of oil products normally stored in each structure; the presence or absence of containment structures and equipment; and the location of mooring areas, oil transfer locations, control stations, safety equipment, drip pans and the drainage for drip pans;

(B) a description of the types, physical properties, health and safety hazards, maximum storage or handling capacity and current normal daily throughput of oil handled. A material safety data sheet (MSDS) or equivalent will meet some of these requirements and can be maintained separately at the facility providing the plan identifies its location;

(C) a description of the normal procedures for transferring oil from or to a pipeline, tanker, barge or other vessel, or storage tank, and the amount, frequency and duration of oil transfers;

(D) the marine facility's normal hours of operation; and

(E) for an exploration or production facility, a complete description of those sections of the oil or gas lease field, gathering lines, storage tanks and processing facilities, under the control of the owner/operator, a spill from which could reasonably be expected to impact the marine waters of California.

(2) Each plan shall describe the marine facility site and surrounding area, including, where appropriate, the following information (note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)):

(A) a map and description of site topography, including the drainage and diversion plans for the marine facility, such as sewers, storm drains, catchment, containment or diversion systems or basins, oil/water separators, and all watercourses into which surface runoff from the facility drains;

(B) vicinity maps showing any vehicular or rail access to the marine facility, pipelines to and from the facility, nearby residential, commercial or other populous areas, and access to private land necessary to respond to a spill;

(C) seasonal hydrographic and climatic conditions including wind speed and direction, air and water temperature, local tides, prevailing currents, and any local visibility problems;

(D) physical geographic features, including ocean depths and local bathymetry; beach types and other geological conditions, including type of soil and terrain; operational conditions such as physical or navigation hazards, traffic patterns, permanent buoys, moorings and underwater structures or other site–specific factors; and any other physical feature or peculiarity of local waters that call for special precautionary measures that may affect spill response;

(E) logistical resources within the geographic area covered by the plan, including facilities for fire services, medical services, and accommodations for spill response personnel; and

(F) shoreline access area, including piers, docks, boat launches and equipment and personnel staging areas.

(c) Prevention Measures

Each plan shall address prevention measures in order to reduce the possibility of an oil spill occurring as a result of the operation of the marine facility. The prevention measures must eliminate or mitigate all the hazards identified in the Risk and Hazard Analysis.

(1) Risk and Hazard Analysis

(A) Each marine facility shall conduct a Risk and Hazard Analysis to identify the hazards associated with the operation of the facility, including: operator error, the use of the facility by various types of vessels, equipment failure, and external events likely to cause an oil spill.

The owner/operator may use one or more of the hazard evaluation methods identified by the American Institute of Chemical Engineers, or an equivalent method, including, but not limited to:

1. What–if analysis;
2. Checklist analysis;
3. Preliminary hazard analysis;
4. Hazard and operability study;
5. Failure mode and effect analysis; or
6. Fault tree analysis.

(B) The chosen hazard evaluation method must be conducted in accordance with the guidelines established by the American Institute of Chemical Engineers as published in the "Guidelines for Hazard Evaluation Procedures", second edition, copyright 1992, prepared for The Center For Chemical Process Safety.

1. The plan must include information regarding the expertise of the working group that develops the analysis.

2. The plan must include information that demonstrates to the Administrator that the analysis is appropriate to the marine facility and adequate according to the published procedures referenced in (C) above.

3. An owner/operator may be found in violation of this section if the Risk and Hazard Analysis does not adequately address the risks posed by the marine facility.

4. The Administrator may require that an analysis be updated if there are significant changes made to the marine facility. A significant change, as used in this paragraph, is one that would have an impact on the outcome of the Risk and Hazard Analysis.

5. Additional information regarding the analysis method used or the working group that conducted the analysis shall be made available to the Administrator upon request.

(C) Each plan shall include a summary of the results of the risk and hazard analysis. The summary shall include the following:

1. the hazard analysis method used, and a statement that the analysis is specific to the marine facility. If the analysis relies on a risk assessment at a similar facility, the summary shall specify how the two facilities are comparable;

2. an inventory of the hazards identified, including the hazards that resulted in the historical spills;

3. an analysis of the potential oil discharges, including the size, frequency, cause, duration and location of all significant spills from the marine facility as a result of each major type of hazard identified;

4. the control measures that will be used to mitigate or eliminate the hazards identified. The plan shall include timeframes for implementing any control measures that cannot be functional immediately; and

5. a prediction of the potential oil spills that might still be expected to occur after any mitigating controls have been implemented.

(D) All supporting documentation used to develop the Risk and Hazard Analysis summary shall be made available to the Administrator upon request.

(2) Off–Site Consequence Analysis

For the significant hazards identified in the Risk and Hazard Analysis required under this section, the marine facility shall conduct a trajectory analysis to determine the Off–Site Consequences of an oil spill. This analysis shall assume pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the air or onto the water will be considered. This analysis is intended to be used as the basis for determining the areas and shoreline types for which response strategies must be developed. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)). The analysis, which shall be summarized in the plan, shall include at least the following:

(A) a trajectory, or series of trajectories (for pipelines, etc.), to determine the potential direction, rate of flow and time of travel of the reasonable worst case oil spill from the facility to marine waters and to the shorelines, including shallow–water environments, that may be impacted. For purposes of this requirement, a trajectory or trajectories (projected for a minimum of 72 hours) that determine the outer perimeter of a spill, based on regional extremes of climate, tides, currents and wind with consideration to seasonal differences, shall be sufficient;

(B) for each probable shoreline that may be impacted, a discussion of the general toxicity effects and persistence of the discharge based on type of product; the effect of seasonal conditions on sensitivity of these areas; and an identification of which areas will be given priority attention if a spill occurs.

(3) Resources at Risk from Oil Spills

Based on the trajectory of the spilled oil as determined in the Off–Site Consequence Analysis, each plan shall identify the environmentally, economically and culturally sensitive sites that may be impacted. Each plan shall identify and provide a map of the locations of these areas. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans, completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. (Note: where maps/diagrams are required they may be submitted on electronic media, in Portable Document Format (PDF)).

(A) The map of environmentally sensitive sites shall include:

1. shoreline types and associated marine resources;

2. the presence of migratory and resident marine bird and mammal migration routes, and breeding, nursery, stopover, haul–out, and population concentration areas by season;

3. the presence of aquatic resources including marine fish, invertebrates, and plants including important spawning, migratory, nursery and foraging areas;

4. the presence of natural terrestrial animal and plant resources in marine–associated environments;

5. the presence of state or federally–listed rare, threatened or endangered species;

6. the presence of commercial and recreational fisheries including aquaculture sites, kelp leases and other harvest areas.

(B) The map of the locations of economically and culturally sensitive sites shall include:

1. public beaches, parks, marinas, boat ramps and diving areas;

2. industrial and drinking water intakes, power plants, salt pond intakes, and other similarly situated underwater structures;

3. off–shore oil and gas leases and associated drilling/production platforms;

4. known historical and archaeological sites. If a plan holder has access to any confidential archaeological information, it must be submitted as a separate item and will be handled as confidential information as outlined in Subsection 816.01(d);

5. areas of cultural or economic significance to Native Americans; and

6. the major waterways and vessel traffic patterns that are likely to be impacted.

(4) Required Prevention Measures

Each marine facility shall take all prevention measures to reduce or mitigate the potential hazards identified in the Risk and Hazard Analysis, and the potential impact those hazards pose to the resources at risk. Each plan shall include the following:

(A) schedules, methods and procedures for testing, maintaining and inspecting pipelines and other structures within or appurtenant to the marine facility that contain or handle oil which may impact marine waters if a failure occurs. Any information developed in compliance with Title 30 CFR, Part 250.153; Title 33 CFR, Part 154; Title 49 CFR, Part 195; and/or Title 5, Division 1, Part 1, Chapter 5.5, Sections 51010 through 51019.1 of the Government Code may be substituted for all or part of any comparable prevention measures required by this subsection.

(B) methods to reduce spills during transfer and storage operations, including overfill prevention measures and immediate spill containment provisions. Any information developed in compliance with Title 2, CCR, Division 3, Chapter 1, Article 5, Sections 2300–2407; Title 30 CFR, Part 250.154; and/or Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection.

(C) procedures to assure clear communication among all the parties involved during transfer operations. Any information developed in compliance with Title 2, CCR, Division 3, Chapter 1, Article 5; Title 14, CCR, Division 1, Subdivision 4, Chapter 3, Subchapter 6; and/or Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection;

(D) protection measures for areas within the marine facility that are subject to flooding;

(E) the plan holder shall provide additional relevant information to the Administrator upon request.

(d) Containment Booming and On–water Recovery

Each plan holder must have a contract or other approved means for containment booming and on–water recovery response resources up to their Response Planning volume for all potential oil spills from the marine facility. To determine the amount of response resources for containment booming and on–water recovery, each plan holder must calculate a Response Planning Volume as outlined below:

(1) Reasonable Worst Case Spill

To calculate the response planning volume, it is first necessary to determine the reasonable worst case spill for each marine facility, as follows:

(A) For marine facilities (except on–shore pipelines (not subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.7 (commencing with Section 25280) of Division 20, Health and Safety Code) which are addressed in Subsection (B), offshore platforms which are addressed in Subsections (C) and (D), and offshore pipelines which are addressed in Subsection (E):

1. the loss of the entire capacity of all in–line, break–out and portable storage tank(s), not subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.7 (commencing with Section 25280) of Division 20, Health and Safety Code, needed for the continuous operation of the pipelines used for the purposes of handling or transporting oil, taking into account the existence of volume limiting factors including, but not limited to, line pressure, gravity, and the availability and location of the emergency shut–off controls; plus

2. the amount of additional spillage that could reasonably be expected to enter California marine waters during emergency shut–off, transfer or pumping operations if a hose(s) or pipeline(s) ruptures or becomes disconnected, or if some other incident occurs which could cause or increase the size of an oil spill. The spillage shall be calculated as follows: the maximum time to discover the release from the pipe or hose in hours, plus the maximum time to shut down flow from the pipe or hose in hours (based on historic discharge data or the best estimate in absence of histor-

ic discharge data for the marine facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total linefill drainage volume expressed in barrels.

3. The Administrator has the discretion to accept that a marine facility can operate only a limited number of the total pipelines at a time. In those circumstances, the reasonable worst case spill volume shall include the drainage volume from the piping normally not in use, in addition to the volume determined in (1) and (2), above.

(B) For on-shore pipelines not subject to Chapter 6.67 (commencing with Section 25270) or Chapter 6.7 (commencing with Section 25280) of Division 20, Health and Safety Code, the largest volume in barrels, of the following:

1. The pipeline's maximum release time in hours (i.e., the time between pipeline rupture and discovery), plus the maximum shut-down response time in hours (based on historic discharge data or in the absence of such historic data, the operator's best estimate), multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum daily capacity of the pipeline), plus the largest line drainage volume after shutdown of the line section(s) in the response zone expressed in barrels. (As used in this subsection: line section means a continuous run of pipe that is contained between adjacent pressure pump stations, between a pressure pump station and a terminal or break-out tank, between a pressures pump station and a block valve, or between adjacent block valves; response zone means a geographic area either along a length of pipeline or including multiple pipelines, containing one or more adjacent line sections, for which the operator must plan for the deployment of, and provide spill response capabilities. The size of the zone is determined by the operator after considering available capabilities, resources, and geographic characteristics); or

2. The largest foreseeable discharge for the line section(s) within a response zone, expressed in barrels, based on the maximum historic discharge, if one exists, adjusted for any subsequent corrective or preventive action taken; or

3. If the response zone contains one or more break-out tanks, the capacity of the single largest tank or battery of tanks within a single secondary containment system, adjusted for the capacity or size of the secondary containment system, expressed in barrels.

(C) For offshore platforms (except those drilling a new well which are addressed in Subsection (D)):

1. total tank storage and flow line capacity; plus

2. that portion of the total linefill capacity which could be lost during a spill, taking into account the availability and location of the emergency shut-off controls and the effect of hydrostatic pressure; plus

3. the amount of additional spillage that could reasonably be expected to enter marine waters during emergency shut-off, transfer or pumping operations if a hose or pipeline ruptures or becomes disconnected, or some other incident occurs which could cause or increase the size of an oil spill. The calculation may take into consideration other safety devices, emergency reaction times and maximum transfer rates; plus

4. the daily production volume for seven days from an uncontrolled blowout of the highest capacity well associated with the marine facility. In determining the daily discharge rate, the reservoir characteristics, casing/production tubing sizes, and historical production and reservoir pressure data shall be taken into consideration.

(D) For offshore platforms with active well drilling:

The owner/operator of a platform at which a new well is being drilled must submit a proposed reasonable worst case oil spill calculation for platform operations to the Administrator. The proposed worst case discharge is the daily volume possible for seven days from an uncontrolled blowout taking into consideration any known reservoir characteristics. The proposed calculation will be reviewed by the Administrator during the plan review and approval process to determine if it adequately addresses the oil spill potential of the new well system.

(E) For offshore pipelines, the largest volume in barrels of the following calculation:

1. The pipeline system leak detection time, plus the shutdown response time, multiplied by the highest measured oil flow rate over the preceding 12-month period. For new pipelines, use the predicted oil flow rate. Add to this calculation the total volume of oil that would leak from the pipeline after it is shut in. This volume should be calculated by taking into account the effects of hydrostatic pressure, gravity, frictional wall forces, length of pipeline segment, tie-ins with other pipelines, and other factors.

(F) The calculations, and such parameters as flow rates, linefill capacities and emergency shutoff times, that are used to determine a marine facility's reasonable worst case spill shall be submitted as part of the plan. The Administrator may review and test these parameters as part of the drill conducted in accordance with Subsection 816.03(b).

(2) Persistence and Emulsification Factors

(A) The reasonable worst case spill volume is then multiplied by a persistence factor relative to the most persistent type of oil that may be spilled by the marine facility. The persistence factors relative to the type of oil spilled, are specified below:

Oil Group	Group 1	Group 2	Group 3	Group 4
Persistence Multiplier	.20	.50	.50	.50

(B) Emulsification Factors

The volume determined from the calculation in Subparagraph (A) is then multiplied by one of the following emulsification factors, again, based on the type of oil.

Oil Group	Group 1	Group 2	Group 3	Group 4
Emulsification Multiplier	1.0	1.8	2.0	1.4

(C) Response Planning Volume

The total determined by the above calculation is a Response Planning Volume.

1. The Response Planning Volume to be used to determine the amount of Response Equipment and Services that must be under contract or other approved means shall be the greater of the amount determined in Subsection 817.02(d)(1) and (2) , or the Planning Volume for On-water Recovery calculated for the nearshore/inland environment in the marine facility's federal response plan pursuant to 33 CFR Part 154, Appendix C, Section 7. The Planning Volume for On-Water Recovery is the adjusted volume from the federal calculation determined prior to establishing the response tiers utilizing the mobilization factors.

2. All calculations used to determine the Response Planning Volume shall be included in the plan.

(3) Response Capability Standards

The equipment and personnel necessary to address the Response Planning Volume is brought to the scene of the spill over a period of time. The timeframes are dependent upon the risk zone in which the marine facility is located and are specified in the tables in this section.

The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to those under contract must be identified, and a call-out procedure in place to access this equipment, if the marine facility has a spill that exceeds the Response Planning Volumes. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning volume.

(A) On-Water Daily Recovery Rates and Containment Boom Amounts

1. The total amount of on-water recovery equipment and services required shall be the lesser of the amount necessary to address the Response

Planning Volume determined in Section 817.02(d)(2)(C) or the Daily Recovery Rate established by this Section at 817.02(d)(3)(B) below.

2. The amount of response resources and the timeframes for delivery are specified in Subsection 817.02(d)(2)(C) below. The barrels per day capability figure is the total amount of on-water recovery equipment that must be at the scene of the spill at the hour specified which is measured from the time of notification, as described in this subchapter. All on-water recovery response resources shall be capable of being deployed and operable within one hour of arrival at the scene of the spill or drill but no later than the designated timeframe for each risk zone.

3. The timeframes for equipment delivery and deployment as specified in this subsection do not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 817.02(f)(9), and as required by the California Occupational and Safety Administration. In addition, these timeframes do not account for delays that may occur due to weather or seastate. The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or a drill and will take into account the prevailing conditions of weather and seastate, as well as the site assessment requirements.

(B) Daily Recovery Rate

1. Facilities located in High-Volume Ports

DELIVERY TIME (HRS)	6	24	36	60
BBLS/DAY CAPABILITY	23,437	31,250	46,875	78,125

i. in addition, the facility/transfer points within the High Volume Ports must have 3,125 barrels/day, or 10% of the reasonable worst case spill volume, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

ii. if a facility/transfer point within a High Volume Port maintains and can immediately deploy containment equipment for a 3,125 barrel spill, or 10% of the reasonable worst case spill volume, whichever is less, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

2. Facility/Transfer Areas and the Santa Barbara Channel Area

DELIVERY TIME (HRS)	12	36	60
BBLS/DAY CAPABILITY	19,531	35,156	66,406

i. in addition, facility/transfer points within a Facility/Transfer Area and the Santa Barbara Channel Area must have 3,125 barrels/day, or 10% of the reasonable worst case spill volume, whichever is less, of on-water recovery capability that can be mobilized and on-scene within 2 hours of notification;

ii. if a facility/transfer point within a Facility/Transfer Area or the Santa Barbara Channel Area maintains and can immediately deploy containment equipment for a 3,125 barrel spill, or 10% of the reasonable worst case spill volume, whichever is less, the initial on-water recovery capability can be on-scene within three hours rather than two hours;

iii. for those points where transfers occur infrequently, and where there is not permanent equipment present, the 3,125 barrel/day, or 10% of the reasonable worst case spill volume, whichever is less, on-water recovery capability shall be brought to the site at the time of transfer;

iv. for infrequent transfers of non-persistent oil, the initial response requirement may be waived by application to the Administrator. The application for waiver must include a justification based on such factors as the location of the marine facility, proximity to response equipment, additional equipment in the immediate area, and the relative environmental sensitivity of the potential spill sites.

(C) Sufficient containment equipment shall be brought to the scene of the spill to address the daily recovery rates as designated in Section 817.02(d)(3)(B).

(D) The standards set forth in Subsection 817.02(d)(3)(B) were increased by a factor of 25% on July 1, 1997, and again on July 1, 2001. It was determined that this increase was feasible and necessary to meet the best achievable protection of the coast.

(E) The standards set forth in Subsection 817.02(d)(3)(B) will be reviewed by the Administrator to determine if increases to these amounts are feasible and necessary in order to meet the best achievable protection of the coast. The Administrator shall conduct a review and hold a public hearing prior to confirming the new standards to solicit input regarding the necessity of the proposed increase and any credits that may be allowed.

(4) Movement of Response Resources

There may be times when it is necessary to move response equipment from one risk zone to another in order to respond to a catastrophic oil spill. However, the Administrator needs to ensure that sufficient response resources are available to address a reasonable risk within each zone. Therefore, when equipment is needed from one risk zone which may impact the plan holder's on-water containment and recovery at the 6 hour level, the plan holder or OSRO shall make a request to the Administrator to temporarily reduce the Response Capability Standards set forth in (d)(3) above, before the equipment can be moved. The Administrator shall only grant such a request after determining that sufficient response resources are available to address a reasonable risk within the zone from where the response equipment is being considered for removal.

(5) On-Water Response Equipment and Services

(A) Each plan shall demonstrate that the marine facility owner/operator has under contract or other approved means (as defined in Section 815.05(b) of this subchapter), access to all the necessary response resources to comply with the Response Capability Standards established in Subsection 817.02(d)(3). The amount of response equipment required shall take into account the effective daily recovery capacity (EDRC, as defined in Chapter 1, Section 790 of this subdivision) of the equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow-water response capability (refer to the relevant Area Contingency Plan), the plan shall provide for an adequate number of shallow-draft vessels (as defined in Section 815.05 of this subchapter) and for adequate booming and other shoreline protective resources to be owned or under contract or other approved means and available to provide shoreline protection of all sensitive sites identified in the trajectory analysis conducted as part of the Off-site Consequence Analysis. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

2. a complete inventory of any nonmechanical response equipment and supplies, including the type and toxicity of each chemical agent, with procedures for storage and maintenance;

3. the type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

4. the manufacturer's rated capacities and the operational characteristics for each major item of oil recovery equipment;

5. the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) for each major piece of on-water recovery equipment listed, as well as the effective daily recovery capacity for the skimming systems as a whole.

i. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

ii. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

6. vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom, and availability of shallow-draft vessels;

7. vessels of opportunity reasonably available for oil spill recovery operations, including availability of shallow-draft vessels, procedures to equip the vessels, inventory all equipment, and train personnel;

8. procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

9. sufficient equipment to track the movement of discharged oil, including aerial surveillance sufficient to direct skimming operations.

10. Each plan shall describe the personnel available to respond to an oil spill, including:

i. a list by job category including a job description for each type of spill response position needed as indicated in the spill response organization scheme;

ii. a match between personnel by job category, and the equipment proposed for use (including equipment appropriate for shallow-water environments), including the plan for mobilization of such personnel;

iii. sufficient personnel to maintain a response effort of at least 14 days.

11. Each plan shall describe procedures for the transport of required equipment, personnel and other resources to the spill site. The description shall include plans for alternative procedures during adverse environmental conditions. Adverse environmental conditions to be considered shall include:

i. adverse weather;

ii. sea states, tides, winds and currents;

iii. presence of debris or other obstacles; and

iv. any other known environmental conditions that could restrict response efforts.

(C) A list of the marine facility's spill management personnel (and company name if applicable) and their spill response qualifications including a discussion of spill response training and experience, regulatory awareness and compliance, and supervision.

(D) Any equipment and personnel identified in the plan must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventuality must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair. Major equipment is that which, if removed, would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory, or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from service for maintenance or repair.

(E) Group 5 Oils

Marine facilities that handle Group 5 oils must contract with one or more Rated OSRO(s) to address the marine facility's Response Planning Volume. Such equipment shall include, but is not limited to the following:

1. sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

2. containment boom, sorbent boom, silt curtains, or other methods to reduce spreading on the bottom;

3. dredges, pumps, or other equipment necessary to recover oil from the bottom;

4. equipment necessary to assess the impact of such discharges; and

5. any other appropriate equipment necessary to respond to a discharge involving a Group 5 oil.

(F) The plan holder may propose the use of non-mechanical methods for response operations which may include dispersants, in-situ burning, coagulants, bioremediants, or other chemical agents. The use of any non-mechanical method for response must be done in accordance with provisions of the State Marine Oil Spill Contingency Plan, the National Contingency Plan, the applicable federal Area Contingency Plan and all applicable State laws and regulations. If a non-mechanical method of response is proposed, the plan shall include:

If a non-mechanical method of response is proposed, the plan shall include:

1. methods of deployment or application;

2. for use of a chemical agent,a description of the specific mechanisms in place to assess the environmental consequences of the chemical agent. This shall include the mechanism for continuous monitoring of environmental effects for the first three days after initial application, and periodic monitoring thereafter until the agent is inert or no longer operative;

3. identification of all permits, approvals or authorizations needed to allow the use of chemical agents or non-mechanical methods, and the timeline for obtaining them;

4. a plan for protecting resources at risk, areas of public concern and the public from any adverse effects of the non-mechanical method used;

5. the projected efficacy of each type of non-mechanical method proposed for use taking into account the type of spilled material and the projected environmental conditions of the potential spill site; and

6. upon request, the plan holder shall provide any test results known to the plan holder which assess the environmental impacts of applying these methods in the marine environment.

(G) The plan shall describe methods for tracking the movement of the discharged oil; and

(H) The plan shall list the location of the weather stations to be used for observations of winds, currents and other data at the time of a spill that may assist in making real-time projections of spill movement.

(e) Shoreline Protection

Each plan must provide for shoreline protection of all potential spills from the marine facility.

(1) Shoreline Response Planning Volume

Each plan shall demonstrate that the marine facility has access to all necessary equipment and services to address the response strategies appropriate to each shoreline that could potentially be impacted by a spill from the facility.

To determine the amount of equipment and services necessary a Response Planning Volume must be calculated as outlined below:

(A) Multiply the reasonable worst case spill for the marine facility, as calculated in Subsection 817.02(d)(1), by the appropriate persistence factor from the chart below for the most persistent type of oil that may be spilled:

Oil Group	Group 1	Group 2	Group 3	Group 4
Persistence Multiplier	.10	.30	.50	.70

(B) Emulsification Factors

The volume determined from the calculation above is then multiplied by one of the following emulsification factors, again, based on the type of oil:

Oil Group	Group 1	Group 2	Group 3	Group 4
Emulsification Multiplier	1.0	1.8	2.0	1.4

(C) Total Shoreline Equipment Required

The total determined by this calculation is a Response Planning Volume.

1. The Response Planning Volume to be used to determine the amount of Response Equipment and Services that must be under contract shall

be the greater of the amount determined in Subsection 817.02(e)(1), or the adjusted Planning Volume for onshore recovery calculated for the nearshore/inland environment in the facility's federal response plan pursuant to 33 CFR Part 154., Appendix C, Section 7.

2. All calculations used to determine the Response Planning Volume shall be included in the plan.

(2) Shoreline Protection Equipment and Services

Each plan must identify, and ensure availability through a contract or other approved means (as defined in Section 815.05(b) of this subchapter), the capability of effecting shoreline protection strategies. Such protection strategies must be commensurate with the Response Planning Volume calculated for potential shoreline impact, and must be capable of addressing all appropriate protection, and response strategies. The specific areas where equipment and services must be available for use shall be identified in the Off-Site Consequence Analysis.

(A) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the amounts of all protective booming, shallow-draft vessels, and shoreline protection equipment necessary to address the specific types of shorelines that may be impacted;

2. the location, inventory and ownership of the equipment to be used to fulfill the response requirements;

3. the procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator.

(B) Each plan shall have under contract or other approved means sufficient trained personnel to respond to all oil spills up to the calculated Response Planning Volume, which are to remain on scene until demobilized by the State Incident Command or the Unified Command. For planning purposes, this shall include procedures to obtain sufficient personnel to maintain a response effort of at least 14 days.

(C) Any equipment and personnel identified to meet the planning standard requirements must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventuality must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair. Major equipment is that which, if moved, would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from service for maintenance or repair if the Administrator has not disapproved such removal within 24 hours of notification.

4. The equipment owner shall notify the Administrator when the major equipment is back in service.

(3) (Reserved)

(4) Shoreline Clean-Up

(A) Utilizing the equipment that must be under contract, each plan shall describe the methods that will be used to contain spilled oil and remove it from the environment. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate for use on the type of oil identified. The description shall include:

1. all shoreline clean-up procedures and oil diversion and pooling procedures for the close-to-shore environment. These procedures shall include, where appropriate, methods for carrying out response operations and clean-up strategies in shallow-water environments, as identified in the trajectory analysis conducted as part of the Off-site Consequence Analysis;

2. methods for shoreside cleanup, including containment and removal of surface oil, subsurface oil and oiled debris and vegetation from all applicable shorelines, adjacent land and beach types.

3. measures to be taken to minimize damage to the environment from land operations during a spill response, such as impacts to sensitive shoreline habitat caused by heavy machinery or foot traffic.

(B) Protection, response and clean-up strategies will be specific to the type of oil spilled, the expected spill sites as identified in the Off-Site Consequence Analysis, and the resources at risk at those spill sites.

(C) Each plan must utilize all the strategies appropriate to the potential impact sites.

(D) Each plan shall have under contract or other approved means sufficient trained personnel to respond to all oil spills up to the Response Planning Volume, which are to remain on scene until demobilized by the State Incident Command or the Unified Command

(f) Response Procedures

(1) Each plan shall describe the organization of the marine facility's spill response system and management team. An organizational diagram depicting the chain of command shall also be included. Additionally, the plan shall describe the method to be used to interface the plan holder's organization into the State Incident Command System and/or the Unified Command Structure as required by Title 8, California Code of Regulations, Subsection 5192(q)(3)(A).

(A) The plan holder may utilize the procedures outlined in the appropriate Area Contingency Plan when describing how the marine facility's chain of command will interface with the State Incident Command System which utilizes the Unified Command.

(B) Each plan shall describe the organization of the plan holder's public information office, as it relates to an oil spill incident, and the method by which the Information Officer will be integrated into the State Incident Command System.

(C) Each plan shall describe the plan holder's safety program as it relates to an oil spill incident and the method by which their Safety Office will be integrated into the State Incident Command System.

(2) Each plan shall identify potential sites needed for spill response operations including location(s) for:

(A) a central command post sufficient to accommodate the State Incident Command or Unified Command as well as the plan holder's response organization;

(B) a central communications post if located away from the command post;

(C) equipment and personnel staging areas.

(3) Each plan shall include a checklist, flowchart or decision tree depicting the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The checklist, flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.

(4) Each plan shall describe how the plan holder will provide emergency services before the arrival of local, state or federal authorities on the scene, including:

(A) procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;

(B) procedures for emergency medical treatment and first aid;

(C) procedures to control ground, marine and air traffic which may interfere with spill response operations;

(D) procedures to manage access to the spill response site and the designation of exclusion, decontamination and safe zones; and

(E) procedures to provide the required personnel protective gear for responders.

(5) Each plan shall describe equipment and procedures to be used by marine facility personnel to minimize the magnitude of a spill and minimize structural damage which may increase the quantity of oil spilled.

(A) Spill mitigation procedures shall include immediate containment strategies, methods to stop the spill at the source, methods to slow or stop leaks, and methods to achieve immediate emergency shutdown.

(B) For spill mitigation procedures the plan shall include prioritized procedures for marine facility personnel including specific procedures to shut down affected operations. Responsibilities of facility personnel should be identified by job title. A copy of these procedures should be maintained at the facility operations center. These procedures should address the following equipment and scenarios:

1. failure of manifold and mechanical loading arm, other transfer equipment, or hoses, as appropriate;
2. tank overfill;
3. tank failure;
4. pipe rupture;
5. pipe leak, both under pressure and not under pressure, if applicable;
6. explosion and/or fire; and
7. other equipment failure (e.g. pumping system failure, relief valve failure, etc.).

(6) Each plan shall detail the lines of communications between the responsible party, the Qualified Individual and the on–scene commanders, response teams, and local, state, and federal emergency and disaster responders, including:

(A) communication procedures;

(B) the communication function (e.g., ground–to–air) assigned to each channel or frequency used;

(C) the maximum broadcast range for each channel or frequency used; and

(D) redundant and back–up systems.

(7) Each plan shall provide for post–spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator within 90 days following the completion of response and cleanup procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

(8) Each plan shall describe the procedures to manage access to the spill response site, the designation of exclusion, decontamination and safe zones, and the decontamination of equipment and personnel during and after oil spill response operations, as required by the California Occupational Safety and Health Administration.

(9) Prior to beginning spill response operations and/or clean up activities, a Site Safety Plan must be completed. Each site safety plan shall include information as required pursuant to Title 8, Section 5192(b)(4)(B) of the California Code of Regulations including, but not limited to, a written respiratory protection program, written personal protective equipment program, written health and safety training program, written confined space program and permit forms, direct reading instrument calibration logs, and written exposure monitoring program.

(g) Notification Procedures

(1) Each plan shall include a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) detail the procedures for reporting oil spills to all appropriate local, state, and federal agencies;

(B) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24–hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;
2. telephone number or other means of contact for any time of the day; and
3. an alternate contact in the event the individual is unavailable.

(C) establish a clear order of priority for notification.

(2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO, or other initial response resources if an OSRO is not being used, immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) All phone numbers necessary to complete the immediate notification procedures must be included in the response manual.

(3) Each plan shall identify a call–out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the owner/operator is required to have under contract. Procedures must allow for initiation of the call–out within 24 hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) marine facility name and location;

(B) date and time of the incident;

(C) the cause and location of the spill;

(D) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(E) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(F) the size and appearance of the slick;

(G) prevailing weather and sea conditions;

(H) actions taken or planned by personnel on scene;

(I) current condition of the marine facility;

(J) injuries and fatalities; and

(K) any other information as appropriate.

(5) Reporting of a spill as required by Subsection 817.02(g)(2) shall not be delayed solely to gather all the information required by Subsection 817.02(g)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On–Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this timeframe, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command will meet the requirements of this subsection.

(h) Temporary Storage and Waste Management

(1) Each plan shall identify sufficient temporary storage for all recovered oil or all oily waste, and identify facilities that would be able to accept the recovered oil or oily waste for recycling or other means of waste management. Sufficient storage shall be no less than two times the calculated Response Planning Volume up to the Daily Recovery Rate as determined in Section 817.02(d)(3)(B).

(A) To meet the temporary storage requirement described in Subsection (1) above, the following amounts of storage shall be dedicated response resources (as defined in Section 815.05(c) of this subchapter) or OSRO–owned and controlled response resources (as defined in Section 815.05(k) of this subchapter), as applicable to the appropriate risk zone:

Sufficient storage to support the skimming systems shall be brought to the scene of the spill during the first four hours of response:

520 barrels of storage, or 20% of the response planning volume, whichever is less, shall be brought to the scene of the spill within four hours of notification of a spill;

12,000 barrels, or two times the response planning volume, whichever is less, shall be available at the scene of the spill within 6 hours of notification of a spill.

The balance of the temporary storage requirement described in Subsection (1) above may be provided by non–dedicated storage resources. All skimming systems operating at the scene of a spill shall have adequate storage.

(2) Each plan shall identify the party that shall maintain responsibility for recovered oil and oily waste for the purposes of temporary storage.

(3) Each plan shall describe site criteria and methods used for temporary storage of recovered oil and oily wastes generated during response and cleanup operations, including sites available within the marine facility, or near the spill area.

(4) Each plan shall identify all applicable permits, and all federal, state and local agencies responsible for issuing those permits for transit, temporary storage and ultimate waste management of all wastes likely to result from an oil spill.

(5) Each plan shall include information which could expedite the state approval process for the use of temporary waste storage sites, including a list of appropriate contacts and a description of procedures to be followed for each approval process.

(i) Oiled Wildlife Care Requirements

Each plan shall describe how oiled wildlife care will be provided by one of the following approved means:

(1) Utilize the California Oiled Wildlife Care Network (OWCN) to meet oiled wildlife care requirements; or

(2) describe procedures that clearly outline how oiled wildlife care will be provided. The equipment, facilities, and personnel necessary to implement these procedures must be identified and assured by contract for each Geographic Area covered by the plan. Standards and written protocols for wildlife care must comply with all applicable State and federal laws.

(j) Training

(1) Each plan shall provide that all appropriate personnel employed by the marine facility shall receive training in the use and operation of oil spill response and clean–up equipment. The plan shall describe:

(A) the type and frequency of training that each individual in a spill response position receives to achieve the level of qualification demanded by their job description;

(B) the procedures, if any, to train and use volunteers or other additional personnel in spill response operations as necessary for the size of the spill.

(2) Each plan shall describe the type and frequency of personnel training on methods to reduce operational risks. The description of the training shall include, if applicable, the following:

(A) any established training objectives that address potential spill sources and causes that were identified in the Risk and Hazard Analysis.

(B) the means of achieving any established training objectives, such as:

1. training programs for the positions involved with the various aspects of the marine facility's operation that could result in a spill (e.g., position responsible for facility inspections or transfers);

2. a training schedule, including adequate frequency, (e.g., initial training upon hire and annual refresher training) and type of training (workshops, classroom, videotape, on–the–job training, etc.) for each position trained, by job classification;

(C) any licenses, certifications or other prerequisites required to hold particular jobs.

(D) A plan holder whose facility is subject to and in compliance with State Lands Commission training regulations; Title 2, Division 3, Chapter 1, Article 5.3, CCR Sections 2540 through 2548, shall be considered in compliance with the training provisions of this subsection.

(3) Each plan shall provide for safety training as required by state and federal health and safety laws for all personnel likely to be engaged in oil spill response, including a program for training non–permanent responders such as volunteers or temporary help.

(4) The marine facility owner/operator shall ensure that training records are maintained for 3 years. All such documentation must be made available to the Administrator upon request.

(k) Drills and Exercises

(1) Each plan shall describe the small marine facility's drill and exercise program that meets the requirements of Section 820.01(a), to ensure that the elements of the plan will function in an emergency.

(2) Training sessions may constitute creditable drills and exercises if all requirements in Subsection 820.01(a) are met.

(3) A marine facility owner/operator shall ensure that all of the response resources identified in the plan participate in equipment deployment exercises at least once every three years.

NOTE: Authority cited: Sections 8670.7, 8670.10, 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.7, 8670.10, 8670.25.5, 8670.28, 8670.29, 8670.30, 8670.31 and 8670.37.51, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Change without regulatory effect amending subsection (a)(2) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effect amending subsections (d)(3)(B)1., (d)(3)(B)2., (d)(3)(B)2.ii. and (d)(3)(D) filed 6–11–97; operative 7–1–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).
4. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
5. Change without regulatory effect amending subsections (c)(4)(A)–(C), (f)(1) and (j)(2)(D) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
6. Amendment of subsections (d)(3)(B)1.–(d)(3)(B)2.iii. filed 5–25–2001; operative 7–1–2001 pursuant to Government Code section 8670.28(e) and 14 CCR 817.02(d)(3)(E). Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 2001, No. 21).
7. Amendment of subsection (a)(4) and (h)(1), new subsection (h)(1)(A) and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
8. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 817.03. Small Marine Fueling Facility Plan Content.

To the degree the information required by Subsections 817.03(b) through (k) exists elsewhere, copies of the pre–existing information may be submitted. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

(a) Introductory Material

(1) Each plan shall provide the following information:

(A) name and address of the small marine fueling facility (as defined in Section 790 of this subdivision), and mailing address if different. The name and address of the facility shall be referenced in the plan title or on a title page at the front of the plan;

(B) name, address, phone number, fax number and e–mail address, if available, of the owner and/or operator of the small marine fueling facility;

(C) name, address, phone number, fax number and e–mail address, if available, of the person to whom correspondence should be sent;

(D) a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holder's management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format;

> "I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this contingency plan is true and correct and that the plan is both feasible and executable."
>
> _____(signature), (title), (date);

(E) The California Certificate of Financial Responsibility (COFR) number for the small marine fueling facility shall be included in the front of the plan. If the COFR is not available when the plan is submitted because the facility is not yet operational, the COFR number must be pro-

vided as soon as it becomes available. The COFR number must be provided before the plan can be approved.

(2) Each plan shall identify a Qualified Individual, as defined in Chapter 1, Section 790 of this subdivision, and any alternates that may be necessary for the purpose of implementing the plan, and documentation that the Qualified Individual acknowledges this capacity. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive legal documents on behalf of the plan holder, and documentation that the agent for services of process acknowledges this capacity. Such agent shall be located in California.

(4) Each plan shall identify a Spill Management Team (as defined in Section 815.05(p) of this subchapter), and provide documentation that the Spill Management Team acknowledges this capacity.

(5) Each plan shall contain a copy of the contract or other approved means (as defined in Section 815.05(b) of this subchapter), verifying that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on-water recovery and storage, and shoreline protection services required.

(b) Small Marine Fueling Facility Description

(1) Each plan shall describe the small marine fueling facility's design and operations with specific attention to those areas from which an oil spill could occur. This description shall include, at a minimum, the following information:

(A) For small marine fueling facilities (except for those mobile transfer units addressed under Subsection (B) below):

1. a piping and instrumentation diagram, and a tank diagram including the location of pumps, valves, vents and lines; the number, and oil storage capacity of each structure covered under the plan and its age, design, construction and general condition; the range of oil products normally stored in each structure; the presence or absence of containment structures and equipment; and the location of mooring areas, oil transfer locations, control stations, safety equipment, drip pans and the drainage for drip pans;

(B) For mobile transfer units:

1. an instrumentation and tank diagram of the mobile transfer unit tankage and fueling components:

(C) a description of the types, physical properties, health and safety hazards, maximum storage or handling capacity and current normal daily throughput of oil handled. A material safety data sheet (MSDS) or equivalent will meet some of these requirements and can be maintained separately at the small marine fueling facility providing the plan identifies its location;

(D) a description of the normal procedures for transferring oil, and the amount, frequency and duration of the oil transfers; and

(E) the small marine fueling facility's normal hours of operation.

(c) Prevention Measures

Each plan shall address prevention measures in order to reduce the possibility of an oil spill occurring as a result of an oil transfer. The prevention measures must eliminate or mitigate all the hazards identified in the Risk and Hazard Analysis.

(1) Risk and Hazard Analysis

(A) Each plan shall provide a history of the significant spills from the small marine fueling facility for either the 10 year period prior to the date of plan submittal, or from the date the facility became operational, whichever is shorter. As used in this section, a significant spill is one which had a deleterious impact on the local environment, or caused the physical layout of the facility or the facility's operations procedures to be modified. This information shall include:

1. a written description of sites, equipment or operations with a history of oil spills;

2. the cause and size of any historical spill. The causes to be considered shall include such factors as operator error, or a failure of the system or subsystem from which the spill occurred;

3. a brief summary of the impact of the spills; and

4. a description of the corrective actions taken in response to any and all spills included in the historical data.

(B) Each small marine fueling facility shall conduct a Risk and Hazard Analysis to identify the hazards associated with the operation of the small marine fueling facility, including operator error, the use of the facility by various types of vessels, equipment failure, and external events likely to cause an oil spill.

The owner/operator may use the "What-If Analysis" hazard evaluation method or an equivalent method identified by the American Institute of Chemical Engineers.

(C) The chosen hazard evaluation method must be conducted in accordance with the guidelines established by the American Institute of Chemical Engineers as published in the "Guidelines for Hazard Evaluation Procedures", second edition, copyright 1992, prepared for The Center For Chemical Process Safety.

1. The plan must include information regarding the expertise of the working group that develops the analysis.

2. The plan must include information that demonstrates to the Administrator that the analysis is appropriate to the small marine fueling facility and adequate according to the published procedures referenced in (C) above.

3. An owner/operator may be found in violation of this section if the Risk and Hazard Analysis does not adequately address the risks posed by the small marine fueling facility.

4. The Administrator may require that an analysis be updated if there are significant changes made to the small marine fueling facility. A significant change, as used in this paragraph, is one that would have an impact on the outcome of the Risk and Hazard Analysis.

5. Additional information regarding the analysis method used or the working group that conducted the analysis shall be made available to the Administrator upon request.

(D) Each plan shall include a summary of the results of the Risk and Hazard Analysis. The summary shall include the following:

1. the hazard analysis method used, and a statement that the analysis is specific to the small marine fueling facility. If the analysis relies on a risk assessment at a similar facility, the summary shall specify how the two facilities are comparable;

2. an inventory of the hazards identified, including the hazards that resulted in the historical spills;

3. an analysis of the potential oil discharges, including the size, frequency, cause, duration and location of all significant spills from the small marine fueling facility as a result of each major type of hazard identified;

4. the control measures that will be used to mitigate or eliminate the hazards identified. The plan shall include timeframes for implementing any control measures that cannot be functional immediately; and

5. a prediction of the potential oil spills that might still be expected to occur after any mitigating controls have been implemented.

(E) All supporting documentation used to develop the Risk and Hazard Analysis summary shall be made available to the Administrator upon request.

(2) Off-Site Consequence Analysis:

For the significant hazards identified in the Risk and Hazard Analysis required under this section, the small marine fueling facility (except for mobile transfer units, as defined in Chapter 1, Section 790 of this subdivision) shall conduct a trajectory analysis to determine the Off-Site Consequences of an oil spill. This analysis shall assume pessimistic water and air dispersion and other adverse environmental conditions such that the worst possible dispersion of the oil into the air or onto the water will be considered. This analysis is intended to be used as the basis for determin-

ing the areas and shoreline types for which response strategies must be developed. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. If information is available, the plan holder may make reference to that information (i.e., specify where the information can be found) and does not need to duplicate it in the plan. The analysis, which shall be summarized in the plan, shall include at least the following:

(A) a trajectory, or series of trajectories, to determine the potential direction, rate of flow and time of travel of the reasonable worst case oil spill from the small marine fueling facility to marine waters and to the shorelines, including shallow-water environments, that may be impacted. For purposes of this requirement, a trajectory or trajectories (projected for a minimum of 72 hours) that determine the outer perimeter of a spill, based on regional extremes of climate, tides, currents and wind with consideration to seasonal differences, shall be sufficient;

(B) for each probable shoreline that may be impacted, a discussion of the general toxicity effects and persistence of the discharge based on type of product; the effect of seasonal conditions on sensitivity of these areas; and an identification of which areas will be given priority attention if a spill occurs.

(3) Resources at Risk from Oil Spills:

Based on the trajectory of the spilled oil as determined in the Off-Site Consequence Analysis, each small marine fueling facility plan (except for mobile transfer units, as defined in Chapter 1, Section 790 of this subdivision) shall identify the environmentally, economically and culturally sensitive sites that may be impacted. Each plan shall identify and provide a map of the locations of these areas. Some of the information required in this subsection may be drawn from the appropriate Area Contingency Plans completed by the U.S. Coast Guard, State Agencies, and Local Governments pursuant to the Oil Pollution Act of 1990. If information is available, the plan holder may make reference to that information (i.e., specify where the information can be found) and does not need to duplicate it in the plan.

(A) The map of environmentally sensitive sites shall include:

1. shoreline types and associated marine resources;

2. the presence of migratory and resident marine bird and mammal migration routes, and breeding, nursery, stopover, haul-out, and population concentration areas by season;

3. the presence of aquatic resources including marine fish, invertebrates, and plants including important spawning, migratory, nursery and foraging areas;

4. the presence of natural terrestrial animal and plant resources in marine-associated environments;

5. the presence of state or federally-listed rare, threatened or endangered species;

6. the presence of commercial and recreational fisheries including aquaculture sites, kelp leases and other harvest areas.

(B) The map of the locations of economically and culturally sensitive sites shall include:

1. public beaches, parks, marinas, boat ramps and diving areas;

2. industrial and drinking water intakes, power plants, salt pond intakes, and other similarly situated underwater structures;

3. off-shore oil and gas leases and associated drilling/production platforms;

4. known historical and archaeological sites;

5. areas of cultural or economic significance to Native Americans; and

6. the major waterways and vessel traffic patterns that are likely to be impacted.

(4) Required Prevention Measures

(A) Each small marine fueling facility shall implement all prevention measures to reduce or mitigate the potential hazards identified in the Risk and Hazard Analysis.

(B) In addition, each plan shall include the following:

1. schedules, methods and procedures for testing, maintaining and inspecting hoses, mobile transfer unit tankage and fueling components, and other structures within or appurtenant to the small marine fueling facility, that contain or handle oil which may impact marine waters if a failure occurs. Any information developed in compliance with Title 33 CFR, Part 154; Title 49 CFR, Part 195; and/or Title 5, Division 1, Part 1, Chapter 5.5 of the Government Code may be substituted for all or part of any comparable prevention measures required by this subsection;

2. methods to reduce spills during transfer and storage operations, including overfill prevention measures and immediate spill containment provisions. Any information developed in compliance with Title 2, CCR, Division 3, Chapter 1, Article 5.5; and/or Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection;

3. procedures to assure clear communication among all the parties involved during transfer operations. Any information developed in compliance with Title 2, CCR, Division 3, Chapter 1, Article 5.5; Title 14, CCR, Division 1, Subdivision 4, Chapter 3, Subchapter 6; and/or Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection;

4. the plan holder shall provide additional relevant information to the Administrator upon request.

(d) Containment Booming and On-Water Recovery

Each plan holder must a contract or other approved means for containment booming and on-water recovery response resources up to their Response Planning volume for all potential oil spills from the small marine fueling facility. To determine the amount of response resources for containment booming and on-water recovery, each plan holder must calculate a Response Planning Volume as outlined below:

(1) Reasonable Worst Case Spill

To calculate the Response Planning Volume, it is first necessary to determine the reasonable worst case spill size as follows:

(A) For small marine fueling facilities (except for mobile transfer units which are addressed in Subsection (B) below):

1. the amount of additional spillage that could reasonably be expected to enter California marine waters during emergency shut-off, transfer or pumping operations if each hose or pipeline ruptures or becomes disconnected, or if some other incident occurs which could cause or increase the size of an oil spill. The spillage shall be calculated as follows: the maximum time to discover the release from the pipe or hose in hours, plus the maximum time to shut down flow from the pipe or hose in minutes or hours (based on historic discharge data or the best estimate in absence of historic discharge data for the facility) multiplied by the maximum flow rate expressed in barrels per hour (based on the maximum relief valve setting or maximum system pressure when relief valves are not provided) plus the total linefill drainage volume expressed in barrels.

(B) For mobile transfer units:

1. the total tank storage capacity.

(C) The calculations, and such parameters as flow rates, linefill capacities and emergency shutoff times, that are used to determine a small marine fueling facility's reasonable worst case spill shall be submitted as part of the plan. The Administrator may review and test these parameters as part of the drill conducted in accordance with Subsection 816.03(b).

(2) Persistence and Emulsification Factors

(A) The reasonable worst case spill volume is then multiplied by a persistence factor relative to the most persistent type of oil that may be spilled. The persistence factors are specified below:

Oil Group	Group 1	Group 2	Group 3	Group 4
Persistence Multiplier	.20	.50	.50	.50

(B) Emulsification Factors

The volume determined from the calculation in Subparagraph (A) is then multiplied by one of the following emulsification factors, again, based on the type of oil.

Oil Group	Group 1	Group 2	Group 3	Group 4
Emulsification Multiplier	1.0	1.8	2.0	1.4

(C) Response Planning Volume

The total determined by the above calculation is a Response Planning Volume.

1. The Response Planning Volume is used to determine the amount of Response Equipment and Services that must be under contract.

2. All calculations used to determine the Response Planning Volume shall be included in the plan.

(3) Response Capability Standards

The standards set forth in this section may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to those under contract must be identified, and a call–out procedure in place to access this equipment, if the small marine fueling facility has a spill that exceeds these planning standards. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning standards.

(A) Total Response Resources Required

1. The total amount of on–water containment and recovery equipment and services required shall be the amount necessary to address the Response Planning Volume determined in Sections 817.03(d)(1) & (2) as follows:

i. sufficient on–water containment and recovery equipment and services to respond to 50% of the calculated Response Planning Volume within two hours of notification.

ii. sufficient on–water containment and recovery equipment and services to respond to the remaining 50% of the calculated Response Planning Volume within 12 hours of notification.

2. The timeframes for equipment delivery and deployment as specified in this subsection do not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 817.03(f)(6), and as required by the California Occupational and Safety Administration. In addition, these timeframes do not account for delays that may occur due to weather or seastate. The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or a drill and will take into account the prevailing conditions of weather and seastate, as well as the site assessment requirements.

(4) Transfer Operations

Each plan shall demonstrate that the small marine fueling facility, not including mobile transfer units, owns or has access to sufficient and appropriate boom, trained personnel and equipment, maintained in a stand–by condition, such that at least 600 feet of boom can and will be deployed for the most effective containment immediately, but no longer than 30 minutes after the discovery of a spill. Additionally, each plan holder shall identify the equipment, personnel and procedures such that an additional 600 feet of boom can and will be deployed within one hour for the most effective containment in the event of an oil spill. Response resources owned or under contract to the small marine fueling facility or vessel engaged in oil transfer operations may be used to meet these requirements.

(5) On–Water Response Equipment and Services

(A) Each plan shall demonstrate that the small marine fueling facility owns or has under contract or other approved means (as defined in Section 815.05(b) of this subchapter), access to all the necessary equipment, services, and personnel to comply with the Response Capability Standards established in Subsection 817.03(d). The amount of response equipment required shall take into account the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) of the oil recovery equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow–water response capability (refer to the relevant U.S. Coast Guard Area Contingency Plan), the plan shall provide for an adequate number of shallow–draft vessels (as defined in Section 815.05 of this subchapter) and for adequate booming and other shoreline protective resources to be owned or under contract or other approved means and available to respond to provide shoreline protection of all sensitive sites identified in the trajectory analysis conducted as part of the Off–site Consequence Analysis. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

2. the type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

3. the manufacturer's rated capacities and the operational characteristics for each major item of oil recovery equipment;

4. the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) for each major piece of on–water recovery equipment listed, as well as the effective daily recovery capacity for the skimming systems as a whole.

i. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

ii. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

5. vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom and availability of shallow–draft vessels;

6. procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

(e) Shoreline Protection and Clean–up

Each plan must provide for shoreline protection and clean–up of all potential spills from the small marine fueling facility. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate for use on the type of oil identified.

(f) Response Procedures

(1) Each plan shall describe the organization of the small marine fueling facility's spill response management team. An organizational diagram depicting the chain of command shall also be included. Additionally, the plan shall describe the method to be used to interface the plan holder's organization into the State Incident Command System and/or the Unified Command Structure as required by Title 8, California Code of Regulations, Subsection 5192(q)(3)(A).

(A) The plan holder may utilize the procedures outlined in the appropriate Federal Area Contingency Plan when describing how the small marine fueling facility's chain of command will interface with the State Incident Command System which utilizes the Unified Command Structure.

(2) Each plan shall describe how the plan holder will provide emergency services before the arrival of local, state or federal authorities on the scene, including:

(A) procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;

(B) procedures for emergency medical treatment and first aid;

(3) Each plan shall include a checklist, flowchart or decision tree depicting the procession of each major stage of spill response operations from spill discovery to completion of clean–up. The checklist, flowchart, or decision tree shall describe the general order and priority in which key spill response activities are performed.

(4) Each plan shall describe equipment and procedures to be used by small marine fueling facility personnel to minimize the magnitude of a spill and minimize structural damage which may increase the quantity of oil spilled.

(A) Spill mitigation procedures shall include immediate containment strategies, methods to stop the spill at the source, methods to slow or stop leaks, and methods to achieve immediate emergency shutdown.

(5) Each plan shall provide for post–spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator within 90 days following the completion of response and clean–up procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

(6) Prior to beginning spill response operations and/or clean–up activities, a Site Safety Plan must be completed. Each Site Safety plan shall describe the procedures to be used for the development of the Site Safety Plan required pursuant to Title 8, Section 5192(b)(4)(B) of the California Code of Regulations.

(g) Notification Procedures

(1) Each plan shall include a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) detail the procedures for reporting oil spills to all appropriate local, state, and federal agencies;

(B) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24–hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;

2. telephone number or other means of contact for any time of the day; and

3. an alternate contact in the event the individual is unavailable.

(C) establish a clear order of priority for notification.

(2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO, or other initial response resources if an OSRO is not being used, immediately, but no longer than 30 minutes, after the discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Governor's Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) All phone numbers necessary to complete the immediate notification procedures must be included in the response manual.

(3) Each plan shall identify a call–out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the owner/operator owns or has under contract. Procedures must allow for initiation of the call–out within 24 hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) small marine fueling facility name and location;

(B) date and time of the incident;

(C) the cause and location of the spill;

(D) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(E) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(F) the size and appearance of the slick;

(G) prevailing weather and sea conditions;

(H) actions taken or planned by personnel on scene;

(I) current condition of the small marine fueling facility;

(J) injuries and fatalities; and

(K) any other information as appropriate.

(5) Reporting of a spill as required by Subsection 817.03(g)(2) shall not be delayed solely to gather all the information required by Subsection 817.03(g)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On–Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this timeframe, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command will meet the requirements of this subsection.

(h) Temporary Storage and Waste Management

(1) Each plan shall identify sufficient temporary storage for all recovered oil or all oily waste, and identify facilities that would be able to accept the recovered oil or oily waste for recycling or other means of waste management. Sufficient storage shall be no less than two times the calculated Reasonable Worst Case Spill volume as determined in Section 817.03(d)(1).

(2) Each plan shall identify the party that shall maintain responsibility for recovered oil and oily waste for the purposes of temporary storage.

(3) Each plan shall describe site criteria and methods used for temporary storage of recovered oil and oily wastes generated during response and clean–up operations, including sites available within the small marine fueling facility or near the spill area.

(4) Each plan shall identify all applicable permits, and all federal, state and local agencies responsible for issuing those permits for transit, temporary storage and ultimate waste management of all wastes likely to result from an oil spill.

(5) Each plan shall include information which could expedite the state approval process for the use of temporary waste storage sites, including a list of appropriate contacts and a description of procedures to be followed for each approval process.

(i) Oiled Wildlife Care Requirements

Each plan shall describe how oiled wildlife care will be provided by one of the following approved means:

(1) Utilize the California Oiled Wildlife Care Network (OWCN) to meet oiled wildlife care requirements: or

(2) describe procedures that clearly outline how oiled wildlife care will be provided. The equipment, facilities, and personnel necessary to implement these procedures must be identified and assured by contract for each Geographic Area covered by the plan. Standards and written protocols for wildlife care must comply with all applicable State and federal laws.

(j) Training

(1) Each plan shall provide that all appropriate personnel employed by the small marine fueling facility shall receive training in the use and operation of oil spill response and clean–up equipment. The plan shall describe:

(A) the type and frequency of training that each individual in a spill response position receives to achieve the level of qualification demanded by their job description;

(2) Each plan shall describe the type and frequency of personnel training on methods to reduce operational risks. The description of the training shall include, if applicable, the following:

(A) any established training objectives that address potential spill sources and causes that were identified in the Risk and Hazard Analysis.

(B) the means of achieving any established training objectives, such as:

1. a training schedule, including adequate frequency, (e.g., initial training upon hire and annual refresher training) and type of training (workshops, classroom, videotape, on–the–job training, etc.) for each position trained;

(C) any licenses, certifications or other prerequisites required to hold particular jobs.

(D) A plan holder whose small marine fueling facility is subject to and in compliance with State Lands Commission training regulations; Title 2, Division 3, Chapter 1, Article 5.3, CCR Sections 2540 through 2548, shall be considered in compliance with the training provisions of this subsection.

(3) Each plan shall provide for safety training as required by state and federal health and safety laws for all personnel likely to be engaged in oil spill response, including a program for training non–permanent responders such as volunteers or temporary help.

(4) The small marine fueling facility owner/operator shall ensure that training records are maintained for three years. All such documentation must be made available to the Administrator upon request.

(k) Drills and Exercises

(1) Each plan shall describe the small marine fueling facility's drill and exercise program that meets the requirements of Section 820.01(a) to ensure that the elements of the plan will function in an emergency.

(2) Drills shall be designed to exercise either individual components of the plan or the entire response plan. Such drills, individually or in combination, shall ensure that the entire plan is exercised at least once every three years.

NOTE: Authority cited: Sections 8670.7, 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.7, 8670.10, 8670.25.5, 8670.28, 8670.29, 8670.30, 8670.31 and 8670.37.51, Government Code.

HISTORY

1. New section filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Change without regulatory effect amending subsections (f)(1) and (j)(2)(D) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
3. Amendment of subsection (a)(4) and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
4. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 818. Tank Vessel Contingency Plans.

HISTORY

1. New heading filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Editorial correction of section heading (Register 95, No. 41).
3. Amendment of heading filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 818.01. Applicability.

(a) Plans

Unless tank vessels are exempt as provided in Subsection (b) below, oil spill contingency plans shall be prepared, submitted and used pursuant to the requirements of this section by all tank vessels which transit in the marine waters (as defined in Section 815.05 of this subchapter) of California, or conduct business in the state. Business in the state would include such transactions as lightering operations off the coast of California.

(b) Exemptions

(1) This subchapter shall not apply to a tank vessel that enters the marine waters of the state because of imminent danger to the crew, or in an effort to prevent an oil spill or other harm to public safety or the environment. This exemption applies if the following are met:

(A) the operator and crew comply with all orders given by the Administrator or his/her designee, unless the orders are contradicted by orders from the U.S. Coast Guard;

(B) except for fuel, oil may be transferred to or from the tank vessel only if permission is obtained from the Administrator and one of the following conditions is met;

1. the transfer is necessary for the safety of the crew; or

2. the transfer is necessary to prevent harm to public safety or the environment; or

3. a contingency plan is approved or made applicable to the tank vessel.

(C) the tank vessel shall leave the marine waters of the state as soon as it is safe to do so, unless a contingency plan is approved or made applicable to its operation.

(2) Operation Without a Plan

(A) A tank vessel may enter marine waters without an approved contingency plan if the Administrator approves entrance under the plan of the terminal or tanker that is the destination of the tank vessel. The Administrator's approval can be communicated by telephone or facsimile and is subject to the following:

1. the operator of the terminal or tanker provides the Administrator with advance written assurance that the operator assumes full responsibility for the tank vessel while it is traveling to or from the terminal or tanker. Such assurance may be delivered by hand, by mail or by facsimile. If delivered by facsimile the original must follow;

2. the contingency plan includes all conditions pertinent to a tank vessel;

3. the tank vessel meets all the requirements of the terminal or tanker's contingency plan; and,

4. the tank vessel has not made a similar entrance into marine waters in the preceding 12 month period.

(B) A tank vessel in marine waters pursuant to Subsection 818.01(b)(2) shall be operated in accordance with the tank vessel's operations manual. In the event of an oil spill, the tank vessel operator shall comply with the directions of the Administrator and the applicable contingency plan of the terminal or tanker.

(3) Response Vessels

Contingency plans are not required for dedicated response vessels, which are those vessels that are dedicated to conducting response activities for an oil spill incident exclusively.

(4) Innocent Passage

Contingency plans are not required for vessels engaged in innocent passage (as defined in Section 815.05 of this subchapter) within the marine waters of California.

NOTE: Authority cited: Section 8670.28, Government Code. Reference: Sections 8670.30, 8670.33, and 8670.34, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending subsection (a) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 818.02. Tank Vessel Plan Content (Except for Those Vessels Carrying Oil As Secondary Cargo Addressed in Section 818.03 of This Subchapter).

To the degree the information required by Subsections 818.02(b) through (m) exists elsewhere, copies of the pre–existing information may be submitted. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

(a) Introductory Material

(1) Each plan shall provide the following information for each tank vessel covered by the plan:

(A) the tank vessel's name, country of registry, year built, classification society, radio call sign, and Lloyd's IMO identification number. For U.S. flagged (registered) tank vessels without a Lloyd's IMO identifica-

tion number, the vessel's official number (also known as the document number) shall be used;

(B) name, address, phone number, fax number and e-mail address, of the owner and/or operator of the tank vessel(s). This information shall be referenced in the plan title or on a title page at the front of the plan;

(C) the name, address, phone number, fax number and e-mail address, of the person to whom correspondence should be sent;

(D) the tank vessel's classification, hull type, gross registered tonnage (GRT), maximum cargo amounts, length, draft and beam;

(E) a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holder's management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format;

> "I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this contingency plan is true and correct and that the plan is both feasible and executable."
>
> _____(signature), (title), (date);

(F) the California Certificate of Financial Responsibility (COFR) number for the tank vessel(s) covered by the plan shall be included in the front of the plan, or for fleet plans shall be listed separately in a subsection of the plan.

(2) Each plan shall identify a Qualified Individual, as defined in Chapter 1, Section 790 of this subdivision, and any alternates that may be necessary for the purpose of implementing the plan. If the plan holder contracts for this service, documentation that the Qualified Individual or company, and any identified alternates, acknowledge this capacity shall be included in the plan. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive legal documents on behalf of the plan holder. If the plan holder contracts for this service, documentation that the agent for services of process acknowledges this capacity shall be included in the plan. Such agent shall be located in California.

(4) Each plan shall identify a Spill Management Team (as defined in Section 815.05(p) of this subchapter). If the plan holder contracts for this service, documentation that the Spill Management Team acknowledges this capacity shall be included in the plan.

(5) Each plan shall contain a copy of the contract or other approved means (as defined in Section 815.05(b) of this subchapter), verifying that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill. This requirement can be met by a copy of the basic written agreement with an abstract of the recovery and/or cleanup capacities covered by the contract. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on-water recovery and storage, and shoreline protection services required.

(b) Tank Vessel Description

(1) Each plan shall describe the tank vessel's design and operations with specific attention to those areas from which a spill could reasonably be expected to impact the marine waters of California. This description shall include, at a minimum, the following information:

(A) a piping and tank diagram including the location of valves, vents and lines; the age, design, and construction of the tank vessel; the range of oil products normally carried in each structure; and safety equipment;

(B) a description of the types, physical properties, health and safety hazards and maximum storage or handling capacity of the oil or product carried. A material safety data sheet (MSDS) or equivalent will meet some of these requirements and can be maintained separately aboard the tank vessel providing the plan identifies its location.

(c) Prevention Measures

(1) Each plan holder shall take all appropriate prevention measures designed to reduce the possibility of an oil spill occurring as a result of collisions, groundings, explosions or operator error during the operation of the tank vessel. These prevention measures shall include, but not be limited to, the following:

(A) documented safe practices in ship operations and a safe working environment;

(B) safeguards against all identified risks and hazards;

(C) properly documented and updated procedures related to safety and pollution prevention;

(D) ensuring personnel are qualified, medically fit and hold proper licenses;

(E) ensuring personnel know how to operate emergency equipment;

(F) ensuring personnel are trained in emergency preparedness (e.g., fire and boat drills, oil spill response, etc.);

(G) appropriate system monitoring duties are performed;

(H) proper preventive maintenance, inspection and testing of equipment or systems, the failure of which could result in a hazardous situation. This includes, but is not limited to, emergency equipment, cargo system integrity, alarms and emergency shutdowns, oil transfer system integrity, and oily water separator;

(I) internal and external audits to verify compliance of actual practice with documented systems, and to assure continuous review and improvement of safety and pollution prevention systems and processes.

(2) Submitting the following documents as appropriate, and maintaining compliance with the state requirements cited in (c)(1)(C) above, will be considered a demonstration of compliance with this subsection (c):

(A) The owner/operator of a U.S. flag tank vessel shall submit a valid Certificate of Inspection (COI) issued by the U. S. Coast Guard. The owner/operator of a foreign flag tank vessel shall submit valid certificates issued by a member of the International Association of Classification Societies certified by the International Maritime Organization (IMO) of the most recent vessel inspection.

(B) The owner/operator shall also submit a valid Safety Management Certificate (SMC) for each vessel covered by the plan, as well as a Document of Compliance (DOC) to demonstrate compliance with the performance elements in the International Safety Management (ISM) Code subject to IMO Resolution A.741(18), or shall submit proof of compliance with the American Waterways Operators (AWO) Responsible Carrier Program, if applicable.

(C) Where a plan holder's tank vessel is engaged in transfer operations at a facility subject to Public Resources Code 8755, and the plan holder is in compliance with State Lands Commission regulations for oil transfer operations, the plan holder shall be considered in compliance with rules and regulations for preventions of oil spills at marine terminals.

(d) Planning for the Location of Response Resources

The owner/operator must be prepared to respond to a spill anywhere within the marine waters of California where the tank vessel transits. To determine the regions in which response equipment and personnel must be available, the owner/operator shall include in the plan a description of the vessel's normal routes of travel including a list of each of the six Geographic Regions that the vessel transits along these routes. OSPR has developed Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website) for vessel traffic in California's marine waters. Owners/operators shall meet the response resource and time frame requirements from the appropriate SP Tables when contracting for shoreline protection services.

(e) Containment Booming and On-Water Recovery

Each plan holder must provide a contract or other approved means for containment booming and on-water recovery response resources up to their Response Planning Volume for all potential spills from the tank vessel that could reasonably be expected to impact the marine waters of

California. Each plan must demonstrate response resources sufficient to address potential spills in each Geographic Response Plan Area (GRA) if available, or Geographic Region through which the tank vessel may transit. (GRA's are geographic subdivisions of ACP areas). To determine the amount of response resources for containment booming and on-water recovery, each plan holder must calculate a Response Planning Volume as outlined below:

(1) Reasonable Worst Case Spill

To calculate the Response Planning Volume, it is first necessary to determine the reasonable worst case spill for each tank vessel. The reasonable worst case spill is calculated as 25% of the tank vessel's total cargo capacity.

(2) Persistence and Emulsification Factors

(A) The reasonable worst case spill volume is then multiplied by a persistence factor relative to the most persistent type of oil that each tank vessel carries over the marine waters of California. The persistence factors are specified below:

Oil Group	Group 1	Group 2	Group 3	Group 4
Persistence Multiplier	.20	.50	.50	.50

(B) Emulsification Factors

The volume determined from the calculation above is then multiplied by one of the following emulsification factors, again, based on the type of oil.

Oil Group	Group 1	Group 2	Group 3	Group 4
Emulsification Multiplier	1.0	1.8	2.0	1.4

(C) Response Planning Volume

The total determined by this calculation is a Response Planning Volume.

1. The Response Planning Volumes to be used to determine the amount of equipment and services that must be under contract or other approved means, shall be the greater of the amount necessary to address the Response Planning Volume as calculated in Subsections 818.02(e)(1)-(2) or the Planning Volume for On-water Recovery for Inland/Nearshore Environment calculated for the vessel's federal response plan prepared pursuant to 33 CFR, Part 155, Appendix B. The Planning Volume for On-water Recovery is the Adjusted Volume from the federal calculations determined prior to establishing response tiers utilizing the mobilization factors;

2. the calculations used to determine the Response Planning Volume shall be included in the plan.

(3) Response Capability Standards

The equipment and personnel necessary to address the Response Planning Volume is brought to the scene of the spill over a period of time. The timeframes are dependent upon the GRA or Geographic Region in which the tank vessel transits and is specified in the tables in this subsection.

The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to those under contract must be identified and a call-out procedure in place to access this equipment if the tank vessel has a spill that exceeds the Response Planning Volumes. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning volume.

(A) On-Water Daily Recovery Rates and Containment Boom Amounts

1. The total amount of on-water recovery equipment and services required shall be the lesser of the amount necessary to address the Daily Recovery Rates established in Subsection 818.02(e)(3)(B) below or the Response Planning Volume determined in Subsection 818.02(e)(2)(C).

2. The amount of response resources and the timeframes for delivery are specified in Subsection 818.02(e)(3)(B)(4) below. The barrels per day capability figure is the total amount of on-water recovery equipment that must be at the scene of the spill at the hour specified which is measured from the time of notification, as described in this subchapter. All on-water recovery response resources shall be capable of being deployed and operable within one hour of arrival at the scene of the spill or drill but no later than the designated timeframe for each risk zone.

3. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow-water response capability (refer to the relevant U.S. Coast Guard Area Contingency Plan), the plan shall provide for an adequate number of shallow-draft vessels (as defined in Section 815.05 of this subchapter) to be owned or under contract or other approved means. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified.

4. The timeframes for equipment delivery and deployment as specified in this Subsection do not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 818.02(g)(9), and as required by the California Occupational and Safety Administration. In addition, these timeframes do not account for delays that may occur due to weather or seastate. The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or a drill and will take into account the prevailing conditions of weather and seastate, as well as the site assessment requirements.

(B) Daily Recovery Rate

1. Vessels that transit in High-Volume Ports.

DELIVERY TIME (HRS)	12	24	36	60
BBLS/DAY CAPABILITY	23,437	31,250	46,875	78,125

i. Tank Vessels that transit: 1) inward of the inland line of demarcation as described in 33 CFR, Section 80.1142 for San Francisco harbor, and 2) inwards of a six nautical mile radius of Long Beach Light (LLNR 3025) [33-43.4N, 118-11.2W] outside the entrance to the Los Angeles/Long Beach Harbors on the Los Angeles and Long Beach Harbor Chart # 18751, shall have the initial 23,437 bbls/day on-water recovery capability at the scene of the spill within six hours.

ii. in addition, at the facility/transfer points or during transfers at anchorage designations within the High Volume Ports, there must be 3,125 barrels/day, or 10% of the vessel's cargo capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

iii. if a facility/transfer point within a High Volume Port maintains and can immediately deploy containment equipment for a 3,125 barrel spill, or 10% of the vessel's cargo capacity, whichever is less, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

2. Vessels Operating in Facility/Transfer Areas or the Santa Barbara Channel Area.

DELIVERY TIME (HRS)	12	36	60
BBLS/DAY CAPABILITY	19,531	35,156	66,406

i. in addition, at the facility/transfer points within the Facility/Transfer Areas and the Santa Barbara Channel Area there must be 3,125 barrels/day, or 10% of the vessel's cargo capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

ii. if a facility/transfer point within a Facility/Transfer Area or the Santa Barbara Channel Area maintains and can immediately deploy containment equipment for a 3,125 barrel spill, or 10% of the vessel's cargo capacity, whichever is less, the initial on–water recovery capability can be on–scene within three hours rather than two hours.

iii. for those points where transfers occur infrequently, and where there is not permanent equipment present, the 3,125 barrel/day, or 10% of the vessel's cargo capacity, whichever is less, on–water response capability shall be brought to the site at the time of transfer;

iv. for infrequent transfers of non–persistent oil, the initial response requirement may be waived by application to the Administrator. The application for waiver must include a justification based on such factors as the location of the transfer point, proximity to response equipment, additional equipment in the immediate area, and the relative environmental sensitivity of the potential spill sites.

3. Vessels that transit along the Balance of the Coast within California marine waters.

DELIVERY TIME (HRS)	18	36	60
BBLS/DAY CAPABILITY	15,625	31,250	62,500

i. in addition, at the facility/transfer points or during transfers at anchorage designations within the Balance of the Coast there must be 3,125 barrels/day, or 10% of the vessel's cargo capacity, whichever is less, of on–water recovery capability that can be mobilized and on–scene within two hours of notification;

ii. for infrequent transfers of non–persistent oil, the 3,125 barrel/day or 10% of the vessel's cargo capacity, whichever is less, on–water recovery capability requirement may be waived by application to the Administrator. The application for waiver must include a justification based on such factors as the location of the transfer point, proximity to response equipment, additional equipment in the immediate area, and the relative environmental sensitivity of the potential spill sites.

(C) Sufficient containment equipment shall be brought to the scene of the spill to address the Daily Recovery Rates as designated in Subsection 818.02(e)(3)(B).

(D) The standards set forth in Subsection 818.02(e)(3)(A)(4), were increased by a factor of 25% on July 1, 1997, and again on July 1, 2001. It was determined that this increase was feasible and necessary to meet the best achievable protection of the coast.

(E) The standards set forth in Subsection 818.02(e)(3)(A)(4) will be reviewed by the Administrator to determine if increases to these amounts are feasible and necessary in order to meet the best achievable protection of the coast The Administrator shall conduct a review and hold a public hearing prior to confirming the new standards to solicit input regarding the necessity of the proposed increase and any credits that may be allowed.

(4) Movement of Response Resources

There may be times when it is necessary to move response equipment from one risk zone to another in order to respond to a catastrophic oil spill. However, the Administrator needs to ensure that sufficient response resources are available to address a reasonable risk within each zone. Therefore, when equipment is needed from one risk zone which may impact the plan holder's on–water containment and recovery at the 6 hour level, the plan holder or OSRO shall make a request to the Administrator to temporarily reduce the Response Capability Standards set forth in (d)(3) above, before the equipment can be moved. The Administrator shall only grant such a request after determining that sufficient response resources are available to address a reasonable risk within the zone from where the response equipment is being considered for removal.

(5) On–Water Response Equipment and Services

(A) Each plan shall demonstrate that the tank vessel owner/operator has under contract or other approved means (as defined in Section 815.05(b) of this subchapter), access to all necessary response resources to comply with the Response Capability Standards for containment booming and on–water recovery established pursuant to Subsection 818.02(e)(3). The amount of response equipment required will take into account the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) of the equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow–water response capability (refer to the relevant U.S. Coast Guard Area Contingency Plan), the plan shall provide for an adequate number of shallow–draft vessels (as defined in Section 815.05 of this subchapter) to be owned or under contract or other approved means. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

2. a complete inventory of any nonmechanical response equipment and supplies, including the type and toxicity of each chemical agent, with procedures for storage and maintenance;

3. the manufacturer's rated capacities and operational characteristics for each major item of oil recovery equipment;

4. the type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

5. the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) for each major piece of on–water recovery equipment listed, as well as the effective daily recovery capacity for the skimming systems as a whole.

i. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

ii. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

6. vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom, and availability of shallow–draft vessels;

7. vessels of opportunity reasonably available for oil spill recovery operations, including availability of shallow–draft vessels, procedures to equip the vessels, inventory equipment, and train personnel;

8. procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

9. sufficient equipment to track the movement of discharged oil including aerial surveillance sufficient to direct skimming operations.

10. Each plan shall describe the personnel available to respond to an oil spill, including:

i. a list by job category including a job description for each type of spill response position needed as indicated in the spill response organization scheme;

ii. a match between personnel by job category, and the equipment proposed for use (including equipment appropriate for shallow–water environments), including the plan for mobilization of such personnel; and

iii. sufficient personnel to maintain a response effort of at least 14 days.

11. Each plan shall describe procedures for the transport of required equipment, personnel and other resources to the spill site. The description shall include plans for alternative procedures during adverse environmental conditions. Adverse environmental conditions to be considered shall include:

i. adverse weather;

ii. sea states, tides, winds and currents;

iii. presence of debris or other obstacles; and

iv. any other known environmental conditions that could restrict response efforts.

(C) A list of the spill management personnel (company name if applicable) and their relevant qualifications including a discussion of spill response training and experience, regulatory awareness and compliance, and supervision.

(D) Any equipment and personnel identified in the plan must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventuality must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair. Major equipment is that which, if moved, would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory, or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from service for maintenance or repair.

(E) Tank vessels that carry Group 5 oils must contract with one or more Rated OSRO(s) to address the Response Planning Volumes. Such equipment shall include, but is not limited to the following:

1. sonar, sampling equipment, or other methods for locating the oil on the bottom or suspended in the water column;

2. containment boom, sorbent boom, silt curtains, or other methods to reduce spreading on the bottom;

3. dredges, pumps, or other equipment necessary to recover oil from the bottom;

4. equipment necessary to assess the impact of such discharges; and

5. any other appropriate equipment necessary to response to a discharge involving a group 5 oil.

(F) The plan holder may propose the use of non–mechanical methods for response operations which may include dispersants, in–situ burning, coagulants, bioremediants, or other chemical agents. The use of any non–mechanical method for response must be done in accordance with provisions of the State Marine Oil Spill Contingency Plan, the National Contingency Plan, the applicable Regional Area Contingency Plan, and all applicable State laws and regulations.

If a non–mechanical method of response is proposed, the plan shall include:

1. methods of deployment or application;

2. for use of chemical agents, a description of the specific mechanisms in place to assess the environmental consequences of the chemical agent. This shall include the mechanism for continuous monitoring of environmental effects for the first three days after initial application, and periodic monitoring thereafter until the agent is inert or no longer operative;

3. identification of all permits, approvals or authorizations needed to allow the use of chemical agents or non–mechanical methods, and the timeline for obtaining them;

4. a plan for protecting resources at risk, areas of public concern and the public from any adverse effects of the non–mechanical methods used;

5. the projected efficacy of each type of non–mechanical method proposed for use taking into account the type of spilled material and the projected environmental conditions of the potential spill site; and

6. upon request, the plan holder shall provide any test results known to the plan holder which assess the environmental impacts of applying these methods in the marine environment.

(G) The plan shall describe methods for tracking the movement of the discharged oil; and

(H) The plan shall include a list of location of the weather stations to be used for observations of winds, currents and other data at the time of a spill that may assist in making real– time projections of spill movement.

(f) Shoreline Protection

Each plan must provide for shoreline protection in the Geographic Response Plan Areas (GRA) or Geographic Regions the tank vessel may transit. Each plan shall demonstrate through contracts(s) or other approved means, the response resources necessary to protect each type of shoreline and all applicable environmentally and culturally sensitive sites in the time frames required, as outlined in the appropriate SP Table (dated July 17, 2006), incorporated by reference herein. The Tables representing High Volume port areas (i.e., the San Francisco and Los Angeles/Long Beach Tables) will go into effect on May 1, 2007; all other Tables will go into effect on September 1, 2007. The SP Tables shall be reviewed and updated as needed (e.g., to reflect updates to the ACPs, etc.). Updates to the SP Tables will be processed by OSPR staff using the procedures outlined in the Administrative Procedure Act.

(1) Percentages of Dedicated Shoreline Protection Resources

The following table lists the applicable percentage of dedicated shoreline protection boats and staff that are required for each Geographic Region:

Geographic Region (also known as ACP Area)	*% DEDICATED RESOURCES FOR SHORELINE PROTECTION*
1	50% dedicated boats and staff
2	75% dedicated boats and staff
3	0% (non–dedicated boats and staff allowed)
4	0% (non–dedicated boats and staff allowed) *For Port Hueneme only, 75% dedicated boats and staff required
5	75% dedicated boats and staff
6	50% dedicated boats and staff

(A) An owner/operator may propose alternatives to what is listed in the SP Tables for boats and staff only. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

(B) Each plan shall have under contract or other approved means sufficient personnel to implement the shoreline protection strategies in the time frames required from the appropriate SP Tables, who are to remain on scene until demobilized by the State Incident Command or the Unified Command. For planning purposes, this shall include procedures to obtain sufficient personnel to maintain a response effort of at least 14 days.

(C) Any equipment and personnel identified to meet the contingency plan requirements must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventuality must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair, if such movement would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory, or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from services for maintenance or repair if the Administrator has not disapproved such removal within 24 hours of notification.

4. The equipment owner shall notify the Administrator when the major equipment is back in service.

(2) Shoreline Clean–Up

(A) Each plan shall describe methods to clean up spilled oil and remove it from the environment. The owner/operator shall have a contract or other approved means to provide the appropriate shoreline clean up services. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate to implement all the applicable strategies, and appropriate for use on the type of oil identified. The following information must be provided:

1. methods for shoreside clean–up, including containment and removal of surface oil, subsurface oil and oiled debris and vegetation from all applicable shorelines, adjacent land and beach types; and

2. measures to be taken to minimize damage to the environment from land operations during a spill response, such as impacts to sensitive shoreline habitat caused by heavy machinery or foot traffic.

(g) Response Procedures

(1) Each plan shall describe the organization of the tank vessel's spill response system and management team. An organizational diagram depicting the chain of command shall also be included. Additionally, the plan shall describe the method to be used to integrate the plan holder's organization into the State Incident Command System and/or the Unified Command Structure as required by Title 8, California Code of Regulations, Subsection 5192(q)(3)(A).

(A) The plan holder may utilize the procedures outlined in the appropriate Area Contingency Plan when describing how the tank vessel's chain of command will interface with the State Incident Command System which utilizes the Unified Command.

(B) Each plan shall describe the organization of the plan holder's public information office, as it relates to an oil spill incident, and the method by which the Information Officer will be integrated into the State Incident Command System.

(C) Each plan shall describe the plan holder's safety program, as it relates to an oil spill incident, and the method by which their Safety Officer will be integrated into the State Incident Command System.

(2) Each plan shall identify potential sites needed for spill response operations including location(s) for:

(A) a central command post sufficient to accommodate the State Incident Command or Unified Command as well as the plan holder's response organization;

(B) a central communications post if located away from the command post; and

(C) equipment and personnel staging areas.

(3) Each plan shall include a checklist, flowchart or decision tree depicting the procession of each major stage of spill response operations from spill discovery to completion of cleanup. The checklist, flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.

(4) Each plan shall describe how the owner/operator will provide onboard emergency services before the arrival of local, state or federal authorities on the scene, including:

(A) procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;

(B) procedures for emergency medical treatment and first aid; and,

(C) procedures to provide the required personnel protective gear for responders.

(5) Each plan shall describe equipment and procedures to be used by tank vessel personnel to minimize the magnitude of a spill and minimize structural damage which may increase the quantity of oil spilled.

(6) Each plan shall detail the lines of communications between the responsible party, the Qualified Individual and the on–scene commanders, response teams, local, state, and federal emergency and disaster responders, including:

(A) communication procedures;

(B) the communication function (e.g., ground–to–air) assigned to each channel or frequency used;

(C) the maximum broadcast range for each channel or frequency used; and

(D) redundant and back–up systems.

(7) Each plan shall provide for post–spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator *within 90 days following the completion of response* and cleanup procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

(8) Each plan shall describe the procedures to manage access to the spill response site, the designation of exclusion, decontamination and safe zones, and the decontamination of equipment and personnel during and after oil spill response operations, as required by the California Occupational Safety and Health Administration.

(9) Prior to beginning oil spill response operations and clean up activities, a Site Safety Plan must be completed. Each plan shall include information as required pursuant to Title 8, Section 5192(b)(4)(B) of the California Code of Regulations including, but not limited to, a written respiratory protection program, written personal protection equipment program, written health and safety training program, written confined space program and permit forms, direct reading instrument calibration logs, and written exposure monitoring program.

(h) Notification Procedures

(1) Each plan shall include a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24–hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;

2. telephone number or other means of contact for any time of the day; and

3. an alternate contact in the event the individual is unavailable.

(B) detail the procedures for reporting oil spills to all appropriate local, state and federal agencies within each of the 6 Geographical Regions that the tank vessel transits;

(C) establish a clear order of priority for notification.

(2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO in each of the six Geographic Regions that the tank vessel transits immediately, but no longer than 30 minutes, after the discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Governor's Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) Each plan shall include all phone numbers necessary to complete the immediate notification procedures.

(3) Each plan shall identify a call–out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the owner/operator is required to have under contract. Procedures must allow for initiation of the call–out within 24 hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) tank vessel name, country of registry, call sign, and official number;

(B) location of the incident;

(C) date and time of the incident;

(D) course, speed and intended track of the tank vessel;

(E) the nature of the incident;

(F) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(G) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(H) the size and appearance of the slick;

(I) prevailing weather and sea conditions;

(J) actions taken or planned by personnel on scene;

(K) current condition of the tank vessel;

(L) injuries and fatalities; and

(M) any other information as appropriate.

(5) Reporting of a spill as required by Section 818.02(h)(2) shall not be delayed solely to gather all the information required by Subsection 818.02(h)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On-Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this timeframe, as needed. Updated spill volume information included in the Incident Action Plan developed through the United Command will meet the requirements of this subsection.

(i) Temporary Storage and Waste Management:

(1) Each plan shall identify sufficient temporary storage for all recovered oil or all oily waste, and identify facilities that would be able to accept the recovered oil or oily waste for recycling or other means of waste management. Sufficient storage shall be no less than two times the calculated Response Planning Volume up to the Daily Recovery Rate as determined in Subsection 818.02(e)(3)(B).

(A) To meet the temporary storage requirement described in Subsection (1) above, the following amounts of storage shall be dedicated response resources (as defined in Section 815.05(c) of this subchapter) or OSRO-owned and controlled response resources (as defined in Section 815.05(k) of this subchapter), as applicable to the appropriate risk zone:

Sufficient storage to support the skimming systems shall be brought to the scene of the spill during the first four hours of response:

520 barrels of storage, or 20% of the response planning volume, whichever is less, shall be brought to the scene of the spill within four hours, of notification of a spill;

12,000 barrels, or two times the response planning volume, whichever is less, shall be available at the scene of the spill within 6 hours of notification of a spill.

The balance of the temporary storage requirement described in Subsection (1) above, may be provided by nondedicated storage resources. All skimming systems operating at the scene of a spill shall have adequate storage.

(2) Each plan shall identify the party that shall maintain responsibility for recovered oil and oily waste for the purposes of temporary storage.

(3) Each plan shall describe site criteria and methods used for temporary storage of recovered oil and oily wastes generated during response and cleanup operations, including known available sites.

(4) Each plan shall identify all applicable permits, and all federal, state and local agencies responsible for issuing those permits for transit, temporary storage and ultimate waste management of all wastes likely to result from an oil spill.

(5) Each plan shall include information which could expedite the state approval process for the use of temporary waste storage sites, including a list of appropriate contacts and a description of procedures to be followed for each approval process.

(j) Oiled Wildlife Care Requirements

Each plan shall describe how oiled wildlife care will be provided by one of the following approved means:

(1) Utilize the California Oiled Wildlife Care Network (OWCN) to meet oiled wildlife care requirements; or

(2) describe procedures that clearly outline how oiled wildlife care will be provided. The equipment, facilities, and personnel necessary to implement these procedures must be identified and assured by contract for each Geographic Area covered by the plan. Standards and written protocols for wildlife care must comply with all applicable State and federal laws.

(k) Training

(1) Each plan shall provide that all appropriate personnel directly responsible to the owner/operator shall receive training in the use and operation of oil spill response and cleanup equipment. The plan shall describe:

(A) the type and frequency of training that each individual in a spill response position receives to achieve the level of qualification demanded by their job description;

(B) the procedures, if any, to train and use volunteers or other additional personnel in spill response operations as necessary for the size of the spill.

(2) Each plan shall describe the type and frequency of personnel training on methods to reduce operational risks. The description of the training shall include if applicable, the following:

(A) the means of achieving any established training objectives, such as:

1. training programs for each position involved with the various aspects of the operation that could result in a spill (e.g., position responsible for tank vessel inspections or transfers);

2. a training schedule, including adequate frequency, (e.g., initial training upon hire and annual refresher training) and type of training (workshops, classroom, videotape, on-the-job training, etc.) for each position trained;

(B) licenses, certifications or other prerequisites to hold particular jobs.

(3) Each plan shall provide for safety training as required by state and federal health and safety laws for all personnel likely to be engaged in oil spill response, including a program for training non-permanent responders, such as volunteers or temporary help.

(4) The tank vessel owner/operator shall ensure that training records are maintained for three years. All such documentation must be made available to the Administrator upon request.

(*l*) Drills and Exercises

(1) Each plan shall describe the tank vessel's drill and exercise program that meets the requirements of Section 820.01(a), to ensure that the elements of the plan will function in an emergency.

(2) Training sessions may constitute creditable drills and exercises if all requirements of Subsections 820.01(a) are met. Onboard emergency procedure drills conducted aboard the tank vessel and properly logged may be credited.

(3) Drills shall be designed by the vessel owner/operator to exercise either components of or the entire response plan. Such drills, individually or in combination, shall ensure that the entire plan is exercised at least once every three years.

(m) Tank Vessel Emergency Services:

(1) Notification Requirements:

Any party responsible for a tank vessel as defined in this subdivision shall notify the U.S. Coast Guard within one hour of a disability if the disabled vessel is within 12 miles of the shore of the state, pursuant to the requirements of Government Code Section 8670.20(b).

(2) Equipment and Services:

Tank vessel emergency services means all services rendered to save a vessel and cargo from any marine peril that could reasonably be expected to cause a discharge of oil into the marine waters of the state, and includes those actions necessary to control or stabilize the vessel or cargo.

(A) All tank vessels required to have a contingency plan pursuant to Section 818.01(a) must demonstrate sufficient tank vessel emergency service capability as outlined in this section;

(B) Availability of the following equipment and services shall be demonstrated by sufficient in-house capability or a signed, valid contract or other approved means with a vessel emergency services provider, or by other means approved by the Administrator. For the purpose of this subsection, a plan holder can demonstrate the availability of equipment and services, in lieu of a signed, valid contract or sufficient in-house capability, by a Letter of Intent or a Conditional Agreement, signed by the entity

providing such services and attesting to the availability of the equipment and services required as specified in this Subsection (m). Any service provider must have the appropriate expertise, and all required equipment ready and available to respond within the following timeframes:

1. within 12 hours of notification of the U.S. Coast Guard;

(i.) an emergency services vessel of the appropriate size, configuration, and operating capability to ensure stabilization of a disabled vessel shall be on scene. The emergency services vessel must be capable of reaching the disabled vessel before the disabled vessel would run aground. In determining the time it would take for a vessel to run aground, an estimate shall be made based on the drift rate in the worst case weather assuming the complete loss of power and/or steering;

(ii.) a professional salvor, naval architect or other qualified person knowledgeable of stability, and hull stress assessments of the vessel shall be engaged in tank vessel emergency operations. These assessments shall be developed pursuant to the shipboard spill mitigation procedures as set forth in 33 CFR, Part 155.1035(c)).

(iii.) a private firefighting capability that will respond to casualties in the area(s) in which the vessel will operate. This capability shall be a supplement to the firefighting capability on board the vessel;

(iv.) the vessel emergency services provider must be capable of performing emergency lightering operations, and must have the following equipment on–scene: fendering equipment; transfer hoses and connection equipment; portable pumps; and any ancillary equipment necessary to off–load the volume of the tank vessel's largest cargo tank in 24 hours of continuous operation;

(v.) dewatering pumps, hoses, and power supplies sufficient to maintain vessel stability and prevent sinking shall be on scene.

(2) within 18 hours of notification of the U.S. Coast Guard, and to the extent necessary to avoid a pollution incident, the following must be on scene;

(i) resources for shoring, patching or making other emergency, temporary repairs to correct structural, stability, or mechanical problems on the vessel;

(ii) equipment necessary to tow an incapacitated vessel to a safe haven.

NOTE: Authority cited: Sections 8670.7, 8670.10, 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.7, 8670.10, 8670.20, 8670.25.5, 8670.27, 8670.28, 8670.30, 8670.31 and 8670.37.51, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Change without regulatory effect amending subsection (a)(2) filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effect amending subsections (e)(3)(B)1., (e)(3)(B)2., (e)(3)(B)3., (e)(3)(D) and (e)(3)(E) filed 6–11–97; operative 7–1–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 24).
4. Amendment of section heading, section and NOTE filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
5. Change without regulatory effect amending subsections (d)(1), (d)(2)(A), (d)(3), (e)(5)(B)11., (g)(1) and (g)(1)(C) and amending NOTE filed 8–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
6. Amendment of subsections (e)(3)(B)1.–(e)(3)(B)3.ii. filed 5–25–2001; operative 7–1–2001 pursuant to Government Code section 8670.28(e) and 14 CCR 818.02(e)(3)(E). Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 2001, No. 21).
7. Amendment of subsections (a)(4) and (i)(1), new subsection (i)(1)(A) and amendment of NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
8. Amendment of section heading and section filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).
9. Amendment of subsection (a)(1)(A) filed 8–6–2008; operative 9–5–2008 (Register 2008, No. 32).

§ 818.03. Vessels Carrying Oil As Secondary Cargo (VCOASC) Plan Content.

To the degree the information required by Subsections 818.03(b) through *(l)* exists elsewhere, copies of the pre–existing information may be submitted. If the information provided is not sufficient to meet the requirements of this subchapter, additional information may be requested by the Administrator.

(a) Introductory Material

(1) Each plan shall provide the following information for each vessel carrying oil as secondary cargo (VCOASC, as defined in Section 790 of this subdivision) covered by the plan:

(A) the vessel's name, country of registry, call sign, and official identification number;

(B) name, address, phone number, fax number and e–mail address, if available, of the owner and/or operator of the vessel(s). This information shall be referenced in the plan title or on a title page at the front of the plan;

(C) the name, address, phone number, fax number and e–mail address, if available, of the person to whom correspondence should be sent;

(D) a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holder's management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format;

> "I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the State of California, that the information contained in this contingency plan is true and correct and that the plan is both feasible and executable."
>
> _____(signature), (title), (date);

(E) the California Certificate of Financial Responsibility (COFR) number for the tank vessel(s) covered by the plan shall be included in the front of the plan, or for fleet plans shall be listed separately in a subsection of the plan.

(2) Each plan shall identify a Qualified Individual, as defined in Chapter 1, Section 790 of this subdivision, and any alternates that may be necessary for the purpose of implementing the plan and documentation that the Qualified Individual acknowledges this capacity. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive legal documents on behalf of the plan holder and documentation that the agent for services of process acknowledges this capacity. Such agent shall be located in California.

(4) Each plan shall identify a Spill Management Team (as defined in Section 815.05(p) of this subchapter), and provide documentation that the Spill Management Team acknowledge this capacity.

(5) Each plan shall contain a copy of the contract or other approved means (as defined in Section 818.05(b) of this subchapter), verifying that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819 of this subchapter) for the booming, on–water recovery and storage, and shoreline protection services required.

(b) VCOASC Description

(1) Each plan shall describe the vessel's design and operations with specific attention to those areas from which a spill could reasonably be expected to impact the marine waters of California. This description shall include, at a minimum, the following information:

(A) a piping and tank diagram including the location of valves, vents and lines; the age, design, and construction of the vessel; the range of oil products normally carried in each structure; and safety equipment;

(B) a description of the types, physical properties, health and safety hazards and maximum storage or handling capacity of the oil or product carried. A material safety data sheet (MSDS) or equivalent will meet some of these requirements and can be maintained separately aboard the vessel providing the plan identifies its location;

(C) the vessel's classification, hull type, gross registered tonnage (GRT), oil cargo capacity, length, draft and beam.

(c) Prevention Measures

(1) Each plan holder shall take all appropriate prevention measures designed to reduce the possibility of an oil spill occurring as a result of allisions, collisions, groundings, explosions or operator error during the operation of the VCOASC. Each plan shall include a summary of the policies, programs, guidelines and/or procedures designed to implement the following:

(A) methods to reduce spills during transfer and storage operations, including overfill prevention measures, and immediate spill containment provision. Any information developed in compliance with Title 33 CFR, Parts 154 and 156 may be substituted for all or part of any comparable prevention measures required by this subsection;

(B) procedures to assure clear communication among all the parties involved during transfer operations;

(C) use of vessel traffic service systems where available;

(D) procedures to be used to avoid the known navigational hazards.

(E) Where a plan holder's VCOASC is engaged in transfer operations at a facility subject to Public Resources Code 8755, and the plan holder is in compliance with State Lands Commission regulations for oil transfer operations, the plan holder shall be considered in compliance with the provisions of this subsection.

(F) The plan holder shall provide additional relevant information to the Administrator upon request.

(2) [Reserved]

(3) At the time the initial contingency plan is submitted, the owner/operator shall either submit a Certificate Of Inspection (COI) issued by the USCG or a certificate issued by a member of the International Association of Classification Societies certified by the International Maritime Organization (IMO) of the most recent vessel inspection, or verify that the vessel has such a certificate and that the certificate is available for review.

(4) The owner/operator shall also submit a Safety Management Certificate to demonstrate compliance with the performance elements in the International Safety Management (ISM) Code subject to IMO Resolution A.741(18), or shall submit proof of compliance with the American Waterways Operators (AWO) Responsible Carrier Program, if applicable.

(d) Planning for the Location of Response Resources

The owner/operator must be prepared to respond to a spill anywhere within the marine waters of California where the VCOASC transits. To determine the regions in which response equipment and personnel must be available, the owner/operator shall include in the plan a description of the VCOASC's normal routes of travel including a list of each of the six Geographic Regions that the VCOASC transits along these routes. OSPR has developed Shoreline Protection Tables (SP Tables (see Section 790)), incorporated by reference herein and posted at OSPR's website) for VCOASC traffic in California's marine waters. Owners/operators shall meet the response resource and time frame requirements for the appropriate Small Harbor from the SP Tables when contracting for shoreline protection services.

(e) Containment Booming and On-Water Recovery

Each plan holder must contract for containment booming and on-water recovery response resources up to their Response Planning Volume for all potential spills from the VCOASC that could reasonably be expected to impact the marine waters of California. Additionally, each plan must also demonstrate response capability sufficient to address potential spills in each Geographic Response Plan Area (GRA), if available, or Geographic Region through which the vessel may transit. (GRA's are geographic subdivisions of ACP area.) To determine the amount of response resources for containment booming and on-water recovery, each plan holder must calculate a Response Planning Volume as outlined below:

(1) Reasonable Worst Case Spill

To calculate the Response Planning Volume, it is first necessary to determine the reasonable worst case spill for each vessel. The reasonable worst case spill is calculated as 30% of the vessel's total cargo capacity of petroleum products.

(2) Persistence and Emulsification Factors

(A) The reasonable worst case spill volume is then multiplied by a persistence factor relative to the most persistent type of oil that each VCOASC carries over the marine waters of California. The persistence factors are specified below:

Oil Group	Group 1	Group 2	Group 3	Group 4
Persistence Multiplier	.20	.30	.50	.50

(B) Emulsification Factors: The volume determined from the calculation above is then multiplied by one of the following emulsification factors, again, based on the type of oil.

Oil Group	Group 1	Group 2	Group 3	Group 4
Emulsification Multiplier	1.0	1.8	2.0	1.4

(C) Response Planning Volume

The total determined by this calculation is a Response Planning Volume.

1. The Response Planning Volumes to be used to determine the amount of equipment and services required shall be the greater of the amount necessary to address the Response Planning Volume as calculated in Subsections 818.03(e)(1) – (2) or the Planning Volume for On-water Recovery for Inland/Near-shore Environment calculated for the vessel's federal response plan prepared pursuant to 33 CFR, Part 155.1045. The Planning Volume for On-water Recovery is the Adjusted Volume from the federal calculations determined prior to establishing response tiers utilizing the mobilization factors.

2. The calculations used to determine the Response Planning Volume shall be included in the plan.

(3) Response Capability Standards

The equipment and personnel necessary to address the Response Planning Volume is brought to the scene of the spill over a period of time. The timeframes are dependent upon the GRA or Geographic Region in which the VCOASC transits.

The standards set forth in this section may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to those under contract must be identified and a call-out procedure in place to access this equipment if the VCOASC has a spill that exceeds the Response Planning Volumes. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning volumes.

(A) On-Water Daily Recovery Rates and Containment Boom Amounts

1. The total amount of on-water containment and recovery equipment and services required shall be the amount necessary to address the Response Planning Volume determined in Subsection 818.03(e)(2)(C), as follows:

i. VCOASC that transit in High-Volume Ports shall have sufficient on-water containment and recovery equipment and services to respond to 10% of the calculated Response Planning Volume (as calculated in Sections 818.03(e)(1)-(2)) at the scene of the spill within two hours. There shall be sufficient on-water containment and recovery equipment

and services to respond to the remaining Response Planning Volume within 12 hours.

ii. VCOASC operating in Facility Transfer areas or the Santa Barbara Channel area shall have sufficient on–water containment and recovery equipment and services to respond to 10% of the calculated Response Planning Volume (as calculated in Sections 818.03(e)(1)–(2)) at the scene of the spill within 12 hours. There shall be sufficient on– water containment and recovery equipment and services to respond to the remaining Response Planning Volume within 36 hours.

iii. VCOASC that transit along the Balance of the Coast shall have sufficient on–water containment and recovery equipment and services to respond to 10% of the calculated Response Planning Volume (as calculated in Sections 818.03(e)(1)–(2)) at the scene of the spill within 18 hours. There shall be sufficient on–water containment and recovery equipment and services to respond to the remaining Response Planning Volume within 36 hours.

(4) Transfer Operations

Each plan shall demonstrate that the VCOASC owner/operator owns or has access to sufficient and appropriate boom, trained personnel and equipment, maintained in a stand–by condition, such that at least 600 feet of boom can and will be deployed for the most effective containment immediately, but no longer than 30 minutes after the discovery of a spill. Additionally, each plan holder shall identify the equipment, personnel and procedures such that an additional 600 feet of boom can and will be deployed within one hour for the most effective containment in the event of an oil spill. Response resources owned or under contract to the marine facility or vessel engaged in oil transfer operations may be used to meet this requirement.

(5) On–Water Response Equipment and Services

(A) Each plan shall demonstrate that the VCOASC owner/operator has under contract or other approved means (as defined in Section 815.05(b) of this subchapter) access to all necessary response resources to comply with the Response Capability Standards for containment booming and on–water recovery established pursuant to Subsection 818.03(e). The amount of response equipment required will take into account the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) of the oil recovery equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow–water response capability (refer to the relevant U.S. Coast Guard Area Contingency Plan), the plan shall provide for an adequate number of shallow–draft vessels (as defined in Section 815.05 of this subchapter) to be owned or under contract or other approved means and available to respond to provide shoreline protection of all sensitive sites identified in the trajectory analysis conducted as part of the Environmental Consequence analysis. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

2. the manufacturer's rated capacities and operational characteristics for each major item of oil recovery equipment;

3. the type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

4. the effective daily recovery capacity (as defined in Chapter 1, Section 790 of this subdivision) for each major piece of on–water recovery equipment listed, as well as the effective daily recovery capacity for the skimming systems as a whole.

i. A request may be submitted to the Administrator to review the effective daily recovery capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

ii. The Administrator's decision regarding a change in the effective daily recovery capacity for a piece of equipment will be issued as soon as administratively feasible.

5. vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom;

6. procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

(f) Shoreline Protection

Each plan must provide for shoreline protection in the Small Harbor the VCOASC may transit. Each plan shall demonstrate through contracts(s) or other approved means, the response resources necessary to protect each type of shoreline and all applicable sensitive sites as outlined in the appropriate Small Harbor as listed in the SP Tables (see Section 790), incorporated by reference herein. The SP Tables shall be reviewed, and updated if needed, annually by OSPR staff. using the procedures outlined in the Administrative Procedure Act.

(1) Shoreline Protection Requirements for Vessels Operating in Small Harbors

Included in the SP Tables is a listing of Small Harbors throughout the state. The requirements in the Small Harbor Table apply to all vessels over 300 GT that operate in the small harbors as listed. The following apply to the Small Harbor Table only:

(A) Non–dedicated resources are allowed for shoreline protection for the vessels that operate in these harbors.

(B) The amounts of boom, boats and staff, as listed, are required for the vessels that operate in these harbors. In some locations additional response resources may be required for included or adjacent sensitive sites if this has been identified in the applicable ACPs.

(C) Resource requirements can be met either with pre–positioned equipment (as identified in the owner/operator's Contingency Plan) or by a contract with a Rated OSRO. Advance notice to the OSRO is required before the plan holder can begin operating in the small harbor.

(D) Unless otherwise specified in the Small Harbor Table, anytime that a vessel over 300 GT operates in these small harbors, that vessel shall have a contract or other approved means for a minimum of 2,500 feet of boom that can be deployed in 6 hours.

(E) An owner/operator may propose lesser amounts of shoreline protection resources than that listed in the Small Harbor Table, for carrying out planned projects in the Balance of the Coast, upon petitioning and approval of the Administrator. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

(2) Shoreline Clean–Up

(A) Each plan shall describe methods to clean up spilled oil and remove it from the environment. The owner/operator shall have a contract or other approved means to provide the appropriate shoreline clean up services. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate to implement all the applicable strategies, and appropriate for use on the type of oil identified. The description shall include:

1. methods for shoreside clean–up, including containment and removal of surface oil, subsurface oil and oiled debris and vegetation from all applicable shorelines, adjacent land and beach types; and

2. measures to be taken to minimize damage to the environment from land operations during a spill response, such as impacts to sensitive shoreline habitat caused by heavy machinery or foot traffic.

(g) Response Procedures

(1) Each plan shall describe the organization of the VCOASC's spill response management team. An organizational diagram depicting the chain of command shall also be included. Additionally, the plan shall describe the method to be used to integrate the plan holder's organization into the State Incident Command System and/or the Unified Command

Structure as required by Title 8, California Code of Regulations, Subsection 5192(q)(3)(A).

(A) The plan holder may utilize the procedures outlined in the appropriate and most recent Federal Area Contingency plan when describing how the vessel's chain of command will interface with the State Incident Command System which utilizes the Unified Command.

(2) Each plan shall include a checklist, flowchart or decision tree depicting the procession of each major stage of spill response operations from spill discovery to completion of clean–up. The checklist, flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.

(3) Each plan shall describe how the owner/operator will provide onboard emergency services before the arrival of local, state or federal authorities on the scene, including:

(A) procedures to control fires and explosions, and to rescue people or property threatened by fire or explosion;

(B) procedures for emergency medical treatment and first aid.

(4) Each plan shall describe equipment and procedures to be used by VCOASC personnel to minimize the magnitude of a spill and minimize structural damage which may increase the quantity of oil spilled.

(5) Each plan shall detail the lines of communications between the responsible party, the Qualified Individual and the on–scene commanders, response teams, local, state, and federal emergency and disaster responders, including:

(A) communication procedures;

(B) the communication function (e.g., ground–to–air) assigned to each channel or frequency used;

(C) the maximum broadcast range for each channel or frequency used; and

(D) redundant and back–up systems.

(6) Each plan shall provide for post–spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator within 90 days following the completion of response and clean–up procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

(7) Each plan shall describe the procedures to manage access to the spill response site, the designation of exclusion, decontamination and safe zones, and the decontamination of equipment and personnel during and after oil spill response operations, as required by the California Occupational Safety and Health Administration.

(8) Each plan shall describe the procedures for the evaluation of health and safety concerns and the determination of site safety prior to beginning oil spill response operations and clean–up activities.

(h) Notification Procedures

(1) Each plan shall include a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24–hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;

2. telephone number or other means of contact for any time of the day; and

3. an alternate contact in the event the individual is unavailable.

(B) detail the procedures for reporting oil spills to all appropriate local, state, and federal agencies within each of the six Geographic Regions that the VCOASC transits;

(C) establish a clear order of priority for notification.

(2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO in each of the six Geographic Regions that the VCOASC transits immediately, but no longer than 30 minutes, after the discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Governor's Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) Each plan shall include all phone numbers necessary to complete the immediate notification procedures.

(3) Each plan shall identify a call–out procedure to acquire the resources necessary to address spills that cannot be addressed by the equipment that the owner/operator is required to have under contract. Procedures must allow for initiation of the call–out within 24 hours of the incident and must begin as soon as a determination has been made that additional resources are necessary.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) VCOASC name, country of registry, call sign, and official number;

(B) location of the incident;

(C) date and time of the incident;

(D) course, speed and intended track of the VCOASC;

(E) the nature of the incident;

(F) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(G) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(H) the size and appearance of the slick;

(I) prevailing weather and sea conditions;

(J) actions taken or planned by personnel on scene;

(K) current condition of the VCOASC;

(L) injuries and fatalities; and

(M) any other information as appropriate.

(5) Reporting of a spill as required by Section 818.03(h)(2) shall not be delayed solely to gather all the information required by Subsection 818.03(h)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On–Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this timeframe, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command will meet the requirements of this subsection.

(i) Temporary Storage and Waste Management

(1) Each plan shall identify sufficient temporary storage for all recovered oil or all oily waste, or identify facilities that would be able to accept the recovered oil or oily waste for recycling or other means of waste management. Sufficient storage shall be no less than two times the required Response Capability Standards as determined in Subsection 818.03(e)(3).

(2) Each plan shall identify the party that shall maintain responsibility for recovered oil and oily waste for the purposes of temporary storage.

(3) Each plan shall describe site criteria and methods used for temporary storage of recovered oil and oily wastes generated during response and clean–up operations, including known available sites.

(4) Each plan shall identify all applicable permits, and all federal, state and local agencies responsible for issuing those permits for transit, temporary storage and ultimate waste management of all hazardous waste products likely to result from an oil spill.

(5) Each plan shall include information which could expedite the state approval process for the use of temporary waste storage sites, including a list of appropriate contacts and a description of procedures to be followed for each approval process.

(j) Wildlife Rehabilitation Requirements

Each plan shall describe how oiled wildlife care will be provided by one of the following approved means:

(1) Utilize the California Oiled Wildlife Care Network (OWCN) to meet oiled wildlife care requirements: or

(2) describe procedures that clearly outline how oiled wildlife care will be provided. The equipment, facilities, and personnel necessary to implement these procedures must be identified and assured by contract for each Geographic Area covered by the plan. Standards and written protocols for wildlife care must comply with all applicable State and federal laws.

(k) Training

(1) Each plan shall provide that all appropriate personnel directly responsible to the owner/operator shall receive training in the use and operation of oil spill response and clean-up equipment. The plan shall describe:

(A) the type and frequency of training that each individual in a spill response position receives to achieve the level of qualification demanded by their job description;

(B) the procedures, if any, to train and use volunteers or other additional personnel in spill response operations as necessary for the size of the spill.

(2) Each plan shall describe the type and frequency of personnel training on methods to reduce operational risks. The description of the training shall include, if applicable, the following:

(A) the means of achieving any established training objectives, such as:

1. training programs for each position involved with the various aspects of the operation that could result in a spill (e.g., position responsible for vessel inspections or transfers);

2. a training schedule, including adequate frequency, (e.g., initial training upon hire and annual refresher training) and type of training (workshops, classroom, videotape, on-the-job training, etc.) for each position trained;

(B) licenses, certifications or other prerequisites to hold particular jobs.

(3) Each plan shall provide for safety training as required by state and federal health and safety laws for all personnel likely to be engaged in oil spill response, including a program for training non-permanent responders, such as volunteers or temporary help.

(4) The VCOASC owner/operator shall ensure that training records are maintained for three years. All such documentation must be made available to the Administrator upon request.

(*l*) Drills and Exercises

(1) Each plan shall describe the VCOASC's drill and exercise program. The vessel owner/operator shall conduct drills and exercises as necessary to ensure that the elements of the plan will function in an emergency, as described in Section 820.01(a).

(2) Drills shall be designed to exercise either components of or the entire response plan. Such drills, individually or in combination, shall ensure that the entire plan is exercised at least once every three years.

NOTE: Authority cited: Sections 8670.7, 8670.10, 8670.28, 8670.29 and 8670.30, Government Code. Reference: Sections 8670.7, 8670.10, 8670.20, 8670.25.5, 8670.27, 8670.28, 8670.29, 8670.30, 8670.31 and 8670.37.51, Government Code.

HISTORY

1. New section filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Change without regulatory effect amending subsection (g)(1) and amending NOTE filed 8-29-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
3. Amendment of subsection (a)(4) and amendment of NOTE filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
4. Amendment of section and NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 819. Oil Spill Response Organization (OSRO) Rating.

HISTORY

1. New heading filed 11-4-93 with the Secretary of State by the Department of Fish and Game; operative 11-4-93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section heading filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Amendment of section heading filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).

§ 819.01. Purpose and Scope.

(a) The Oil Spill Response Organization Rating process was developed to facilitate the preparation and review of oil spill contingency plans. An owner or operator who is required to submit a contingency plan must, among other things, identify and ensure by contract or other approved means the availability of personnel and equipment necessary to respond to all contingency plan requirements. Plan holders that have a contract or other approved means for the booming, on-water recovery and storage, and shoreline protection services of a Rated OSRO do not have to list that OSRO's response resources in their plan. A Rated OSRO has received an OSRO Rating Letter (ORL) from OSPR for the booming, on-water recovery and storage and shoreline protection services as listed in their application.

(b) The Rating levels assigned pursuant to this section are for planning purposes and may not reflect the exigencies of actual spill response.

(c) Only OSRO's that receive a Rating from OSPR are eligible to enter into agreements for response services pursuant to Government Code 8670.56.6.(j)(1), for the response resources as listed in their ORL.

NOTE: Authority cited: Sections 8670.28, 8670.30 and 8670.56.6(j)(1), Government Code. Reference: Sections 8670.28, 8670.30 and 8670.56.6(j)(1), Government Code.

HISTORY

1. New section filed 11-4-93 with the Secretary of State by the Department of Fish and Game; operative 11-4-93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending subsections (d)(1) and (e) filed 8-29-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment of section heading, section and NOTE filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
5. Amendment of subsection (b) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 819.02. OSRO Application Content.

(a) General Information

An individual or entity may apply for consideration as a Rated OSRO for oil spill response operations. OSPR will only grant Ratings by Geographic Regions (or Geographic Response Plan areas, if established) for the following services: booming; on-water recovery and storage; and shoreline protection. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked, and shall be deemed to meet the requirements of this section for three years from the date of the letter's issuance. OSROs without a current Letter of Approval must submit a completed application within 60 calendar days prior to citing the OSRO's response resources and services to comply with the contingency planning requirements for tank vessels, nontank vessels and marine facilities. The following information is required before an application will be reviewed:

(1) the OSRO's name, contact person, mailing and physical addresses, facsimile and telephone numbers;

(2) all subcontractor's name(s) (if applicable), contact person, mailing and physical addresses, facsimile and telephone numbers;

(3) list of plan holders contracted with;

(4) for the previous two years from the date of the application, documentation of California oil spills responded to or California equipment

deployment exercises participated in, including personnel and equipment used for the response/exercise;

(5) an organizational diagram depicting the OSRO's response organization and management/command structure;

(6) a description of the roles, responsibilities and method to interface the OSRO's organization with the State Incident Command System and/or the Unified Command Structure as required by Title 8, CCR, Subsection 5192(q)(3)(A). (The OSRO may utilize the appropriate Area Contingency Plan as a reference for information on the Incident Command System/Unified Command Structure).

(7) for each type of service, the types of oil to which the OSRO is willing and able to respond;

(8) a description of the OSRO's communications equipment, to include:

(A) the amount and type of equipment;

(B) the frequencies to be used; and

(C) the number of certified operators.

(b) Equipment and Personnel

The application shall include for each location (i.e., where the equipment is stored, moored and operating area), the following information as applicable for the response equipment and personnel available to respond, indicating whether company owned/employee or subcontracted (including subcontractor's name), and dedicated or non–dedicated or OSRO–owned and controlled (as defined in Section 815.05 of this subchapter), that forms the basis for the requested Rating, Note: Ratings for six hours or earlier require sufficient dedicated response resources (as defined in Section 815.05(c)) or OSRO–owned and controlled resources (as defined in Section 815.05(k)), except for shoreline protection services in which the six hour dedicated resources requirement is specified in Section 819.02(d)(4) of this subchapter. The required information shall include but not be limited to:

(1) A description of the boom to include:

(A) total lengths of boom by type;

(B) manufacturer name and model;

(C) freeboard and draft

(D) connector type; and

(E) intended operating environments;

(F) associated anchoring systems

(2) A description of the skimmers (including Oil Spill Response Vessels (OSRV)) to include:

(A) total number of skimmers by type;

(B) manufacturer name and model;

(C) intended operating environments, including current;

(D) skimmer type by design (i.e., stationary, advancing, self–propelled, stationary/advancing);

(E) manufacturer's nameplate capacity;

(F) Effective Daily Recovery Capacity (EDRC);

(G) on board storage capacity integral to the skimmer;

(H) storage capacity of the skimming system external to the skimmer (e.g., dracones, tank barges, etc.), if any, and pump rate for off loading on–board storage; and

(I) maximum draft;

(3) A description of the response vessels (not including OSRV's) to include:

(A) vessel name;

(B) vessel length, width, and draft;

(C) vessel type by design;

(D) current documentation/registration;

(E) intended operating environments;

(F) ability to tow;

(G) horsepower;

(H) amount of boom on board;

(I) pump rate for off loading on–board storage; and

(J) applicable design limits, including suitability for different types of oils, operating environments as related to adverse weather, and draft;

(4) A description of the recovered oil storage to include:

(A) type/name;

(B) official number;

(C) length/beam/draft;

(D) maximum capacity;

(E) a copy of the vessel's Certificate of Inspection or other documentation as applicable;

(5) For all equipment, all inspections and maintenance must be documented and the records maintained for 3 years. The location of the records must be noted in the application, and all records must be available for review during verification inspections conducted by OSPR.

(6) for any equipment not located in the Geographic Region for which a Rating is sought, the applicant shall provide attestation that the equipment is transportable and available for use within the Rating time period;

(7) Equipment shall be listed only if it is in a fully operable condition. Future equipment, ordered but not yet delivered and fully operable, may be listed, but it must be listed and identified separately with its date of availability indicated.

(8) Personnel

For all personnel identified as a spill response resource, the application shall include for each Geographic Region that the OSRO is requesting a Rating:

(A) the number of personnel that are to be utilized for response activities at the six hour response level or earlier, their assignments during spill response, and whether they are dedicated or OSRO–owned and controlled or non–dedicated personnel. A list matching trained personnel by name to the equipment type and the services offered shall be made available for review during verification inspections by OSPR;

(B) the plan for mobilization of personnel including cascading additional personnel, and estimated time of mobilization;

(C) a list of the training and qualifications required for each spill response assignment including:

1. all appropriate State and federal safety and training requirements, including the OSHA requirements for Hazardous Operations and Emergency Response, and the requirements under Title 8, California Code of Regulations, Section 5192;

2. the number of trained supervisors and laborers, and the types of training received;

3. the procedures for training personnel;

4. the timelines for mobilizing and training additional response personnel not under contract; and

5. a statement by the OSRO certifying that all personnel within a job category have the requisite training and qualifications for their assignment during spill response.

6. Documentation of training and qualifications shall be maintained by the OSRO and shall be made available to the Administrator upon request.

(c) Subcontracted Response Resources

If response resources that form the basis for the assigned Rating is under contract from another party, and if the information required in this subsection is not listed elsewhere, provide the following information:

(1) on–site deployment timeframes by Geographic Region and operating environments;

(2) A valid contract from each company that is providing the contracted resources shall be submitted to OSPR for review. If all subcontracts are the same, submitting one contract along with the signature pages for any additional contracts shall suffice. The contract shall include, but not be limited to, the following:

(A) the name of the company providing the resources (subcontractor);

(B) a complete listing and storage location of the specific resources being provided;

(C) the timeframe for which the agreement is valid;

(D) any limits on the availability of resources;

(E) a signed letter from the subcontractor by an authorized individual, to the OSRO stating the following:

"The information provided regarding [subcontractor] response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow OSPR personnel access to

my facility and records for the purpose of verifying the information contained in the Rating application in which my assets are listed. I agree to participate in announced and unannounced drills as set forth in Section 819.03 of this subchapter to verify any or all of the information regarding my response equipment and personnel contained in a Rating application".

(3) Any drill or inspection of subcontracted response resources shall be coordinated with the OSRO whose application contains the subcontracted response resources.

(4) If the subcontracted response resources are not dedicated response resources, the OSRO must ensure the availability of non–dedicated response resources by contract in quantities equal to twice what the OSRO requires of the dedicated response resources. These non–dedicated response resources are subject to verification inspections and will be required by the Administrator to participate in an announced and unannounced drill(s).

(d) Service–specific Information

(1) List the Geographic Response Plan (GRA) area(s), (or the Geographic Regions(s) as defined in Chapter 1, Section 790 (ACP Areas), if GRA's are not established) in which spill response services are being offered. Include for each GRP or region:

(A) the services being offered and/or under contract (i.e., booming, on–water recovery and storage, and shoreline protection services);

(B) estimated timeframes to deploy equipment/resources at scene,

(C) operating environment(s) as described in 33 CFR 154, as applicable, including the OSRO's minimum operating depth, and

(D) requested Rating level, as described in Section 819.04 of this subchapter.

(2) for each Rating level as described in Section 819.04, and for each service offered, a written plan of operations including a call–out list for each GRA, or Geographic Region (ACP area if GRA's are not established), and operating environment of response coverage. The written plan of operations can be limited to the following time frames: six hours for High Volume Ports; 12 hours for Facility Transfer Areas; and 18 hours for Balance of the Coast (except for Shoreline Protection Ratings for small harbors which is limited to 7 hours). However, a written general plan to acquire response resources beyond these time frames is still required. As applicable, the plan will describe the number(s), type(s), means of deployment, and operations of all oil spill response equipment and trained personnel, including subcontracted resources, that the applicant would use for a spill of 50 barrels, a spill of 3,125 barrels and the largest reasonable worst case spill for which the applicant would be contractually responsible.

(3) The applicant shall submit a description of the systems approach (as defined in Section 815.05 of this subchapter) for the services offered (i.e., booming, on–water recovery and storage, and shoreline protection services) in a narrative format, for the equipment listed in Subsection (b) including, but not limited to:

(A) for all boom:

1. describe how boom is transported and method of deployment.

(B) for all skimmers (including vessel of opportunity skimming systems (VOSS)):

1. describe how the skimmer is deployed and operated;

2. describe how skimmer is transported.

(C) for all vessels (OSRO owned vessels, and subcontracted vessels):

1. describe how vessel is transported; and

2. describe type of spill response service the vessel is primarily to be used for (e.g., OSRV, skimming, towing boom, boom deployment).

(D) for all recovered oil storage:

1. describe how recovered oil is transported to/from storage.

(4) for all shoreline protection services of environmentally sensitive sites:

(A) For tank vessels and nontank vessels, OSRO's will receive a Rating for each GRA (or Geographic Region as defined in Chapter 1, Section 790 (ACP Area)). Ratings will reflect the OSRO's capability to deliver and deploy the response resources necessary to protect each type of shoreline and all applicable sensitive sites in the time frames required, as outlined in the appropriate SP Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). The SP Tables shall be reviewed and updated as needed (e.g., to reflect updates to the ACPs, etc.). Updates to the SP Tables will be processed by OSPR staff using the procedures contained in the Administrative Procedure Act.

1. An OSRO may propose alternatives to what is listed in the SP Tables for boats and staff only. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

(B) For marine facilities, OSRO's will receive a Rating for each GRA (or Geographic Region as defined in Chapter 1, Section 790 (ACP Area)). Ratings will reflect the OSRO's capability to deliver and deploy the response resources for each marine facility to protect each type of shoreline and all applicable sensitive sites in the time frames required, based on the expected oil impact from the trajectory analysis. The following information shall be submitted with each application for a Shoreline Protection Rating for impacts within the first six hours:

1. Sensitive site name and number;

2. Expected time of impact from marine facility;

3. Expected time of arrival and deployment of response resources;

4. Amount of boom, vessels, trained personnel, and other resources necessary to protect the identified site in the timeframes required.

5. For impacts at seven hours and beyond, the total amount of response resources (boom, boats, staff, etc.) necessary to protect the remaining sensitive sites.

(C) The Rating(s) requested by the OSRO shall be justified by providing documentation specifying: location of both ACP and plan holder–identified sensitive sites to be protected, as determined by the OSRO; equipment and personnel; estimated time of arrival at the site to be protected; and deployment times. Announced and unannounced drills will be used to validate the Rating(s).

(D) Ratings up to and including six hours require sufficient dedicated response resources or OSRO–owned and controlled resources. (OSRO–owned and controlled resources refers to equipment owned by the OSRO, and personnel who are employed directly by the OSRO). The following table lists the applicable percentage of dedicated shoreline protection boats and staff that are required for each Geographic Region:

Geographic Region (also known as ACP Area)	*% DEDICATED RESOURCES FOR SHORELINE PROTECTION*
1	50% dedicated boats and staff
2	75% dedicated boats and staff
3	0% (non–dedicated boats and staff allowed)
4	0% (non–dedicated boats and staff allowed) *For Port Hueneme only, 75% dedicated boats and staff required
5	75% dedicated boats and staff
6	50% dedicated boats and staff

(E) Shoreline Protection Requirements for Vessels Operating in Small Harbors Included in the SP Tables is a listing of Small Harbors throughout the state. OSROs may apply for a Rating for each Small Harbor by meeting the requirements in the Table. The requirements in the Small Harbor Table apply to all vessels over 300 GT that operate in the small harbors as listed. The following apply to the Small Harbor Table only:

1. Non–dedicated resources are allowed for shoreline protection for the vessels that operate in these harbors.

2. The amounts of boom, boats and staff, as listed, are required for the vessels that operate in these harbors. In some locations additional response resources may be required for included or adjacent sensitive sites if this has been identified in the applicable ACPs.

3. Resource requirements can be met either with pre–positioned equipment (as identified in the owner/operator's Contingency Plan) or by a contract with a Rated OSRO. Advance notice to the OSRO is required before the plan holder can begin operating in the small harbor.

4. Unless otherwise specified in the Small Harbor Table, anytime that a vessel over 300 GT operates in these small harbors, that vessel shall

have a contract or other approved means for a minimum of 2,500 feet of boom that can be deployed in 6 hours.

5. An OSRO may propose lesser amounts of shoreline protection resources than that listed in the Small Harbor Table, for carrying out planned projects in the Balance of the Coast, upon petitioning and approval of the Administrator. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

6. An OSRO may apply for a Temporary Small Harbor Rating for shoreline protection for a specific timeframe to cover a vessel being used for a specific project. Unannounced Drills for these Temporary Ratings will not require actual deployment of equipment.

(e) Attestation

The application shall contain the following language, signed and dated from the OSRO, by an authorized individual:

"The information provided regarding response equipment and personnel is factual and correct to the best of my knowledge and belief. I agree to allow OSPR personnel access to my facility, prior and subsequent to receiving a Rating, for the purpose of verifying the information contained in this application. I understand that all response resources identified for Rating purposes are subject to verification visits. I agree to participate in announced and unannounced drills as set forth in Section 819.03 of this subchapter to verify any or all of the information contained in this application, prior and/or subsequent to receiving a Rating".

(f) Confidentiality

(1) An applicant may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the application that is made available for public review.

(A) An applicant may also request that any reports, or studies prepared or submitted under any OSRO certification requirements be designated as proprietary information. Such a request must include justification for designating the report or study as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If an applicant designates information as confidential, two different copies of the application must be submitted as follows:

(A) one copy must contain the confidential information. This application will be utilized in the review and Rating process;

(B) one copy must be submitted with the confidential information removed. This copy will be available for public review. This application must contain sufficient information in place of the confidential information so that any individual reviewing the application will understand all the elements of the application.

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.10, 8670.19, 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Amendment of section and NOTE filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
4. Amendment filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 819.03. Application Review, Verification and Drills.

(a) Review For Rating

(1) An application will be reviewed within 90 calendar days of receipt or resubmission.

(2) The Administrator shall rate an OSRO upon determination that the applicant has met the requirements for the appropriate Rating levels, as outlined in Subsection 819.04(b)(2), for the equipment, services and operating environments listed in the application. The Administrator shall not issue a Rating until the applicant OSRO successfully completes an unannounced drill to verify the information in the OSRO's application.

(3) A Rating may be denied or modified if the Administrator determines that the OSRO applicant fails to meet the criteria for the Rating level of any services, based upon inspection, verification or performance of an announced and unannounced drill or actual spill, or for other reasons as determined by the Administrator. The Administrator may require the satisfactory completion of an unannounced drill of each rated OSRO prior to being granted a modified rating, or for renewal, or prior to reinstatement of a revoked or suspended rating.

(b) Standards For Review

OSRO Rating Letters will be issued to OSROs subject to the following conditions:

(1) Equipment, equipment maintenance records, and personnel training records, and personnel–specific equipment qualifications must be verifiable by inspection by the Administrator. Any resources not on site at the time of an inspection will not be counted until verified by subsequent inspection.

(2) Response personnel must comply with all appropriate State and federal safety and training requirements. Safety requirements include, but are not limited to, the following (found in Title 8, California Code of Regulations):

Trenching and Shoring (Section 1504, 1539–1547)
Electrical Safety (Section 2299–2974)
Injury and Illness Prevention Program (Section 3203)
Employee Exposure Records (Section 3204)
Transporting Employees (Section 3702)
Crane Safety (Section 4885–5049)
Noise/Hearing Conservation (Section 5095–5100)
Ergonomics (Section 5110)
Respiratory Protection (Section 5141 and 5144)
Airborne Contaminants/Employee Exposure Monitoring (Section 5155)
Confined Space (Section 5157–5159)
Hazardous Waste Operation and Emergency Response (Section 5192)
Hazard Communication (Section 5194)
Benzene Standard (Section 5218)

(3) Safety and training records may be inspected for verification.

(c) Inspections and Verification of Response Resources

(1) OSROs seeking a Rating are subject to unannounced inspections anytime prior and subsequent to receiving a Rating to verify the response services cited in the application.

(A) Any contract or sub–contract for response resources listed in the application must acknowledge OSPR personnel's right to inspect and verify listed contracted response resources as provided in this section or those response resources will not be counted. Inspection of sub–contracted response resources shall be coordinated with the OSRO whose application contains the subcontracted response resources.

(2) The Administrator or any duly authorized representative of OSPR may do any of the following:

(A) enter the OSRO's or sub–contractor's facility or other areas where response service equipment is stored or serviced to inspect the response services cited in the application;

(B) document, photograph or videotape any response service equipment;

(C) request start up, operation, or demonstration of any response service equipment or response system cited in the application;

(D) inspect and copy any documents, reports, equipment maintenance records, employee training records, or other information required to verify the response services cited in the application.

(3) Deficiencies noted during the inspection may result in denial of the application, or revocation or modification of the OSRO's Rating as described in Section 819.06 of this subchapter.

(4) The Administrator may accept an inspection completed by a governmental agency if all requirements of Sections 819 through 819.07 are met.

(5) OSRO Announced Drills and Inspections; and Unannounced Drills

Announced and unannounced drills shall be conducted to verify any or all of the elements of the services provided by an OSRO in its application prior and subsequent to issuing a Rating. A drill for the protection of sensitive sites shall conform as close as possible to the response that would occur during a spill but sensitive sites shall not be damaged during the drill. The Administrator may determine if actual spill response may be substituted in lieu of a drill, as described in CCR Section 820.01(k) of this subchapter.

(A) Announced Drills and Inspections

All OSRO's shall submit annual drill schedules to OSPR and conduct equipment deployment and sensitive site protection exercises for equipment listed in the application, including subcontracted equipment, for any services they are Rated for. The exact dates of the exercises shall be submitted 30 calendar days prior to the exercise being conducted.

1. At least 50% of all response equipment other than boom shall be exercised each year, and all response equipment, other than boom, shall be exercised over a two-year period. The OSRO will ensure that this equipment is identified/labeled and the same equipment is not used repeatedly for each exercise.

2. At least 33% of the boom listed in the application shall be inspected annually, and 1/3 of that 33% shall be deployed annually, and shall be representative of the total inventory contained in the application. The OSRO shall identify/label the boom and document the deployment or inspection.

3. For the equipment deployment exercises, the OSRO shall operate boats, boom and skimmers in each type of operating environment contained in the application.

4. Documentation that these exercises/inspections have been performed shall be submitted to OSPR within 30 calendar days after completion of the exercise/inspection. The equipment deployment exercises pursuant this subsection will also satisfy the equipment deployment exercise requirement of Section 818.02(*l*)(1)(D) for any vessel or Section 817.02(k)(3) for any marine facility that utilizes the OSRO's resources to fulfill the response element of the vessel or marine facility's own plan. These exercises will not fulfill the semi-annual equipment deployment exercise requirement of marine facility-owned equipment pursuant to Section 817.02(k)(1)(B).

5. OSROs shall ensure they coordinate equipment deployment exercises with all of their subcontractors. Full systems must be deployed and operating for all booming, on-water recovery and storage, and shoreline protection services.

(B) Unannounced Drills

OSROs are subject to unannounced drill(s) by OSPR to verify the ability of the OSRO to respond and deploy equipment and personnel as stated in the OSRO's application, prior and subsequent to receiving a rating. Unannounced drills will only be held to verify Ratings of 24 hours or earlier.

1. An OSRO shall be subject to one unannounced drill per year in each ACP area in which a Rating has been issued by OSPR. However, for ACP Area 2 only (as described in Chapter 1, Section 790(g)(2)(B)), if an OSRO applies for and receives a Rating for six hours or earlier they shall be subject to one unannounced drill each year in each of the Geographic Response Plan areas (GRA) identified in the ACP.

i. The Administrator may call a drill to test every service that the OSRO intends to provide, pursuant to the OSRO's application. Plan holders are still subject to unannounced drills for all required services, including those which OSPR does not Rate the OSRO.

ii. Each OSRO applying to provide shoreline protection services shall be subject to one unannounced drill that tests their ability to provide sensitive shoreline site protection services in each Geographic Region (or Geographic Response Plan area, if established) in which they apply to provide services.

2. Significant reductions in resources, as described in Section 819. 05 of this subchapter, may warrant additional unannounced drills.

3. Failure to participate in an unannounced drill may result in denial or revocation of the OSRO's Rating as described in Section 819.06 of this subchapter.

4. The Administrator may modify, suspend or revoke an OSRO's Rating if the OSRO fails to satisfactorily complete a drill.

5. The Administrator may cancel an announced or unannounced drill at any time due to hazardous or other operational circumstances, which shall include but not be limited to:

i. any unsafe activity or condition;

ii. oil or cargo transfer operations;

iii. inclement weather or sea state;

iv. on-going spill response activities;

v. emergency situation as determined by the U.S. Coast Guard Captain of the Port;

vi. other situations or conditions as determined by the Administrator

6. All non-governmental costs associated with an unannounced drill are the obligation of the OSRO.

7. OSROs may identify client plan holder(s) who wish to receive credit for a drill as described in CCR Section 820.01 of this subchapter.

8. The Administrator shall issue a written report evaluating the performance of the OSRO after every unannounced drill called by the Administrator within 30 calendar days.

9. The Administrator shall determine whether an unannounced drill called upon the OSRO by a federal agency qualifies as an unannounced drill for the purpose of this section, as described in CCR Section 820.01(j).

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.19, 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 11-4-93 with the Secretary of State by the Department of Fish and Game; operative 11-4-93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment of section and NOTE filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Change without regulatory effect amending subsection (c)(2) and amending NOTE filed 8-29-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
4. Amendment of section heading, section and NOTE filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
5. Amendment of subsections (c)(3)-(5) and (c)(5)(B)1. filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 819.04. OSRO Rating, Update, and Renewal Procedure.

(a) Filing

Applications must be filed with the Administrator of the Office of Spill Prevention and Response in the Department of Fish and Game. Applications shall either be delivered in person or sent by registered mail with return receipt requested, or other means as approved by the Administrator to the Marine Safety Branch of OSPR.

(b) OSRO Rating

(1) Upon satisfactorily meeting the requirements of this subchapter, an OSRO will receive the OSRO Rating Letter (ORL) that will state the type of response services, GRA or ACP area, Rating time frame(s), the on-water daily recovery rate or Shoreline Protection Rating from the appropriate Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website), as applicable, and any applicable conditions or restrictions. An OSRO Rating may not be assigned, transferred, or assumed. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless modified, suspended or revoked, and shall be deemed to meet the requirements of this section for three years from the date of the letter's issuance. OSROs without a current Letter of Approval must submit a completed application within 60 calendar days prior to citing the OSRO's response equipment and services to comply with the contingency planning requirements for tank vessels, nontank vessels and marine facilities.

(2) Ratings for Containment Booming and On-Water Recovery and Storage

Ratings will reflect the type of response service(s) offered based on the projected arrival time of the response equipment and personnel within the designated operating areas. Note: Ratings for six hours or earlier require sufficient dedicated response resources) as defined in Section 815.05(c)) or OSRO-owned and controlled resources (as defined in Section 815.05(k)). Ratings for containment booming services only will be limited to 12 hours or earlier. For containment booming and on-water recovery and storage (on-scene) means that the equipment is at the scene of the spill, and deployed and operating within one hour of arrival at the scene of the spill, but no later than the designated time frame for each Rating(s). The Rating time frames are as follows:

Ratings	*Equipment On-Scene*
0	On-scene within 30 minutes
1	On-scene within 1 hour
2	On-scene within 2 hours (Temporary storage on-scene within 4 hours)
3	On-scene within 3 hours
4	On-scene within 4 hours
6	On-scene within 6 hours
12	On-scene within 12 hours
18	On-scene within 18 hours
24	On-scene within 24 hours
36	On-scene within 36 hours
60	On-scene within 60 hours

(3) Ratings for Shoreline Protection

Ratings for shoreline protection will be based on the ability of the OSRO to meet the response requirements of the applicable Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). Note: Subsection 819.02(d)(4)(D) lists the applicable percentage of dedicated shoreline protection boats and staff that are required for each Geographic Region. The OSRO Rating Letter (ORL) for Shoreline Protection will list the applicable SP Tables and time frames that the OSRO has been Rated.

(c) Updates

(1) To maintain the OSRO's assigned Rating level, the following information shall be updated and submitted to OSPR:

(A) the current list of the OSRO's client plan holders, submitted whenever there is a change in the list, and;

(B) the current list of all owned and subcontracted oil spill response equipment and trained personnel listed in the application, that forms the basis for the assigned Rating, submitted within one year, and annually thereafter, of the anniversary date of the original Rating.

(d) Renewal

(1) Ratings will be assigned for a period of three years unless suspended or revoked by the Administrator or assigned a modified Rating level. An OSRO shall file an application for renewal at least 90 calendar days prior to the expiration of the Rating. Renewal applications shall have the same content as a new application, and shall follow the same review, verification and drill procedures as a new application. Modification of a Rating shall not affect the three year period.

(2) Ratings may be renewed earlier at the request of the OSRO in the event the OSRO has sustained a significant increase or decrease in response resources.

(3) The Administrator may require an earlier or more frequent Rating renewal than that required in Subparagraph (d)(1) above. The OSRO will be notified in writing if an earlier renewal is required. The notice will include an explanation of the reasons for the earlier Rating renewal. The circumstances that would warrant an earlier renewal include, but are not limited to, the following:

(A) a change in regulations;

(B) the development of new oil spill response technologies as determined by the Administrator;

(C) deficiencies in oil spill response capability identified by the Administrator as part of the Coastal Protection Review;

(D) an increased need to protect plant and wildlife habitat;

(E) deficiencies in oil spill response capability identified during an oil spill;

(F) deficiencies in oil spill response capability identified during an announced or unannounced drill;

(G) significant reductions to the OSRO's response capability; and

(H) any other situation deemed appropriate by the Administrator.

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 11-4-93 with the Secretary of State by the Department of Fish and Game; operative 11-4-93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Amendment of section heading, section and NOTE filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
4. Amendment of subsections (b)(1)-(2), new subsection (b)(3) and amendment of subsection (d) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 819.05. Notice of Reduction in Response Resources.

(a) The OSRO shall notify the Administrator of significant reductions in equipment, personnel or management 14 calendar days in advance. This notice may be oral, followed by a written notice as soon as possible, or in writing by facsimile or letter. If the reduction is unforeseen, oral notice shall be given immediately after becoming aware of such change. The notice shall include the identification of backup resources sufficient to maintain the OSRO's Rating level, subject to approval by the Administrator.

(1) a significant reduction is one that would affect the OSRO's ability to respond consistent with their assigned Rating level.

(b) It is the responsibility of the OSRO to verify and report to the Administrator any significant reductions in subcontracted equipment and personnel listed in the OSRO's application.

(c) Failure to notify the Administrator of significant reductions in response resources may result in the modification of a Rating level or revocation of the OSRO Rating Letter.

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 11-4-93 with the Secretary of State by the Department of Fish and Game; operative 11-4-93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Repealer and new section filed 10-9-2002; operative 10-9-2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).

§ 819.06. Rating Modification, Suspension, Revocation, or Denial.

(a) Criteria:

(1) Criteria for modification. The Administrator may modify an OSRO Rating at any time if the OSRO is not in compliance with the conditions of the Rating. The OSRO shall only perform at the modified Rating level until or unless the original Rating is reinstated.

(2) Criteria for suspension. The Administrator may suspend a Rating at any time if the OSRO is not in compliance with the requirements of this subchapter. In the situation where a Rated OSRO has refused to participate in an announced or unannounced drill, except as provided in Section 819.03(c)(5)(B), or is unable to successfully complete an announced or unannounced drill due to significant reductions in response resources, the Administrator may suspend the Rating at any time after the announced or unannounced drill is called. An OSRO with a suspended Rating shall not provide those services until the Rating is either modified or reinstated. The Administrator may revoke an OSRO Rating if the OSRO fails within 60 calendar days of written notification pursuant to Subsection (b) to correct deficiencies that were the cause of a Rating suspension, or if statutory enactments subsequent to the issuance of the Rating conflict with the purposes of the OSRO Rating program.

(3) Criteria for Denial. The Administrator may deny an OSRO Rating if the OSRO has failed to provide the information required in the Rating

application as set forth in section 819.02 or has failed to satisfy the Application review criteria set forth in Section 819.03. If the Administrator decides to deny an OSRO Rating, the Administrator shall issue a written statement of the basis for the denial. After receiving the written statement of denial from the Administrator, the OSRO shall wait 90 calendar days before submitting a new application

(b) Procedure For Modification, Suspension, Revocation, or Denial.

(1) When the Administrator believes there are valid grounds for modifying, suspending, revoking, or denying a Rating the OSRO shall be notified in writing of the modification, suspension, revocation or denial by certified or registered mail. A proposed revocation notice shall be issued after the 60 day period required by subsection (a)(2) above. The notice shall identify the Rating to be modified, suspended, revoked or denied and the reason(s) for such modification, suspension, revocation or denial, and inform the OSRO of the right to request reconsideration of a modification, suspension, revocation or denial. The Administrator may amend any notice of modification, suspension, revocation or denial at any time.

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 11–4–93 with the Secretary of State by the Department of Fish and Game; operative 11–4–93. Submitted to OAL for printing only pursuant to Government Code section 8670.28(e) (Register 93, No. 45).
2. Amendment filed 6–1–98; operative 6–1–98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
3. Repealer and new section filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
4. Amendment of section heading and section filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 819.07. Reconsideration and Hearing Procedures.

(a) Request for reconsideration. Any person may request reconsideration if that person is one of the following:

(1) An applicant for an OSRO Rating or renewal who has received written notice of denial;

(2) An OSRO who has a Rating modified, suspended, or revoked.

(b) Method of requesting reconsideration. Any person requesting reconsideration of an action must comply with the following criteria:

(1) Any request for reconsideration must be in writing, signed by the person requesting reconsideration or by the legal representative of that person, and must be submitted to the Administrator.

(2) The request for reconsideration must be received by the Administrator within 20 calendar days of the date of notification of the decision.

(3) The request for reconsideration shall state the reason(s) for the reconsideration, including presenting any new information or facts pertinent to the issue(s) raised by the request for reconsideration.

(c) The Administrator shall notify the OSRO of his or her decision within 15 calendar days of the receipt of the request for reconsideration. This notification shall be in writing and shall state the reasons for the decision. The notification shall also provide information concerning the right to a hearing and the procedures for requesting a hearing.

(d) Hearing.

The OSRO may, within 15 calendar days after receipt of notice that reconsideration has been denied, request a hearing in writing.

(1) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code Section 11500 et seq. (The Administrative Procedure Act) and shall be scheduled as expeditiously as possible.

(2) After conducting any hearing pursuant to this section, the hearing officer within 30 calendar days after the hearing is held, shall issue a written decision. The decision of the hearing officer shall constitute the final administrative decision.

NOTE: Authority cited: Sections 8670.28 and 8670.30, Government Code. Reference: Sections 8670.28 and 8670.30, Government Code.

HISTORY

1. New section filed 10–9–2002; operative 10–9–2002 pursuant to Government Code section 11343.4 (Register 2002, No. 41).
2. Amendment of section heading and section filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 820.01. Drills and Exercises.

(a) Exercises shall be designed to exercise either individual components of the contingency plans or the entire response plan. Components include, but are not limited to:

on–water containment and recovery;

shoreline protection;

response procedures (which includes how the plan interfaces with the State's Incident Command Structure and/or Unified Command as required by Title 8, California Code of Regulations, Subsection 5192(p)(D)(2));

notification procedures;

temporary storage and waste management procedures;

oiled wildlife care requirements;

and training related to response procedures.

Such exercises, individually or in combination, shall ensure that the entire plan is exercised at least once every three years, emphasizing spill response operations from spill discovery to completion of clean up and documentation. Any number of components may be tested during the exercises required below.

(1) For marine facilities and small marine fueling facilities:

(A) A tabletop exercise, announced or unannounced, of the spill management team(s) shall be conducted annually.

(B) Notification procedures shall be exercised quarterly for the Qualified Individual, marine facility personnel, the OSRO and the spill management team.

(C) A semi–annual exercise to test the deployment of facility–owned equipment, which shall include immediate containment strategies, methods to stop the spill at the source, methods to slow or stop leaks, and methods to achieve immediate emergency shutdown.

(D) Shoreline protection strategies shall be exercised as described in Subsection 820.01(b) below.

(E) Oil spill response organization field equipment deployment exercises for on–water recovery and for shoreline protection shall each be conducted at least once every three years. Shoreline protection strategies shall be exercised as described in Subsection 820.01(b) below.

(F) The owner/operator shall maintain adequate records of drills and exercises, for a period of at least three years, to include records of any drills and exercises of the oil spill response organization and resources identified in the contingency plan. These records shall be maintained at the marine facility and shall be available for inspection by the Administrator.

(2) For Tank vessels, nontank vessels and vessels carrying oil as secondary cargo, as applicable:

(A) A shore–based spill management team tabletop exercise shall be conducted annually. This exercise shall be conducted in California at least once every three years.

(B) Onboard emergency procedures and Qualified Individual notification drills shall be conducted quarterly, or 72 hours prior to entering marine waters, whichever is less often;

(C) Oil spill response organization field equipment deployment exercises for on–water recovery and for shoreline protection shall each be conducted at least once every three years. Shoreline protection strategies shall be exercised as described in Subsection 820.01(b) below.

(D) The vessel owner/operator shall maintain adequate records of drills and exercises, for a period of at least three years, to include records of any off–vessel drills and exercises (i.e., drills and exercises not held aboard the vessel) of the oil spill response organization and resources identified in the contingency plan. These records shall be maintained at the United States location of either the Qualified Individual or the vessel owner/operator. Contingency plans should indicate the location of these records. All exercises conducted aboard the vessel shall be documented in the vessel's log.

(3) Drills shall be designed to exercise either individual components of the contingency plans or the entire response plan. Such drills, individually or in combination, shall ensure that the entire plan is exercised at least once every three years.

(4) The owner/operator shall ensure that records sufficient to document a drill or exercise are maintained for three years following the completion of the drill or exercise. All such documentation must be made available to the Administrator upon request.

(b) Shoreline Protection Strategies for Sensitive Sites

(1) Marine facility owners/operators are required to exercise shoreline protection response strategies for all ACP–listed sensitive sites within the area identified as impacted. Marine facility owner/operators may use their own trajectories to identify impacted areas.

(2) Vessel owner/operators are required to exercise the shoreline protection response strategies that are identified in the applicable Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). All owner/operators may participate in the OSPR Sensitive Site Strategy Evaluation Program (as defined in Section 790) or shall submit a yearly schedule to OSPR which lists four sensitive sites to be exercised. Owner/operators are required to demonstrate to the Administrator that these areas have been exercised, either with owner/operator–owned equipment or through a Rated OSRO under contract with the owner/operator.

(A) Each schedule shall be approved or denied within 180 days after receipt by the Administrator.

(B) The Administrator shall determine whether each schedule adequately assures that the shoreline protection strategies for all sensitive sites identified as potentially impacted will be exercised. If it is determined that a schedule is inadequate, it will be returned to the submitter with a written explanation of deficiencies and, if practicable, suggested modifications or alternatives.

(c) The Administrator may call a drill or conduct an inspection, to validate all or part of a contingency plan. This drill or inspection may be announced or unannounced.

(d) To receive credit from OSPR for an exercise, the following notification requirements must be met:

(1) The owner/operator shall invite the Administrator to participate in both the equipment deployment exercises and the management team tabletop exercises and shall submit written notification including, but not limited to, the following information: company name, address, marine facility or tank vessel name, OSPR contingency plan number, point of contact, phone/FAX number, e–mail address, type of exercise, date, time and location of exercise, sensitive sites being tested, exercise scenario description, plan components to be tested, and other participants in the drill. The owner/operator may use the OSPR Exercise Notification Form (FG OSPR 1964, 3/10/97) or a document that includes the same information as the Notification Form, for this purpose. Notification may be made via letter, E–mail, or fax and sent to:

DRILLS AND EXERCISES COORDINATOR
EXECUTIVE BRANCH
DEPARTMENT OF FISH & GAME/OSPR
POST OFFICE BOX 944209
SACRAMENTO, CALIFORNIA 94244–2090
FAX: DRILLS AND EXERCISES COORDINATOR,
DFG/OSPR, (916) 324–9786

(2) The Administrator shall be given advance notice of a minimum of 30 days for all exercises. Full Scale Combination Exercises and Area Exercises, however, require advance notice of a minimum of 60 days.

(e) The Administrator shall determine if the elements of the plan were adequately tested by the exercise scenario and the response of the participants.

The Administrator shall give credit for all exercise objectives successfully tested during the exercise. Objectives not successfully tested during the exercise will not receive credit and shall be exercised again within the three year cycle. Exercise objectives shall include, but not be limited to, the following (as set forth in Appendix B of the PREP guidelines, as applicable):

(1) Notifications: Test the notification procedures identified in the contingency plan;

(2) Staff mobilization: Demonstrate the ability to assemble the spill response organization identified in the contingency plan;

(3) [Reserved]

(3.1) Unified Command: Demonstrate the ability of the spill response organization to form or interface with a Unified Command;

(3.1.1) Federal Representation: Demonstrate the ability to consolidate the concerns and interests of the other members of the unified command into a unified strategic plan with tactical operations;

(3.1.2) State Representation: Demonstrate the ability to function within the unified command structure;

(3.1.3) Local Representation: Demonstrate the ability to function within the unified command structure;

(3.1.4) Responsible Party Representation: Demonstrate the ability to function within the unified command structure;

(3.2) Response Management System: Demonstrate the ability of the response organization to operate within the framework of the response management system identified in their respective plans;

(3.2.1) Operations: Demonstrate the ability to coordinate or direct operations related to the implementation of action plans contained in the respective response and contingency plans developed by the unified command;

(3.2.2) Planning: Demonstrate the ability to consolidate the various concerns of the members of the unified command into joint planning recommendations and specific long range strategic plans. Demonstrate the ability to develop short range tactical plans for the operations division;

*(CA1) Situation Unit: Demonstrate the ability to collect, organize, and disseminate information about the current status of the spill;

*(CA2) Resource Unit: Demonstrate the ability to maintain the status of all incident resources;

*(CA3) Environmental Unit: Demonstrate the ability to prepare environmental data including assessments, modeling, surveillance, resources at risk, and impacts on environmentally sensitive sites.

*(CA4) Resources at Risk Technical Specialist: Demonstrate the ability to identify natural resources thought to be at risk from exposure to spilled oil through the gathering and analysis of known and anticipated oil movement and the location of natural, cultural and economic resources, and to prioritize a list of resources for protection based on the relative important of the resources and relative risk of exposure.

(3.2.3.) Logistics: Demonstrate the ability to provide the necessary support of both the short term and long term action plans;

(3.2.4) Finance: Demonstrate the ability to document the daily expenditures of the organization and provide cost estimates for continuing operations;

(3.2.5) Public Affairs: Demonstrate the ability to form a joint information center and provide the necessary interface between the unified command and the media;

(3.2.6) Safety Affairs: Demonstrate the ability to monitor all field operations and ensure compliance with safety standards;

(3.2.7) Legal Affairs: Demonstrate the ability to provide the unified command with suitable legal advice and assistance;

(CA5) Liaison Officer: Demonstrate the ability to establish and coordinate interagency communication and cooperation;

(4) Source Control: Demonstrate the ability of the spill response organization to control and stop the discharge at the source;

(4.1) Vessel Emergency Services (formerly called Salvage): Demonstrate the ability to assemble and deploy the vessel emergency services resources identified in the response plan;

(4.2) Firefighting: Demonstrate the ability to assemble and deploy the firefighting resources identified in the response plan;

(4.3) Lightering: Demonstrate the ability to assemble and deploy the lightering resources identified in the response plan;

(4.4) Other Vessel Emergency Services (formerly called Salvage) Equipment and Devices: Demonstrate the ability to assemble and deploy other vessel emergency services equipment and devices identified in the response plan;

(5) Assessment: Demonstrate the ability of the spill response organization to provide an initial assessment of the discharge and provide continuing assessments of the effectiveness of the tactical operations;

(6) Containment: Demonstrate the ability of the spill response organization to contain the discharge at the source or in various locations for recovery operations;

(7) Recovery: Demonstrate the ability of the spill response organization to recover, mitigate, and remove the discharged product. Includes mitigation and removal activities, e.g., dispersant use, in–situ burning use, and bioremediation use.

(7.1) On–water Recovery: Demonstrate the ability to assemble and deploy the on–water response resources identified in the response plans;

(7.2) Shore–based Recovery: Demonstrate the ability to assemble and deploy the shoreside response resources identified in the response plans;

*(CA6) Dispersants: Demonstration the ability to evaluate the use of chemical dispersants utilizing the state and federal dispersant use policies and procedures adopted in the Region IX Regional Contingency Plan and the federal area plans, including: identify and mobilize the necessary equipment and personnel; utilize the appropriate FOSC checklists and evaluation forms (pre–approval or case–by–case dispersant use approval); activate the Regional Response Team (RRT) for case–by–case dispersant approval and provide sufficient information for a recommendation to be made by the RRT; develop all necessary documentation of actions taken; and, if appropriate, develop a dispersant use plan for inclusion in the Incident Action Plan (IAP).

*(CA7) In–situ Burning: Demonstrate the ability to evaluate the use of in–situ burning utilizing state and federal policies and procedures as adopted in the federal area contingency plans, including: identify and mobilize the necessary equipment and personnel; establish and coordinate communications with the local air quality management districts; complete the in–situ burning checklists and evaluation forms; activate the Regional Response Team (RRT) and provide sufficient information for a recommendation to be made by the RRT; document actions taken; and, if appropriate, develop an in–situ burning plan for inclusion in the IAP.

*(CA8) Bioremediation: Demonstrate the ability to evaluate the use of bioremediation utilizing state and federal policies and procedures as adopted in the federal area contingency plans, including: identify and mobilize the necessary equipment and personnel; develop all necessary documentation of actions taken; and, if appropriate, develop a bioremediation plan for inclusion in the IAP.

(8) Protection: Demonstrate the ability of the spill response organization to protect the environmentally and economically sensitive areas identified in the approved Area Contingency Plans;

(8.1) Protective Booming: Demonstrate the ability to assemble and deploy sufficient resources to implement the protection strategies contained in the Area Contingency Plan and the respective industry response plan;

(8.2) Water Intake Protection: Demonstrate the ability to quickly identify water intakes and implement the proper protection procedures from the Area Contingency Plan or develop a plan for use;

(8.3) Wildlife Recovery and Rehabilitation: Demonstrate the ability to quickly identify these resources at risk and implement the proper protection procedures from the Area Contingency Plan or develop a plan for use;

(8.4) Population Protection: Demonstrate the ability to quickly identify health hazards associated with the discharged product and the population at risk from these hazards, and implement the proper protection procedures from the Area Contingency Plan or develop a plan for use;

(9) Disposal: Demonstrate the ability of the spill response organization to dispose of the recovered material and contaminated debris.

(CA9) Waste Management: Demonstrate the ability of the spill response organization to properly manage the recovered product and to develop a waste management plan for approval by the Unified Command. The plan will include appropriate procedures for obtaining permits and/or waivers, waste characterization, waste minimization, volumetric determination, and overall waste management and final disposition, as appropriate;

(10) Communications: Demonstrate the ability to establish an effective communications system for the response organization;

(10.1) Internal Communications: Demonstrate the ability to establish an intra–organization communications system. This encompasses communications both within the administrative elements and the field units;

(10.2) External Communications: Demonstrate the ability to establish communications both within the administrative elements and the field units;

(11) Transportation: Demonstrate the ability to provide effective multi–mode transportation both for execution of the discharge and support functions;

(11.1) Land Transportation: Demonstrate the ability to provide effective land transportation for all elements of the response;

(11.2) Waterborne Transportation: Demonstrate the ability to provide effective waterborne transportation for all elements of the response;

(11.3) Airborne Transportation: Demonstrate the ability to provide the necessary support of all personnel associated with the response;

(12) Personnel Support: Demonstrate the ability to provide the necessary support of all personnel associated with the response;

(12.1) Management: Demonstrate the ability to provide administrative management of all personnel involved in the response. This requirement includes the ability to move personnel into or out of the response organization with established procedures;

(12.2) Berthing: Demonstrate the ability to provide overnight accommodations on a continuing basis for a sustained response;

(12.3) Messing: Demonstrate the ability to provide suitable feeding arrangements for personnel involved with the management of the response;

(12.4) Operational/Administrative Spaces: Demonstrate the ability to provide suitable operational and administrative spaces for personnel involved with the management of the response;

(12.5) Emergency Procedures: Demonstrate the ability to provide emergency services for personnel involved in the response;

(13) Equipment Maintenance and Support: Demonstrate the ability to maintain and support all equipment associated with the response;

(13.1) Response Equipment: Demonstrate the ability to provide effective maintenance and support for all response equipment;

(13.2) Response Equipment (Support): Demonstrate the ability to provide effective maintenance and support for all equipment that supports the response. This requirement includes communications equipment, transportation equipment, administrative equipment, etc;

(14) Procurement: Demonstrate the ability to establish an effective procurement system;

(14.1) Personnel: Demonstrate the ability to procure sufficient personnel to mount and sustain an organized response. This requirement includes ensuring that all personnel have qualifications and training required for their position within the response organization;

(14.2) Response Equipment: Demonstrate the ability to procure sufficient response equipment to mount and sustain an organized response;

(14.3) Support Equipment: Demonstrate the ability to procure sufficient support equipment to support and sustain an organized response;

(15) Documentation: Demonstrate the ability of the spill response organization to document all operational and support aspects of the response and provide detailed records of decisions and actions taken. These documents shall be provided to the Administrator upon request.

*California–specific requirements

(f) The owner/operator shall provide the following documentation in order to receive credit from OSPR for any exercise conducted:

(1) the contingency plan number including point of contact, phone number and e–mail address;

(2) a list of all other participants and their roles, including contingency plan numbers if applicable;

(3) a list of all components of the contingency plan tested;

(4) a list of all ACP–listed sensitive site protection response strategies tested and documentation of actual deployment;

(5) A list of any written plans created during the drill or response (such as the site safety plan, incident action plan, disposal plan communications plan, completed or not);

(6) a list of other regulatory agencies attending the drill or exercise, if any; and,

(7) an exercise evaluation.

(8) for all exercises:

(A) information that demonstrates whether the required drills as listed in subsection in (a) above, have been conducted. The Evaluator Work Sheet (FG OSPR 1963, 2/9/98) or a form that includes the same information may be used to gather this information. This information shall be kept by the Plan Holder for 3 years and made available to the Administrator upon request;

(B) information of either concern or benefit to the local Area Planning Committee or the applicable California Harbor Safety Committee including, but not limited to, the following: plan components tested, observations and description of successful positive action or statement of problem, and any recommendations for suggested action or improvement to Area Contingency Plans, marine facilities and vessel plans, OSROs, federal agencies, state agencies, local agencies, training or exercise programs. The USCG/OSPR Lessons Learned Reporting Form (ACP LL Rev. 2/98), or a form that includes the same information, may be used to gather this information. This information shall be kept by the Plan Holder for 3 years and made available to the Administrator upon request.

(9) for all tabletop exercises:

(A) information including, but not limited to, the following: point of contact, and phone number and e-mail address, date of exercise; location; time started/time completed; the response plan scenario used; size of spill; evaluation of the spill management team(s) knowledge of the oil spill response plan; determination of proper notifications; evaluation of the communications system; ability to access contracted OSROs; ability to coordinate spill response with On-Scene Coordinator, state and applicable agencies; and ability to access sensitive site and resource information in the Area Contingency Plan if referenced. The Spill Management Team/Tabletop Exercise Report (FG OSPR 1966, 5/7/97), or a form that includes the same information, may be used to gather this information. This information shall be kept by the Plan Holder for 3 years and made available to the Administrator upon request.

(10) for all equipment deployment exercises:

(A) information including, but not limited to, the following: date; identity of marine facility or vessel; location(s); time started/completed; equipment ownership; a list of type and amount of all equipment deployed and number of support personnel employed; description of the exercise goals and a list of any Area Contingency Plan strategies tested, with a sketch of equipment deployments and booming strategies; if marine facility-owned equipment, was at least the amount of equipment deployed necessary to respond to the average most probable spill; was equipment deployed in its intended operating environment; was a representative sample of OSRO-owned equipment deployed; was the OSRO-owned equipment deployed in its intended operating environment; description of the marine facility's comprehensive training and equipment maintenance programs; did personnel responsible for equipment deployment actually deploy the equipment; and was deployed equipment operational. The Equipment Deployment Evaluation Form (FG OSPR 1965, 2/20/97), or a form that includes the same information, may be used to gather this information. This information shall be kept by the Plan Holder for 3 years and made available to the Administrator upon request.

(11) a list or check sheet showing what documentation has been submitted as part of the credit request.

(g) The Administrator shall issue exercise credit via e-mail, for objectives met during the exercise, within 90 days to the owner/operator for any exercise attended by OSPR personnel, which evaluates the adequacy of the exercise scenario to test elements of the plan and its implementation, and the response of the participants. Any inadequacies noted in the Administrator's report must be addressed in writing by the owner/operator within 60 days of the receipt of the Administrator's report. The owner/operator's response shall propose remedies to the noted inadequacies including, but not limited to, any necessary changes to the plan, any changes in contracted or owned response resources, changes in or additions to training, and/or the need for additional drills or exercises. The owner/operator's response shall include a schedule for implementing the remedies. The Administrator may audit all drill documentation to verify that the drill was done in accordance with the credit request.

(h) Substitution

(1) In-State Exercises

In substitution for the exercises required by Subsection (a) above, the Administrator may accept an exercise conducted by the marine facility or vessel, and called by an agency other than the OSPR, if all of the following conditions are met:

(A) the exercise tests one or more of the following: the marine facility or vessel's spill management team and spill response organization; deployment of the facility or vessel's response equipment; or deployment of other response resources identified in the contingency plan; and

(B) the exercise is conducted with the U. S. Coast Guard, or another local, state or federal agency and the OSPR has been invited with the minimum notification required in Section 820.01(d)(2); and,

(C) the owner/operator has received prior approval for the exercise substitution from the Administrator, and,

(D) the Administrator finds the plan components tested and evaluation criteria equal to or exceeding those of the OSPR.

(2) Out-of-State Exercises

The only exercise that can be substituted under this Subsection (2) is an exercise of the spill management team and a response management organization that is separate from the tank vessel operation itself. However, at least once every three years, the annual spill management team tabletop exercise must be conducted in California.

In substitution for the spill management team tabletop exercises, the Administrator may accept an exercise conducted by the vessel owner/operator outside of the State of California if the following conditions are met:

(A) OSPR has been invited with the minimum notification required in Subsection 820.01(d)(2); and,

(B) the owner/operator has received prior approval for the exercise substitution from the Administrator; and,

(C) the Administrator finds the exercise objectives and evaluation criteria equal to or exceeding those of the OSPR.

(i) OSRO Exercises

An exercise of an OSRO's services may fulfill the equipment deployment exercise requirement of Subsection (a)(1) above for any marine facility, or Subsection (a)(2) above for any vessel, that utilizes the OSRO's plan to fulfill the response requirements of the facility's or vessel's own plan. These exercises will not fulfill the semi-annual equipment deployment exercise requirement of marine facility-owned equipment pursuant to Subsection (a)(1)(C). OSRO's who participate in the OSPR Sensitive Site Strategy Evaluation program (as defined in S. 790) may meet the shoreline protection exercise requirement of Subsection (b)(1) above for marine facilities, or Subsection (a)(2) above for vessels.

(j) Unannounced Exercises

An unannounced exercise may be used to satisfy the exercise requirements of this subsection under the following conditions:

(1) The owner/operator shall submit a written request to the administrator within 90 days after the unannounced exercise is conducted asking that the exercise be considered in substitution for one or more of the required exercises, and;

(2) the exercise tests one or more of the following: 1) the marine facility's or vessel's spill management team and spill response organization, 2) deployment of the facility's or vessel's response equipment, or 3) deployment of other response resources identified in the facility's or vessel's plan.

(k) Actual Spill

(1) Actions taken in response to an actual spill may be considered for exercise credit upon request of the owner/operator if all of the following conditions are met:

(A) the OSPR receives the documentation, as appropriate, outlined in Section 820.01(f); and,

(B) the OSPR receives documentation of State OES oil spill notification, and the owner/operator provides all the information required on the OSPR Notification Form (FG OSPR Form 1964); and,

(C) activation of the spill management team is successfully accomplished; and,

(D) OSPR or another regulatory agency responds to the spill. A written response/evaluation by the owner/operator may be accepted by OSPR in lieu of an agency report if an agency report is not prepared; and,

(E) the response was carried out in accordance with an approved contingency plan, the appropriate Area Contingency Plan, and/or in accordance with the directions of the Administrator or Federal On-Scene Coordinator; and

(F) the OSPR receives a report from the Responsible Party as to cause of the spill, and procedures or other measures adopted to prevent a similar reoccurrence.

(G) Plan holders must submit updated oil spill contingency plans showing the procedures developed for Subsection (F) above.

NOTE: Authority cited: Sections 8670.10 and 8670.28, Government Code. Reference: Sections 8670.7, 8670.10, 8670.28, 8670.29 and 8670.30, Government Code.

HISTORY

1. New section filed 6-1-98; operative 6-1-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 23).
2. Change without regulatory effect amending NOTE filed 8-29-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 35).
3. Amendment of section heading and section filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

Subchapter 4. Oil Spill Contingency Plans, Nontank Vessels

§ 825.01. General Outline.

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HISTORY

1. New subchapter 4 (sections 825.01-827.02) and section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).

§ 825.03. Purpose and Scope.

This subchapter sets forth planning requirements for oil spill prevention and response for nontank vessels (300 gross tons or greater) in California. The planning requirements specify that the owner/operator of a nontank vessel must own or have contracted for on-water recovery and storage resources sufficient to respond to all spills up to the reasonable worst case spill volume in the time frames specified. The owner/operator shall also demonstrate through contracts(s) or other approved means, the shoreline protection response resources necessary to protect each type of shoreline and all applicable sensitive sites as outlined in the appropriate Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). The Tables representing High Volume port areas (i.e., the San Francisco and Los Angeles/Long Beach Tables) will go into effect on May 1, 2007; all other Tables will go into effect on September 1, 2007. Equipment in addition to that under contract must be identified, and a call-out procedure in place to access additional response resources if needed. For the purpose of meeting the regulatory requirements herein, contracts for booming, on-water recovery and storage, and shoreline protection services can only be made with OSRO's Rated by the Office of Spill Prevention and Response. For other required services (e.g., shoreline clean-up, waste management, spill response management, etc.) contracts or other approved means with non-rated OSRO's may be used.

The equipment that the owner/operators have available must also be applicable to the areas of intended use. Nontank vessel owner/operators shall demonstrate adequate emergency services as described, by sufficient in-house capability or a signed, valid contract with a vessel emergency services provider.

The information required by this subchapter must be submitted to the Office of Spill Prevention and Response (OSPR), and maintained by the owner/operator, in separate volumes. A principal volume will be compiled to contain all the required information, calculations, studies, maps and related data. A separate volume will be set up as a initial response activity manual and will contain only the information that response personnel will need at the time of a spill to facilitate the immediate notification and response actions that are mandated.

To the greatest extent possible, California has endeavored that this subchapter be consistent with the scope and intent of California's tank vessel oil spill contingency plan regulations, the enabling legislation Senate Bill 1644 (Chapter 964, Statutes of 1998), the Federal oil spill response regulations, and the Area Contingency Plans (ACP) completed by the U.S. Coast Guard, State Agencies, and local governments, with public participation, as required by the Oil Pollution Act of 1990 (33 USC 2701, et seq.). Consideration shall be given to the differences in environmental risk between spills from nontank vessels and tank vessels. Information developed to demonstrate compliance with other applicable Federal, State, and International (e.g., International Maritime Organization, etc.) requirements may be used to demonstrate compliance with all or part of this subchapter to the extent that the information meets the requirements of this subchapter.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending last two paragraphs filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of section and NOTE filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 825.05. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Contract or Other Approved Means":

(1) includes either of the following:

(A) A written, signed contract, or written certification of active membership, between a plan holder and an Oil Spill Response Organization(s) (OSRO) rated by OSPR (as specified in Section 819.01 of this subchapter) This contract shall identify and ensure the availability of the required personnel and equipment capable of responding to an oil spill within the stipulated response times and in the specified Geographic Regions in which the nontank vessel; or

(B) Written certification that the necessary personnel and equipment are owned or operated by the plan holder and are available within the stipulated response times and in the specified Geographic Regions;

(2) The owner/operator shall notify the Administrator within five days of a change in contracted resources/membership with a local or regional OSRO.

(3) A contract between a plan holder and an OSRO shall not contain a provision requiring the plan holder to notify the OSRO in advance, in order to guarantee response services for two hours and beyond (as specified in Section 819.04(b)(2) of this subchapter) for containment booming and on-water recovery services. It may contain provisions to notify the OSRO 24 hours in advance before entering California marine waters, to meet the 0–12 hour shoreline protection requirement. This advance notice requirement is only for vessels that operate in those areas not identified as High Volume ports. For immediate (less than 2 hours) spill response coverage during oil transfer operations, advance notice to the OSRO is also allowed. A plan holder shall comply with all other applicable contractual provisions or the contingency plan will immediately be nullified, and the plan holder will be operating in marine waters without an approved contingency plan, which is in violation of Section 826.06 of this subchapter.

(b) "Dedicated Response Resources" means equipment and personnel committed solely to oil spill response, containment, and cleanup that are not used for any other activity that would adversely affect the ability of that equipment and personnel to provide oil spill response services in the time frames for which the equipment and personnel are Rated. Ratings of six hours or earlier require either dedicated response resources or OSRO-owned and controlled response resources, as specified in Section 819.04(b)(2) of this subchapter.

(c) "Equipment Deployment Exercise" means an exercise of oil spill response equipment identified in an oil spill contingency plan or an OSRO application, through its actual deployment and operation as it would be used in spill response efforts in an environment of similar water depth, current velocity, tidal range, and substrate, where the equipment may need to be used in an actual oil spill response.

(d) "Implementation of the Plan" means that all essential provisions have been taken to enable the plan or any portion of the plan to become operational.

(e) "Innocent Passage" means navigation through the territorial sea for the purpose of traversing that sea without entering internal waters or calling at a roadstead or port facility outside internal waters. Passage shall be continuous and expeditious. However, passage includes stopping and anchoring, but only in so far as the same are incidental to ordinary navigation or are rendered necessary by distress or for the purpose of rendering assistance to persons, ships or aircraft in danger or distress.

(f) "Letter of Approval" means a written document issued by the Office of Spill Prevention and Response to the plan holder following verification, inspection and if required by the Administrator, satisfactory performance in an announced and unannounced drill, and final review and approval of the plan holder's contingency plan.

(g) "Marine Waters", means those California marine waters subject to tidal influence and includes all waterways used for waterborne commercial nontank vessel traffic to the Port of Stockton and the Port of Sacramento.

(h) "Nontank Vessel" means a vessel of 300 gross tons or greater, other than a tank vessel, not designed to carry oil as cargo.

(i) "OSRO-Owned and Controlled Resources" means equipment owned by the OSRO and personnel who are employed directly by the OSRO.

(j) "Plan Holder" means the owner/operator of a nontank vessel responsible for the development, submittal, update, maintenance of, and compliance with the oil spill contingency plan required under this subchapter.

(k) "Plan Recipient" means a receiving agency and any other entity that has been designated in this subchapter to receive a copy of the nontank vessel oil spill contingency plan.

(*l*) "Reasonable Worst Case Spill" means a spill of the total volume of the largest fuel tank on the nontank vessel.

(m) "Shallow-Draft Vessel" means:

(1) for purposes of boom deployment, a vessel that must be able to operate in water depths of two feet or less;

(2) for purposes of skimming operations, a vessel and attendant skimming system that must be able to operate in water depths of three feet or less.

(n) "Spill Management Team" means the personnel identified in an oil spill contingency plan to staff the organizational structure that will manage all aspects of response, containment, and clean up and is able to fully integrate into an Incident Command/Unified Command structure, as required by the National Contingency Plan and the State Marine Oil Spill Contingency Plan.

(o) "Tabletop Exercise" means an exercise of an oil spill contingency plan and the spill management response efforts without the actual deployment of response equipment. A tabletop exercise usually involves the enactment of a response to a simulated spill.

(p) "Unannounced Drill" means an exercise of an oil spill contingency plan or an OSRO application initiated by OSPR without prior notice to the plan holder or oil spill response organization.

(q) "Waters of the State", for the purpose of this subchapter, means those California waters subject to tidal influence including all waterways used for waterborne commercial nontank vessel traffic including the Port of Stockton and the Port of Sacramento.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending subsections (a)(1), (a)(4)–(b) and (e), repealing subsections (g)–(h) and relettering subsections filed 3–30–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of section and NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).
4. Amendment of subsection (a)(3) filed 11–5–2007 as an emergency; operative 11–5–2007 (Register 2007, No. 45). A Certificate of Compliance must be transmitted to OAL by 5–5–2008 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (a)(3) refiled 5–2–2008 as an emergency; operative 5–2–2008 (Register 2008, No. 18). A Certificate of Compliance must be transmitted to OAL by 7–31–2008 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–28–2008 order transmitted to OAL 7–25–2008 and filed 8–6–2008 (Register 2008, No. 32).

§ 825.07. General Requirements.

(a) A nontank vessel of 300 gross tons or greater shall not operate in marine waters unless the owner or operator has an oil spill contingency plan prepared and submitted in accordance with this subchapter for the Geographic Regions (as defined in Section 790 of this subdivision) the nontank vessel transits. Nontank vessel plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819.01 of this subchapter), for the booming, on-water recovery and storage, and shoreline protection services required. An OSRO's existing Letter of Approval issued from the Administrator shall remain valid unless revoked and shall be deemed to meet the requirements of this subchapter for three years from the date of the letter's issuance.

(b) No person shall load oil onto, or from a nontank vessel unless the following conditions are met prior to transfer operations:

(1) after initial submittal but prior to approval of the contingency plan, the nontank vessel owner/operator must provide the owner/operator of the marine facility or vessel providing fuel with a certified copy of the letter/certificate acknowledging the receipt of the nontank vessel's oil spill contingency plan by the Administrator, if the marine facility or vessel providing fuel does not already have such a letter on file;

(2) after approval of the initial submittal of the contingency plan, the owner/operator of the nontank vessel must provide the owner/operator of the marine facility or vessel providing fuel with a copy of the letter approving the current oil spill contingency plan for that nontank vessel if the marine facility or vessel providing fuel does not already have such a letter on file;

(3) the nontank vessel owner/operator must notify the marine facility or vessel providing fuel of any change in the approval status not reflected by the letter on file at that marine facility; and

(4) the owner/operator of the nontank vessel must certify that a complete copy of the initial response activity manual for that nontank vessel is on board the nontank vessel.

(c) Each plan shall be consistent with the State Marine Oil Spill Contingency Plan and not in conflict with the National Contingency Plan, or the applicable Federal Area Contingency Plans.

(d) nothing in this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission or San Francisco Bay Conservation and Development Commission to review federal activities, federal development projects, or federally–permitted or licensed activities, as authorized pursuant to the Coastal Zone Management Act of 1972 (16 U.S.C., section 1451 et seq.). Nor shall this subchapter impair or limit the authority of the California Coastal Commission or San Francisco Bay Conservation and Development Commission to ensure such activities or projects are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Management Program. Nothing in this subchapter shall, in any manner or respect, impair or limit the authority of the California Coastal Commission to ensure that development activities or projects, in which nontank vessels under 300 gross tons are involved, are performed in a manner that is consistent, to the extent required by applicable law, with the enforceable policies of the California Coastal Act.

(e) All plans shall be written in English, and the initial response activity manual portion shall also be in a language that is understood by all crew members responsible for carrying out the plan.

NOTE: Authority cited: Sections 8670.32(a), (b) and (g), Government Code. Reference: Sections 8670.32(a), (b) and (g), Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of subsection (a), repealer of subsection (a)(5) and amendment of subsection (d) filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 826. Plan Submittal, Review and Approval.

§ 826.01. Plan Submittal.

(a) Plans:

Unless otherwise exempt, each owner/operator of a nontank vessel shall provide an oil spill contingency plan for that nontank vessel. The plan may be specific to an individual nontank vessel or may apply to a fleet of nontank vessels. All nontank vessel–specific elements required by Subsections 827.02(a) through (f) of this subchapter shall be addressed for an individual nontank vessel or all the nontank vessels included in a Fleet Plan.

(1) Response Elements:

(A) Nontank Vessel Fleet Plans

Fleet contingency plans may be submitted by an owner/operator that has a number of nontank vessels that transit the same or substantially the same routes in marine waters. Nontank vessels may be added to a fleet tank vessel contingency plan providing all of the requirements of this subchapter are met.

1. A fleet contingency plan shall contain all prevention and response elements required pursuant to this subchapter.

(2) Incorporation of Other Plans and Reference Documents

An individual or fleet contingency plan shall contain all prevention and response elements required pursuant to this subchapter. Citing specific relevant sections of appropriate reference material may be an acceptable alternative to reproducing the full text, maps, diagrams, etc., in the contingency plan. The Administrator will determine if such submissions or citations adequately meet the requirements of this subchapter prior to final plan approval. Examples of plans or other reference documents that may be submitted or cited include, but are not limited to, the following:

(A) Plans Submitted to International, Federal or State Authorities: Appropriate sections of plans submitted to and approved by any state, federal or international authority may be either submitted or cited, as approved by the Administrator, to meet part of the requirements contained in this subchapter. These references may include documents submitted to comply with California's tank vessel contingency plan requirements, U.S. Coast Guard requirements, or the International Safety Management (ISM) Code.

(B) Federal Area Contingency Plans (ACP) and Geographic Response Plans (GRP): Information from ACP's and GRP's currently in effect which meet the requirements of Subsections 827.02(g) through (n) may be cited. Information from ACP's and GRP's that are not currently in effect must be submitted.

(C) Privately Prepared Reference Documents: Private companies may prepare reference documents specifically intended to address part or all of the requirements of Subsections 827.02(g) through (n) of this subchapter. These documents may incorporate other plans or reference documents pursuant to this Subsection 826.01(a)(2). With a company's authorization, a plan holder may submit such a document in its entirety to meet part or all of the requirements of Subsections 827.02(g) through (n).

(D) Rated OSRO:

When contracting with an OSRO, Rated by OSPR pursuant to Title 14, California Code of Regulations (CCR) Section 819.02, to meet the oil spill response requirements under this subchapter, the owner/operator may cite the Rated OSRO application in lieu of listing the OSRO's response resources which meet the requirements of 14 CCR Section 819.02.

1. An OSRO Rating does not guarantee the performance of an OSRO, nor does the use of an OSPR–Rated OSRO in a contingency plan relieve the plan holders of their ultimate statutory and regulatory responsibility to ensure the adequacy of the spill response resources identified in their contingency plan.

(E) If approved by the Administrator, plans, reference texts and other materials not listed above may be submitted to meet part of the requirements of this subchapter.

(b) Time frames:

(1) Any nontank vessel that is operating shall submit a contingency plan that is received by OSPR at least seven working days prior to entering marine waters. Nontank vessel owner/operators shall notify the Administrator by facsimile prior to entering marine waters for the harbors of Humboldt Bay, Port Hueneme, Monterey Bay, and San Diego, and the ports of Stockton and Sacramento.

(2) On a one–time basis only, the Administrator may allow a nontank vessel to enter marine waters in a shorter time period if the nontank vessel owner/operator provides to OSPR all of the following:

(A) Nontank vessel name, call sign, official number, length, gross tonnage, fuel type and total volume, capacity of largest fuel tank, type of cargo carried, amount of cargo on–board, destination, intended route while in the marine waters, and address and telephone number of both the owner and operator;

(B) A copy of a valid contract for response resources that meet the requirements of this subchapter;

(C) Identification, including telephone number and facsimile number, of a Qualified Individual; and

(D) Evidence of Financial Responsibility in the amount of three hundred million dollars ($300,000,000).

(c) Receiving Agencies:

(1) One copy of the applicable contingency plan (either hard copy or electronic media — see Section 826.02) covering each Geographic Region the nontank vessel transits shall be delivered to the Marine Safety Branch of the Office of Spill Prevention and Response within the Department of Fish and Game. Delivery of the plan may be in person or by registered mail with return receipt requested, or the equivalent. Additional hard copies shall be provided to an OSPR regional office upon request.

(2) Within two working days of a request from the Administrator, additional copies (hard copy or electronic media) shall be mailed by the plan holder to other member agencies of the State Interagency Oil Spill Committee and the State Oil Spill Technical Advisory Committee.

(3) Any additional copies shall be submitted within two working days of a request by the Administrator.

(d) Confidentiality:

(1) A plan holder may request that proprietary information be kept confidential. Such a request must include justification for designating the information as confidential. The Administrator will make a determination regarding that information which may be considered confidential and removed from any copy of the plan that is made available for public review.

(A) A plan holder may also request that any reports or studies prepared or submitted under any contingency plan requirements be designated as proprietary information. Such a request must include justification for designating the report or study as confidential.

(2) Any information designated as confidential must be clearly identified as proprietary.

(3) If a plan holder designates information as confidential, two different copies of the plan must be submitted as follows:

(A) one copy shall contain the confidential information. This plan will be utilized by the Administrator in the review and approval process;

(B) one copy shall be submitted with the confidential information removed. This copy will be available for public review. This plan must contain sufficient information in place of the confidential information so that any individual reviewing the plan will understand all the notification, prevention and response elements of the plan.

(C) Any plan submitted to any state agency, as required by this section, must include all confidential information.

NOTE: Authority cited: Sections 8670.32(c) and (g), Government Code. Reference: Sections 8670.32(c) and (g), Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect repealing subsections (a)(1)(B)–(a)(1)(B)2. and amending subsections (b)(2)(B) and (d)(1)–(d)(1)(A) filed 3–30–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsection (a)(2)(D), new subsection (a)(2)(D)1., amendment of subsections (b) and (c)(1)–(2) and repealer of subsection (c)(4) filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 826.02. Plan Format.

OSPR will accept either an original hard copy of the contingency plan or a CD–ROM formatted contingency plan with an original, signed copy of the "Feasibility and Executability Statement" required by this subchapter. Other documents required to be submitted with the contingency plan, such as signed contracts with Oil Spill Response Organizations, may be scanned on the CD using Adobe Acrobat. Although not required, it is requested that the Table of Contents be linked to the different sections of the plan. Also, if a Federal Vessel Response Plan (VRP) or other non–California plan format it used, it is requested that the plan be electronically linked to the plan sections that comply with California's requirements. Each plan shall be organized into at least two separate volumes: an initial response activity manual and a principal volume or volumes with related appendices. The format for each is outlined below:

(a) Initial Response Activity Manual:

A simplified initial response activity manual, suitable for on–scene use in the event of a spill, which summarizes the key notification information outlined in subsection 827.02 (d) and the initial shipboard response actions necessary to minimize the impact of a spill on marine waters, shall be prepared and submitted with each plan.

(1) Nontank vessels that have an approved Ship–board Oil Pollution Emergency Plan (SOPEP), may certify compliance with the emergency ship–board procedures requirements of the SOPEP, or may submit a copy of their Letter of Approval for their SOPEP, in lieu of providing the initial shipboard response actions specified in (a) above. The SOPEP shall be submitted to the Administrator upon request,

(2) The initial response activity manual shall be maintained on board the nontank vessel at all times.

(b) Principal Volume of the Plan:

(1) The principal volume of the plan shall include all the required information including a summary of the conclusions of all studies, calculations and analyses, as applicable.

(2) The principal volume of each plan shall be organized to facilitate access to information, and shall include:

(A) a detailed table of contents with chapters arranged, to the extent possible, in the same order in which the requirement for that information appears in this subchapter, or alternately with a cross reference to the requirements of this subchapter;

(B) a system of numbered chapters, sections and appendices;

(C) index tabs for locating plan chapters;

(D) a log sheet placed in the front of the plan for recording all amendments and updates; and

(E) amendments and updates that are consecutively numbered and dated.

(3) If hard copies of the plan are submitted, they shall be submitted on 8 1/2 by 11 inch paper, in a loose–leaf 3–ring binder to allow replacement of chapters or appendix pages without requiring replacement of the entire plan. Amendments and updates shall be hole–punched and in a format that will fit the binder that was submitted with the plan.

(4) All hard copy and electronic documents submitted will become the property of the Administrator. The documents will be retained by the Administrator for a minimum of three (3) years unless the plan is withdrawn by the submitter.

(c) References to Other Plans or Documents:

If references to other plans or documents are included in a contingency plan, as specified in Section 826.01(a)(2) above, the following must also be submitted:

(1) a listing of all the elements of the individual or fleet nontank vessel contingency plan that will be replaced by elements in the referenced plan or document, with an index specifying the location of the required elements, by regulation section, that will be met by the referenced plan or document.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of first paragraph and subsection (b)(3), new subsection (b)(4) and amendment of NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 826.03. Plan Review and Approval.

(a) No nontank vessel shall operate in marine waters until the owner/operator is notified that the contingency plan meets the minimum requirements listed in this subsection. A contingency plan shall be reviewed for these minimum requirements within seven working days of notification that the nontank vessel is entering marine waters, and the vessel owner/operator shall be notified in writing that: 1) the plan meets the minimum requirements; or 2) the plan is deficient and what specific information is needed, and that the nontank vessel shall not enter marine waters until the following information has been provided:

(1) Nontank vessel name, call sign, official number, length, gross tonnage, fuel type and total volume, capacity of largest fuel tank, destination, intended route while in marine waters, and address and telephone number of both the owner and operator;

(2) Evidence of a contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits;

(3) Identification, including telephone number and facsimile number, of a Qualified Individual; and

(4) Evidence of financial responsibility in the amount of three hundred million dollars ($300,000,000). Documentation that a California Certificate of Financial Responsibility is being processed will fulfill this requirement.

(b) Time frames:

(1) After notification that the plan meets the minimum requirements specified in Subsection (a), each plan shall be reviewed for all the requirements of this subchapter and be approved or denied within 180 days.

(2) The Administrator shall determine whether each plan complies with the regulations governing the contingency planning process. If the administrator determines that a plan is inadequate, a written explanation of deficiencies shall be sent to the plan holder.

(3) Upon notification of a plan's deficiencies, the plan holder will have 90 days to submit a new or modified plan, or make corrections to their original plan. Such a re-submittal shall be treated as a new submittal and processed according to the provisions of this section (b).

(c) Prior and subsequent to plan approval, the Administrator may make an on-site inspection and require an unannounced drill of all or part of any contingency plan submitted in order to determine the plan's adequacy pursuant to the authority in Government Code Section 8670.10(a).

(d) Public Review and Comment: Contingency plans will be made available for review by any interested member of the general public at the headquarter's office of OSPR.

(1) Any person interested in reviewing the plan shall contact the Administrator to request an appointment to review the plan at the headquarter's office of OSPR. Copies of the plans will be provided at the cost of duplication.

(2) Any interested person may review a plan and submit written comments prior to the Administrator's approval or disapproval of the initial plan or plan updates. Such comments will be taken into consideration in the Administrator's review process.

(e) Plan Approval:

(1) Unless the Administrator determines otherwise on a case-by-case basis, a contingency plan will be considered to be effective upon notification per Subsection (a) pending final approval unless and until the owner/operator is notified that the plan is inadequate per Subsection 826.03(f).

(2) A contingency plan shall be approved if it adequately addresses all of the requirements specified in this subchapter.

(3) Any revised plan submitted by an owner/operator in response to a notification of inadequacy shall be considered approved unless otherwise notified by the Administrator within the time frames established in Section 826.03(b).

(4) The Administrator shall consider any comments submitted by other agencies or interested parties when approving or disapproving the plan.

(5) The Administrator shall notify the plan holder when a contingency plan has been approved. The Administrator shall issue a letter of approval and certificate describing the conditions of approval, if any, and specifying the expiration date of the Letter of Approval and certificate.

(f) Denial or Revocation of Plan:

(1) Approval shall be denied or revoked if a plan does not comply or maintain compliance with this subchapter.

(2) If approval is denied or revoked, the Administrator shall notify the plan holder in writing of the reasons for denial or revocation and provide an explanation of those actions necessary to secure approval.

(A) the plan holder shall have 90 calendar days from notification to submit a new or revised plan that incorporates the recommended changes, during which time the plan is considered effective pending final approval. If the plan holder fails to address plan deficiencies within 90 calendar days of notification, the plan may be denied a second time.

(B) No nontank vessel shall operate in marine waters if it fails to gain approval of its contingency plan after the second submission, or if a second denial was issued as noted in (A) above, until a subsequent submission is approved.

(C) If a plan holder fails to address plan deficiencies within 90 calendar days from notification of a second plan denial, the Administrator may, without further notice, declare the plan null and void.

(g) Appeals: The plan holder may appeal a decision made by the Administrator regarding a contingency plan in accordance with the following provisions:

(1) the plan holder may submit a written request for reconsideration to the Administrator regarding any decision of denial or revocation of approval. Requests must be submitted within 15 working days from the date the plan holder receives notice that final approval of the plan has been denied. The request must contain the basis for the reconsideration and, if available, provide evidence which rebuts the basis for the Administrator's decision regarding the plan;

(2) within 15 working days following the receipt of the request for reconsideration, the Administrator shall send the plan holder a notice that the decision has been rescinded and that the plan is approved, or that the Administrator rejects the request for reconsideration and shall adhere to the earlier decision;

(3) the plan holder may, within 15 working days after receipt of notice that reconsideration has been denied, request a hearing in writing. No such hearing may be requested unless and until all remedies pursuant to this section have been exhausted. The Administrator shall conduct a reconsideration hearing upon request;

(4) the proceedings and hearings under this section shall be conducted in accordance with Chapter 4.5 (commencing with Section 11400) of Part I of Division 3 of Title 2 of the Government Code, including the right of judicial review as provided for in Section 11460.80 of the Government Code.

(h) Proof of Approval:

The Letter of Approval shall be presented upon request to the operator of a marine facility or vessel providing fuel prior to an oil transfer.

(i) Liability: Approval of a plan does not constitute an express assurance regarding the adequacy of the plan in the event of a spill nor does it constitute a defense to liability on the part of the operator or owner.

NOTE: Authority cited: Sections 8670.32(b), (c) and (g), Government Code. Reference: Sections 8670.132(g), and (h), 11400–11470.50 and 11460.80, Government Code.

HISTORY

1. New section filed 12-28-99; operative 2-3-2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending section filed 3-30-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsection (f)(2)(A)-(B), new subsection (f)(2)(C) and amendment of subsections (g)(1), (g)(3) and (h) filed 3-20-2007; operative 5-1-2007 (Register 2007, No. 12).

§ 826.04. Plan Implementation and Use.

(a) Availability:

(1) Nontank Vessel Initial Response Activity Manual

(A) The owner/operator shall maintain a copy of the nontank vessel's approved initial response activity manual.

(B) The owner/operator shall maintain a copy of the nontank vessel's approved initial response activity manual on board the nontank vessel at all times.

(C) The approved initial response activity manual must be in a central location accessible to key response personnel at all times.

(2) The qualified individual shall maintain a complete copy of the contingency plan including the initial response activity manual and any material referenced in the plan. The plan and any referenced material must be available for use in the event of an incident.

(3) Immediate Notification Information

(A) the immediate response and notification information shall be posted in a conspicuous location with access to a telephone, or other similar means of communication. This information shall include the names

and telephone numbers of the individuals, agencies and organizations who must be immediately notified when a spill occurs.

(b) Implementation:

(1) Each contingency plan shall be effective upon submittal, pending final approval, or until denied or revoked, as described in Section 826.03(f).

(2) An owner/operator, or any of his/her agents and employees shall use and implement the contingency plan in the event of an oil spill or an oil spill drill.

(3) Any deviation from any major element of the contingency plan must be approved by the Administrator in advance of the change. A major element is one that will affect timely and adequate oil spill response.

(4) All involved parties shall carry out whatever direction is given by the Administrator in connection with the response, containment, and clean up of a spill. A responsible party or potentially responsible party may refuse to accept a directive from the Administrator if:

(A) the directions of the Administrator are in direct conflict with directions from the Federal On–scene Coordinator; and/or

(B) the party reasonably, and in good faith, believes that the directions or orders given by the Administrator will substantially endanger the public safety or the environment.

(5) If a party refuses to accept the directive of the Administrator, the party shall state the reason why they have refused at the time of refusal, and:

(A) the party who has refused a directive shall follow up a verbal explanation of their refusal with a written notice to the Administrator explaining in full the reason(s) for refusing the directive. The written notice must be submitted to the Administrator within 48 hours of the refusal;

(B) the burden of proof shall be on the party to demonstrate, by clear and convincing evidence, why refusal to follow orders was justified.

(6) Failure to implement the plan appropriately shall constitute a violation of this subchapter.

(c) Coordination With Other Plans:

(1) Each plan shall be consistent with an approved State Marine Oil Spill Contingency Plan and not in conflict with the National Contingency Plan.

(2) Beginning with the first review and resubmission, each plan submitted shall be consistent with the appropriate Area Contingency Plan(s) completed by the Coast Guard, State Agencies, and Local Governments as required by the Oil Pollution Act of 1990, that are in effect on January 15 of the year in which the contingency plan update is required.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending subsection (b)(1) filed 3–30–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsections (b)(3) and (c)(1) and amendment of NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 826.05. Plan Updates/Resubmission.

(a) Time frames:

(1) Update and Review

(A) All existing plans for nontank vessels shall be resubmitted for review on September 1, 2001, and then once every five years thereafter from the date of approval.

1. A complete new plan must be resubmitted for the update and review only if there have been changes to the original plan or update since the last submittal. If the original plan or submitted updates have not changed, or the relevant Area Contingency Plan has not been amended, the owner/operator may submit a letter to the Administrator stating that the plan currently on file with the OSPR is up–to–date and complete.

(B) The Administrator may require earlier or more frequent resubmission than that required in Subparagraph (A). The Administrator shall notify the owner/operator in writing if an earlier update is required. The notice shall include an explanation for the reasons for the update and the time frame to comply with the resubmission. The circumstances that would warrant an earlier review or update include, but are not limited to, the following:

1. a change in regulations or statute;
2. the development of new oil spill response technologies as determined by the Administrator during any review of response capability standards;
3. deficiencies identified during the Administrator's review of all the oil spill contingency plans;
4. an increased need to protect plant and wildlife habitat;
5. deficiencies in oil spill response capability identified during an oil spill;
6. deficiencies in oil spill response capability identified during an oil spill drill;
7. significant changes to the nontank vessel; and
8. any other situation deemed appropriate by the Administrator where deficiencies in the ability to provide timely and effective oil spill response are identified.

(2) Unscheduled Updates

(A) The Administrator shall be notified as soon as possible, but at least within 24 hours, of any significant change or update to an approved plan.

1. A significant change is one that could affect timely and adequate oil spill response including changes in nontank vessel ownership or P&I club coverage.

2. Changes which are not significant include minor changes in equipment, personnel, or operating procedures which do not affect timely and adequate oil spill response.

3. As soon as administratively feasible, the Administrator will approve any change that would benefit the public health and safety, improve environmental protection, or facilitate more effective response, containment and clean up.

(b) Review and Approval of Plan Updates:

(1) The Administrator shall deny approval of a resubmitted plan, or updated section(s) of a plan, if it is no longer adequate according to the adopted regulations in effect at the time of resubmission.

(2) The review will be processed in accordance with the same time frames and procedures for submission of the initial plan.

(c) Logging and Distributing the Revised Plan:

(1) within 15–days of the Administrator's approval of revisions:

(A) the contingency plan holder shall distribute the revised plan page(s) to all plan recipients.

Faxed updates for insertion into the plan are not acceptable.

(2) The updated page(s) shall have an update number and date revised on the bottom of each page, and shall be accompanied by an index of updates that includes update number, date revised, page(s) revised, and subject matter of update. As an alternative to the hard copy, this information may be submitted on electronic media, in a format approved by the Administrator (see Section 826.02)).

(3) The log sheet, located in the front of the plan, shall be used to record the date the amendment was received, the initials of the individual who received the amendment, and a description of the change.

(d) Each plan recipient and/or each plan holder, as appropriate, must incorporate and utilize all updated materials as provided by the plan holder.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect amending subsections (a)(1)(A)1.–(B), (c)(1)(A) and (d) and repealing subsection (c)(1)(B) filed 3–30–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of subsections (a)(1)(A)–(A)1. and (c)(2) and amendment of NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 826.06. Compliance Requirements/Penalties.

(a) Except as provided in Subsection 827.01(b) of this subchapter, any nontank vessel subject to the provisions of this subchapter that enters ma-

rine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator shall be subject to an administrative civil penalty of up to one hundred thousand dollars ($100,000). The Administrator shall assess the civil penalty against the owner or operator of the nontank vessel. Each day the owner/operator of such a nontank vessel is in violation shall be considered a separate violation.

(b) Except as provided in Subsection 827.01(b) of this subchapter, any nontank vessel owner/operator who knowingly and intentionally has the nontank vessel enter marine waters without an approved contingency plan required by this subchapter or a certificate of financial responsibility issued by the Administrator is guilty of a misdemeanor punishable by up to one year of imprisonment in the county jail, or by a fine of up to ten thousand dollars ($10,000), or by both the imprisonment and a fine. Each day the owner/operator of such a nontank vessel is in knowing and intentional violation shall be considered a separate violation.

NOTE: Authority cited: Sections 8670.28, 8670.29 and 8670.57, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 827. Nontank Vessel Contingency Plans.

§ 827.01. Applicability.

(a) Plans:

Unless nontank vessels are exempt as provided in Subsection (b) below, oil spill contingency plans shall be prepared, submitted and used pursuant to the requirements of this subchapter by all nontank vessels, 300 gross tons or greater, which transit in marine waters (as defined in Section 825.05 of this subchapter).

(b) Exemptions:

(1) Contingency plans are not required for non–self propelled nontank vessels that do not carry any oil.

(2) This subchapter shall not apply to a nontank vessel that enters marine waters because of imminent danger to the crew, or in an effort to prevent an oil spill or other harm to public safety or the environment. This exemption applies if the following are met:

(A) the operator and crew comply with all orders given by the Administrator or his/her designee, unless the orders are contradicted by orders from the U.S. Coast Guard;

(B) the nontank vessel shall leave marine waters as soon as it is safe to do so, unless a contingency plan is approved or made applicable to its operation.

(3) Response Vessels

Contingency plans are not required for dedicated response vessels, which are those vessels that are dedicated to conducting response activities for an oil spill incident exclusively.

(4) Innocent Passage

Contingency plans are not required for nontank vessels engaged in innocent passage (as defined in Section 825.05 of this subchapter) within the waters of the state.

NOTE: Authority cited: Sections 8670.28 and 8670.29, Government Code. Reference: Sections 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Amendment of NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).

§ 827.02. Nontank Vessel Plan Content.

Nontank vessel owner/operators shall submit an individual nontank vessel or fleet contingency plan which shall include all of the information required by Subsections 827.02 (a) through (n) for each of the Geographic Regions the nontank vessel transits. Some of the documentation described in Subsection 826.01(a)(2) may be used in lieu of developing comparable documentation to fulfill certain required contingency plan elements if the documentation meets the requirements of this subchapter.

NOTE: Subsections 827.02(a) through (f) contain the nontank vessel–specific elements of an oil spill contingency plan.

(a) Introductory Material:

(1) The owner/operator shall provide the following information for each nontank vessel covered by the plan:

(A) the nontank vessel's name, country of registry, year built, classification society, radio call sign, and Lloyd's IMO identification number. For U.S. flagged (registered) nontank vessels without a Lloyd's IMO identification number, the vessel's official number (also known as the document number) shall be used;

(B) name, address, phone number, fax number and email address if available of the owner and/or operator of the nontank vessel(s). This information shall be referenced in the plan title or on a title page at the front of the plan;

(C) the name, address, phone number, fax number and email address if available of the person to whom correspondence should be sent;

(D) the nontank vessel's classification, hull type, gross tonnage, maximum fuel amounts, length, draft and beam;

(E) Certification Statement

1. Owner/operators shall provide a certification statement signed under penalty of perjury by an executive within the plan holder's management who is authorized to fully implement the oil spill contingency plan, who shall review the plan for accuracy, feasibility, and executability. If this executive does not have training, knowledge and experience in the area of oil spill prevention and response, the certification statement must also be signed by another individual within the plan holders' management structure who has this requisite training, knowledge, and experience. The certification shall be submitted according to the following format:

"I certify, to the best of my knowledge and belief, under penalty of perjury under the laws of the state of California, that the nontank vessel–specific information contained in this contingency plan is true and correct and that the plan as a whole is both feasible and executable."

_____ (Signature), (title), (date);

(F) the California Certificate of Financial Responsibility (COFR) number for the nontank vessel(s) covered by the plan shall be included in the front of the plan or for fleet shall be indexed separately in a subsection of the plan.

(G) Evidence of a contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that the oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits. Plan holders shall only contract with an OSRO(s) that has received a Rating by OSPR (as specified in Section 819.01 of this subchapter) for the booming, on–water recovery and storage, and shoreline protection services required.

(H) a copy of the nontank vessel's oil transfer procedures, in English.

(2) Each plan shall identify a Qualified Individual (as defined in Chapter 1, Section 790 of this subdivision) and any alternates that may be necessary for the purpose of implementing the plan. If the plan holder contracts for this service, documentation that the Qualified Individual or company, and any identified alternates, acknowledge this capacity shall be included in the plan, for each nontank vessel covered by the plan. If an alternate or alternates are identified in the plan, then the plan shall also describe the process by which responsibility will be transferred from the Qualified Individual to an alternate. During spill response activities, notification of such a transfer must be made to the State Incident Commander at the time it occurs.

(3) Each plan shall provide the name, address, telephone number and facsimile number of an agent for service of process designated to receive legal documents on behalf of each plan holder covered by the plan. If the plan holder contracts for this service, documentation that the agent for service of process acknowledges this capacity shall be included in the plan. Such agent shall be located in California.

(b) Nontank Vessel Fuel and Tankage Description/Capacity:

(1) The owner/operator shall provide information on the type(s) of fuel(s) normally used by each nontank vessel covered by the plan. A material safety data sheet (MSDS) or equivalent for each type of fuel used shall be provided to the Administrator upon request.

(2) Each plan shall provide information on the total fuel capacity and the capacity of the largest fuel tank, of each nontank vessel covered by the plan.

(c) Prevention Measures:

(1) As applicable, the owner/operator shall either submit a Certificate Of Inspection (COI) issued by the U. S. Coast Guard, or a summary of certificates issued by a member of the International Association of Classification Societies of the most recent nontank vessel inspection, or verify that the nontank vessel has such a certificate or summary and that the certificate is available for review.

(2) Nontank Vessels Subject to The International Safety Management Code

(A) The owner/operator shall also submit a copy of their Safety Management Certificate to demonstrate compliance with the performance elements in the International Safety Management (ISM) Code subject to IMO Resolution A.741(18), or shall submit proof of compliance with the American Waterways Operator (AWO) Responsible Carrier Program, whichever is applicable. ISM Code requirements currently apply to: passenger ships, including passenger high speed craft; oil tankers; chemical tankers; gas carriers; bulk carriers; and cargo high–speed craft of 500 gross tons or greater.

(B) ISM Code requirements will apply to other cargo ships and mobile offshore drilling units of 500 gross tons or greater on July 1, 2002, and the owner/operator shall submit a copy of their Safety Management Certificate on or before that date.

(3) Bunkering Operations

(A) When conducting bunkering operations in marine waters, a nontank vessel shall carry a seven–barrel spill kit for on–deck oil spills containing the following:

1. sorbents sufficient to contain seven barrels of oil;
2. non–sparking hand scoops, shovels, and buckets;
3. containers suitable for holding seven barrels of recovered waste;
4. a minimum of 15 gallons of a deck cleaning agent;
5. appropriate protective clothing to protect personnel from inhalation hazards, eye exposure, and skin contact;
6. non–sparking portable pumps with appropriate hoses; and
7. the equipment required in this section shall remain ready and pumps with appropriate hoses shall be ready for immediate use during bunkering operations.

(B) The equipment, personnel and procedures sufficient to contain a 50 barrel spill shall be present on–site during all transfer operations and deployable immediately in the event of an oil spill. Response resources owned or under contract to the marine facility or tank vessel engaged in oil transfer operations may be used to meet this requirement.

(d) Notification Procedures:

(1) The owner/operator shall provide a list of contacts to call in the event of a drill, threatened discharge of oil, or discharge of oil. The plan shall:

(A) identify a central reporting office or individual who is responsible for initiating the notification process and is available on a 24–hour basis. The individual making this notification must be fluent in English. The following information must be provided:

1. the individual or office to be contacted;
2. telephone number or other means of contact for any time of the day; and
3. an alternate contact in the event the individual or office is unavailable.

(B) detail the procedures for reporting oil spills to all appropriate local, state and federal agencies within each of the six Geographic Regions that the nontank vessel transits;

(C) establish a clear order of priority for notification.

(2) Immediate Notification

Nothing in this section shall be construed as requiring notification before response.

(A) Each plan shall include a procedure for contacting the OSRO in each of the six Geographic Regions that the nontank vessel transits immediately, but no longer than within 30 minutes, after the discovery of a discharge of oil or threatened discharge of oil.

(B) Each plan shall include a procedure that ensures that the owner/operator or his/her designee will initiate contact with the Qualified Individual, the California Governor's Office of Emergency Services and the National Response Center immediately, but no longer than 30 minutes, after discovery of a discharge of oil or threatened discharge of oil.

(C) Each plan shall include all phone numbers necessary to complete the immediate notification procedures.

(3) Each plan should identify a call–out procedure to acquire equipment in addition to that under contract, to access this equipment if the nontank vessel has a spill that exceeds its reasonable worst case spill.

(4) Each plan shall provide a checklist of the information to be reported in the notification procedures, including but not limited to:

(A) nontank vessel name, country of registry, call sign, and official number;

(B) location of the incident;

(C) date and time of the incident;

(D) course, speed and intended track of the nontank vessel;

(E) the nature of the incident;

(F) an estimate of the volume of oil spilled and the volume at immediate risk of spillage;

(G) the type of oil spilled, and any inhalation hazards or explosive vapor hazards, if known;

(H) the size and appearance of the slick;

(I) prevailing weather and sea conditions;

(J) actions taken or planned by personnel on scene;

(K) current condition of the nontank vessel;

(L) injuries and fatalities; and

(M) any other information as appropriate.

(5) Reporting of a spill as required by Subsection 827.02(d)(2) shall not be delayed solely to gather all the information required by Subsection 827.02(d)(4).

(6) An updated estimate of the volume of oil spilled and the volume at immediate risk of spillage shall be reported to the California Governor's Office of Emergency Services whenever a significant change in the amount reported occurs, but not less than every 12 hours within the first 48 hours of response. The State Incident Commander and/or the Federal On–Scene Coordinator through the Unified Command shall have the option of increasing or decreasing this time frame, as needed. Updated spill volume information included in the Incident Action Plan developed through the Unified Command may meet the requirements of this subsection.

(e) Shipboard Drills and Exercises

NOTE: Spill management team and response organization drills and exercises are addressed in Section 827.02(m) of this subchapter.

(1) Each plan shall describe the vessel's drill and exercise program that meets the requirements of Section 820.01(a), to ensure that the elements of the plan will function in an emergency.

(2) Training sessions may constitute creditable drills and exercises if all requirements of Subsections 820.01(a) ("Drills and Exercises") of this subdivision are met. Onboard emergency procedure drills conducted aboard the nontank vessel and properly logged may be credited.

(f) Post–Spill Review:

Each plan shall provide for post–spill review, including methods to review both the effectiveness of the plan and the need for plan amendments.

(A) The result of the review shall be forwarded to the Administrator within 90 days following the completion of response and clean–up procedures.

(B) The review shall be used by the Administrator only for the purposes of proposing future amendments to the contingency plan.

NOTE: Subsections 827.02(g) through (n) contain the response elements of an oil spill contingency plan.

(g) Planning for the Location of Response Resources:

The owner/operator must be prepared to respond to a spill anywhere within marine waters where the nontank vessel operates. To determine the regions in which response equipment and personnel must be available, the owner/operator shall include in the plan a description of the nontank vessel's normal routes of travel including a list of each of the six Geographic Regions that the nontank vessel transits along these routes. OSPR has developed "Shoreline Protection Tables" (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website) for vessel traffic in California's marine waters. Owners/operators shall meet the response resource and time frame requirements from the appropriate SP Tables when contracting for shoreline protection services.

(h) Containment Booming and On-Water Recovery:

(1) Each plan holder must provide a contract or other approved means for the containment booming and on-water recovery response resources up to their reasonable worst case spill volume for all potential spills from the nontank vessel that could reasonably be expected to impact marine waters. Each plan must demonstrate response resources sufficient to address potential spills in each Geographic Response Plan Area (GRA) if available, or Geographic Region through which the nontank vessel may transit. (GRA's are geographic subdivisions of ACP areas). To determine the amount of response resources for containment booming and on-water recovery the reasonable worst case spill volume must be determined, which is the total volume of the single largest fuel tank of all the nontank vessels covered by the plan.

Each plan shall contain a copy of the contract or other approved means (as defined in Section 825.05 of this subchapter), documenting that any oil spill response organization(s) that are named in the plan will provide the requisite equipment and personnel in the event of an oil spill, for each Geographic Region the nontank vessel transits. This requirement can be met by a copy of the basic written agreement with an abstract of the recovery and/or clean-up capacities covered by the contract.

(2) Response Capability Standards

The equipment and personnel necessary to address the reasonable worst case spill are brought to the scene of the spill within a period of time. The time frames are dependent upon the risk zone in which the nontank vessel is located and is specified in Subsection (B), below.

The standards set forth in this section are only planning standards and may not reflect the exigencies of actual spill response. However, these are the standards that must be used to determine the amount of equipment and personnel that must be under contract or other approved means. Response resources in addition to that under contract must be identified and a call-out procedure in place to access this equipment if the nontank vessel has a spill that exceeds its reasonable worst case spill. The owner/operator is ultimately responsible for addressing the entire volume of an actual spill regardless of the planning volume.

(A) On-Water Daily Recovery Rates and Containment Boom Amounts

1. The total amount of on-water recovery equipment and services required shall be the amount necessary to address the reasonable worst case spill volume.

2. The time frames for response resource delivery are specified in Subsection 827.02(h)(2)(B), below. Appropriate equipment to address the reasonable worst case spill volume must be capable of being at the scene of the spill at the hour specified which is measured from the time of notification, as described in Subsection 827.02(d) of this subchapter. All on-water recovery response resources shall be capable of being deployed and operable within one hour of arrival at the scene of the spill or drill but no later than the designated time frame for each risk zone.

3. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow-water response capability (refer to the relevant Area Contingency Plan), the plan shall provide for an adequate number of shallow-draft vessels (as defined in Section 825.05 of this subchapter) to be owned or under contract or other approved means and available to respond to provide shoreline protection of the sensitive sites potentially impacted by a spill. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified.

4. The time frames for equipment delivery and deployment as specified in this subsection do not take into account the time required to conduct a health and safety assessment of the site as set forth in Subsection 827.02(j)(6), and as required by the California Occupational Safety and Health Administration. In addition, these time frames do not account for delays that may occur due to weather or sea state. The actual time necessary to deliver and deploy equipment will be assessed at the time of an incident or a drill and will take into account the prevailing conditions of weather and sea state, as well as the site assessment requirements.

(B) Delivery Times

1. Nontank vessels operating in High-Volume Ports (as defined in Section 790 of this subdivision) shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within 12 hours of notification, except as provided below:

i. nontank vessels that transit: 1) inward of the inland line of demarcation as described in 33 CFR Section 80.1142 for San Francisco harbor; 2) inwards of a six nautical mile radius of Long Beach Light (LLNR 3025) [33-43.4N, 118-11.2W] outside the entrance to the Los Angeles/Long Beach Harbors on the Los Angeles and Long Beach Harbor Chart #18751; and 3) the Ports of Stockton and Sacramento, shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within six hours.

ii. in addition, when conducting bunkering operations within the High Volume Ports and the ports of Stockton and Sacramento, there must be 2500 barrels/day or 10% of the nontank vessel's total fuel capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

iii. if containment equipment for a 2500 barrel spill, or 10% of the nontank vessel's total fuel capacity, whichever is less, can immediately be deployed, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

iv. In addition nontank vessels, when not conducting bunkering operations, but when operating in the Ports of Stockton and Sacramento shall have containment boom and associated deployment equipment for a 2500 barrel spill pre-staged such that it can be immediately deployed.

2. Nontank vessels operating in Facility/Transfer Areas or the Santa Barbara Channel Area (as defined in Section 790 of this subdivision) shall have the on-water recovery capability to address the nontank vessel's reasonable worst case spill volume at the scene of the spill within 12 hours of notification.

i. in addition, when conducting bunkering operations within the Facility/Transfer Areas or the Santa Barbara Channel Area, there must be 2500 barrels/day, or 10% of the nontank vessel's total fuel capacity, whichever is less, of on-water recovery capability that can be mobilized and on-scene within two hours of notification;

ii. if containment equipment for a 2500 barrel spill, or 10% of the nontank vessel's total fuel capacity, whichever is less, can immediately be deployed, the initial on-water recovery capability can be on-scene within three hours rather than two hours.

iii. In addition, nontank vessels, when not conducting bunkering operations but when operating in Humboldt Bay and Monterey Bay, shall have containment boom and associated deployment equipment for a 2500 barrel spill pre-staged such that it can be immediately deployed.

3. Nontank vessels that transit along the Balance of the Coast (as defined in Section 790 of this subdivision), within marine waters shall have the on-water recovery capability to address the nontank vessel's reason-

able worst case spill volume at the scene of the spill within 18 hours of notification.

i. in addition, when conducting bunkering operations within the Balance of the Coast there must be 2500 barrels/day, or 10% of the nontank vessel's total fuel capacity, whichever is less, of on–water recovery capability that can be mobilized and on–scene within two hours of notification.

(3) On–Water Response Equipment and Services

(A) Each plan shall demonstrate that the nontank vessel owner/operator has under contract or other approved means (as defined in Section 825.05 of this subchapter), access to all necessary response resources to comply with the required containment booming and on–water recovery established pursuant to Subsection 827.02(h)(2)(B). The amount of response equipment required will take into account the derated capacity (as defined in Chapter 1, Section 790 of this subdivision) of the equipment.

(B) The equipment identified for a specific area must be appropriate for use in that area given the limitations of the geography, bathymetry, water depths, tides, currents and other local environmental conditions. For those areas that require shallow–water response capability (refer to the relevant Area Contingency Plan), the plan shall provide for an adequate number of shallow–draft vessels (as defined in Section 825.05 of this subchapter) to be owned or under contract or other approved means and available to respond to provide shoreline protection of the sensitive sites potentially impacted by a spill. Additionally, the equipment identified shall also be appropriate for use on the type of oil identified. To the extent that the following information is provided by a Rated OSRO, evidence of a contract or other approved means with a Rated OSRO will suffice:

1. the location, inventory and ownership of the equipment to be used to fulfill the response requirements of this subchapter;

2. a complete inventory of any nonmechanical response equipment and supplies, including the type and toxicity of each chemical agent, with procedures for storage and maintenance;

3. the manufacturer's rated capacities and operational characteristics for each major item of oil recovery equipment;

4. the type and capacity of storage and transfer equipment matched to the skimming capacity of the recovery systems;

5. the derated capacity (as defined in Chapter 1, Section 790 of this subdivision) for each major piece of on–water recovery equipment listed, as well as the derated capacity for the skimming systems as a whole.

i. A request may be submitted to the Administrator to review the derated capacity for a piece of equipment if it can be shown that the equipment has a different capacity than the derating factor allows.

ii. The Administrator's decision regarding a change in the derated capacity for a piece of equipment will be issued as soon as administratively feasible.

6. vessels designated for oil recovery operations, including skimmer vessels and vessels designed to tow and deploy boom, and availability of shallow–draft vessels;

7. vessels of opportunity reasonably available for oil spill recovery operations, including availability of shallow–draft vessels, procedures to equip the vessels, inventory equipment, and train personnel;

8. procedures for storage, maintenance, inspection and testing of spill response equipment under the immediate control of the operator;

9. sufficient equipment to track the movement of discharged oil including aerial surveillance sufficient to direct skimming operations.

10. Each plan shall describe the personnel available to respond to an oil spill, including:

i. a list of the spill management personnel and their relevant qualifications including a discussion of spill response training and experience, regulatory awareness and compliance, and supervision;

ii. a list by job category including a job description for each type of spill response position needed as indicated in the spill response organization scheme;

iii. a match between personnel by job category, and the equipment proposed for use (including equipment appropriate for shallow–water environments), including the plan for mobilization of such personnel; and

iv. sufficient personnel to maintain a response effort of at least 14 days.

(C) Each plan shall describe procedures for the transport of required equipment, personnel and other resources to the spill site. The description shall include plans for alternative procedures during adverse environmental conditions. Adverse environmental conditions to be considered shall include:

1. adverse weather;

2. sea states, tides, winds and currents;

3. presence of debris or other obstacles; and

4. any other known environmental conditions that could restrict response efforts.

(D) A list of the spill management personnel (company name if applicable) and their relevant qualifications including a discussion of spill response training and experience, regulatory awareness and compliance, and supervision.

(E) Any equipment and personnel identified in the plan to meet the planning standard requirements must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventualities must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair. Major equipment is that which, if moved, would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory, or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from service for maintenance or repair.

(4) the equipment owner shall notify the Administrator when the major equipment is back in service.

(F) The plan holder may propose the use of non–mechanical methods for response operations which may include dispersants, in–situ burning, coagulants, bioremediants, or other chemical agents. The use of any non–mechanical method for response must be done in accordance with provisions of the State Marine Oil Spill Contingency Plan, the National Contingency Plan, the applicable Area Contingency Plan, and all applicable State laws and regulations. If a non–mechanical method of response is proposed, the plan shall include:

1. methods of deployment or application;

2. For the use of chemical agents, a description of the specific mechanisms in place to assess the environmental consequences of the Chemical Agent. This description shall include the mechanism for continuous monitoring of environmental effects for the first three days after initial application, and periodic monitoring thereafter until the agent is inert or no longer operative;

3. identification of all permits, approvals or authorizations needed to allow the use of non–mechanical methods, and the time line for obtaining them;

4. a plan for protecting resources at risk, areas of public concern, and the public from any adverse effects of the non–mechanical methods used;

5. the projected efficacy of each type of non–mechanical method proposed for use taking into account the type of spilled material and the projected environmental conditions of the potential spill site; and

6. upon request, the plan holder shall provide any test results known to the plan holder which assess the environmental impacts of applying these methods in the marine environment.

(G) The plan shall describe the methods for tracking the movement of the discharged oil; and

(H) The plan shall include a list of the locations of the weather stations to be used for observations of winds, currents and other data at the time of a spill that may assist in making real–time projections of spill movement.

(i) Shoreline Protection:

Each plan must provide for shoreline protection in the Geographic Response Plan Areas (GRA) or Geographic Regions the nontank vessel may transit. Each plan shall demonstrate through contract(s) or other approved means, the response resources necessary to protect each type of shoreline and all applicable environmentally and culturally sensitive sites in the timeframes required, as outlined in the appropriate Shoreline Protection Tables (SP Tables, see Section 790, incorporated by reference herein and posted on OSPR's website). The Tables representing High Volume port areas (i.e., the San Francisco and Los Angeles/Long Beach Tables) will go into effect on May 1, 2007; all other Tables will go into effect on September 1, 2007. The SP Tables shall be reviewed and updated as needed (e.g., to reflect updates to the ACPs, etc.). Updates to the SP Tables will be processed by OSPR staff using the procedures outlined in the Administrative Procedure Act.

(1) Percentages of Dedicated Shoreline Protection Resources

The following table lists the applicable percentage of dedicated shoreline protection boats and staff that are required for each Geographic Region:

Geographic Region (also known as ACP Area)	*% DEDICATED RESOURCES FOR SHORELINE PROTECTION*
1	50% dedicated boats and staff
2	75% dedicated boats and staff
3	0% (non–dedicated boats and staff allowed)
4	0% (non–dedicated boats and staff allowed) *For Port Hueneme only, 75% dedicated boats and staff required
5	75% dedicated boats and staff
6	50% dedicated boats and staff

(A) An owner/operator may propose alternatives to what is listed in the SP Tables for boats and staff only. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

(2) Shoreline Protection Requirements for Vessels Operating in Small Harbors

Included in the SP Tables is a listing of Small Harbors throughout the state. The requirements in the Small Harbor Table apply to all vessels over 300 GT that operate in the Small Harbors as listed. The following apply to the Small Harbor Table only:

(A) Non–dedicated resources are allowed for shoreline protection for the vessels that operate in these harbors.

(B) The amounts of boom, boats and staff, as listed, are required for the vessels that operate in these harbors. In some locations additional response resources may be required for included or adjacent sensitive sites if this has been identified in the applicable ACPs.

(C) Resource requirements can be met either with pre–positioned equipment (as identified in the owner/operator's Contingency Plan) or by a contract with a Rated OSRO. Advance notice to the OSRO is required before the plan holder can begin operating in the harbor.

(D) Unless otherwise specified in the Small Harbor Table, anytime that a vessel over 300 GT operates in these small harbors, that vessel shall have a contract or other approved means for a minimum of 2,500 feet of boom that can be deployed in 6 hours.

(E) An owner/operator may propose lesser amounts of shoreline protection resources than that listed in the Small Harbor Table, for carrying out planned projects in the Balance of the Coast, upon petitioning and approval of the Administrator. The proposal may be tested by the Administrator anytime prior or subsequent to plan approval.

(3) Each plan shall have under contract or other approved means sufficient personnel to implement the shoreline protection strategies in the time frames required from the appropriate SP tables, who are to remain on scene until demobilized by the Sate Incident Command or the Unified Command. For planning purposes, this shall include procedures to obtain sufficient personnel to maintain a response effort of at least 14 days.

(A) Any equipment and personnel identified in the plan to meet the contingency plan requirements must be available for response. Any necessary maintenance for the equipment, vacation periods for response personnel, or other eventualities must be taken into account in relying upon these resources.

1. The equipment owner must notify the Administrator when major equipment is removed from service for a period of 24 hours or more for maintenance or repair. Major equipment is that which, if moved, would affect timely implementation of the plan. Notification must be made prior to removing equipment for regularly scheduled maintenance, and within 24 hours of removing equipment for unscheduled repairs.

2. The equipment owner must demonstrate that backup equipment is available during the time that the primary response equipment is out of service. Backup equipment may be provided from the owner's own inventory, or may be made available from another responder.

3. A plan shall remain valid during the time that equipment has been removed from service for maintenance or repair if the Administrator has not disapproved such removal within 24 hours of notification.

4. the equipment owner shall notify the Administrator when the major equipment is back in service.

(4) Shoreline Clean–Up

(A) Utilizing the equipment that must be under contract, Each plan shall describe methods to clean up spilled oil and remove it from the environment. The owner/operator shall have a contract or other approved means to provide the appropriate shoreline clean up services. The equipment identified for a specific area must be appropriate for use in that area given the limitations of the bathymetry, geomorphology, shoreline types and other local environmental conditions. Additionally, the equipment identified shall be appropriate to implement the applicable strategy, and appropriate for use on the type of oil identified. The following information must be provided:

1. methods for shore side clean–up, including containment and removal of surface oil, subsurface oil and oiled debris and vegetation from all applicable shorelines, adjacent land and beach types; and

2. measures to be taken to minimize damage to the environment from land operations during a spill response, such as impacts to sensitive shoreline habitat caused by heavy machinery or foot traffic.

(j) Response Procedures:

Some of the documentation from the most recent Area Contingency Plans may be used in lieu of developing comparable response procedures, if appropriate and approved by the Administrator.

(1) The owner/operator shall include in the plan a description of the organization of the nontank vessel's spill management team and spill response system. An organizational diagram depicting the chain of command shall also be included. Additionally, the plan shall describe the method to be used to integrate the plan holder's organization into the State Incident Command System and/or the Unified Command Structure as required by Title 8, California Code of Regulations, Subsection 5192(q)(3)(A). Each plan shall identify a Spill Management Team (as defined in Section 825.05 of this subchapter). If the plan holder contracts for this service, documentation that the Spill Management Team acknowledges this capacity shall be included in the plan.

(A) The plan holder may utilize the procedures outlined in the appropriate and most recent Area Contingency Plan when describing how the nontank vessel's chain of command will interface with the State Incident Command System which utilizes the Unified Command.

(B) Each plan shall describe the organization of the plan holder's public information office, as it relates to an oil spill incident, and the method by which the Information Officer will be integrated into the State Incident Command System.

(C) Each plan shall describe the plan holders' safety program, as it relates to an oil spill incident, and the method by which their Safety Officer will be integrated into the State Incident Command System.

(2) Each plan shall identify potential sites needed for spill response operations, including location(s) for:

(A) a central command post sufficient to accommodate the State Incident Command or Unified Command as well as the plan holder's response organization;

(B) a central communications post if located away from the command post; and

(C) equipment and personnel staging areas.

(3) Each plan shall include a checklist, flowchart or decision tree depicting the procession of each major stage of spill response operations from spill discovery to completion of clean–up. The checklist, flowchart or decision tree shall describe the general order and priority in which key spill response activities are performed.

(4) Each plan shall detail the lines of communications between the responsible party, the Qualified Individual and the on–scene commanders, response teams, local, state, and federal emergency and disaster responders, including:

(A) communication procedures;

(B) the communication function (e.g., ground–to–air) assigned to each channel or frequency used;

(C) the maximum broadcast range for each channel or frequency used; and

(D) redundant and back–up systems.

(5) Each plan shall describe the procedures to manage access to the spill response site, the designation of exclusion, decontamination and safe zones, and the decontamination of equipment and personnel during and after oil spill response operations, as required by the California Occupational Safety and Health Administration.

(6) Prior to beginning oil spill response operations and clean–up activities, a Site Safety Plan must be completed. Each Site Safety Plan shall include information as required pursuant to Title 8, Section 5192(p)(8)(D)(2) of the California Code of Regulations including, but not limited to, a written respiratory protection program, written personal protection equipment program, written health and safety training program, written confined space program and permit forms, direct reading instrument calibration logs, and written exposure monitoring program.

(k) Temporary Storage and Waste Management:

(1) Each plan shall identify sufficient temporary storage for all recovered oil or all oily waste, and identify facilities that would be able to accept the recovered oil or oily waste for recycling or other means of waste management. Sufficient temporary storage shall be no less than two times the reasonable worst case spill volume for the nontank vessel.

(A) To meet the temporary storage requirement described in Subsection (1) above, the following amounts of storage shall be dedicated response resources (as defined in Section 825.05(b) of this subchapter) or OSRO–owned and controlled resources (as defined in Section 825.05(i) of this subchapter), as applicable to the appropriate risk zone:

Sufficient storage to support the skimming systems shall be brought to the scene of the spill during the first four hours of response:

520 barrels of storage, or 20% of the reasonable worst case oil spill volume, whichever is less, shall be brought to the scene of the spill within four hours of notification of a spill;

12,000 barrels, or two times the reasonable worst case oil spill volume, whichever is less, shall be available at the scene of the spill within 6 hours of notification of a spill.

The balance of the temporary storage requirement described in Subsection (1) above may be provided by non–dedicated storage resources. All skimming systems operating at the scene of a spill shall have adequate storage.

(2) Each plan shall identify the party that shall maintain responsibility for recovered oil and oily waste for the purposes of temporary storage.

(3) Each plan shall describe site criteria and methods used for temporary storage of recovered oil and oily wastes generated during response and clean–up operations, including known available sites.

(4) Each plan shall identify all applicable permits, and all federal, state and local agencies responsible for issuing those permits for transit, temporary storage and ultimate waste management of all wastes likely to result from an oil spill.

(5) Each plan shall include information which could expedite the state approval process for the use of temporary waste storage sites, including a list of appropriate contacts and a description of procedures to be followed for each approval process.

(*l*) Oiled Wildlife Care Requirements: The owner/operator shall provide information to include in the plan on how oiled wildlife care will be provided by one of the following approved means:

(1) utilize the California Oiled Wildlife Care Network (OWCN) to meet oiled wildlife care requirements: or

(2) describe procedures that clearly outline how oiled wildlife care will be provided. The equipment, facilities, and personnel necessary to implement these procedures must be identified and assured by contract for each Geographic Region covered by the plan. Standards and written protocols for wildlife care must comply with all applicable State and federal laws.

(m) Drills and Exercises

(1) Each plan shall describe the vessel's drill and exercise program that meets the requirements of Section 820.01(a), to ensure that the elements of the plan will function in an emergency.

(2) Training sessions may constitute creditable drills and exercises if all requirements of Subsections 820.01(a) ("Drills and Exercises") of this subdivision are met.

(3) Drills shall be designed by the nontank vessel owner/operator to exercise either individual components of the plan or the entire response plan. Such drills, individually or in combination, shall ensure that the entire plan is exercised at least once every three years.

(n) Nontank Vessel Emergency Services:

(1) Notification Requirements:

Any party responsible for a nontank vessel as defined in this subdivision shall notify the U.S. Coast Guard within one hour of a disability (as defined in Government Code Section 8670.20(b)) if the disabled nontank vessel is within 12 miles of the shore of the state.

(2) Equipment and Services:

Nontank vessel emergency services means all services rendered to save a nontank vessel and cargo from any marine peril that could reasonably be expected to cause a discharge of oil into the waters of the state, and includes those actions necessary to control or stabilize the nontank vessel or cargo.

(A) All nontank vessels required to have a contingency plan pursuant to Section 827.01(a) must demonstrate sufficient nontank vessel emergency services means capability as outlined in this section;

(B) Availability of the following equipment and services shall be demonstrated by sufficient in–house capability or a signed, valid contract or other approved means with a vessel emergency services provider or by other means approved by the Administrator. For the purpose of this subsection, a plan holder can demonstrate the availability of equipment and services, in lieu of a signed, valid contract or sufficient in–house capability, by a Letter of Intent or a Conditional Agreement, signed by the entity providing such services and attesting to the availability of the equipment and services required as specified in this Subsection (n). Any service provider must have the appropriate expertise, and all required equipment ready and available to respond within the following time frames:

1. Within 12 hours of notification of the U.S. Coast Guard:

i. an emergency services vessel of the appropriate size, configuration, and operating capability to ensure stabilization of a disabled nontank vessel shall be on scene. The emergency services vessel must be capable of reaching the disabled nontank vessel before the disabled nontank vessel would run aground. In determining the time it would take for a nontank vessel to run aground, an estimate shall be made based on the drift rate in the worst case weather assuming the complete loss of power and/or steering;

ii. a professional salvor, naval architect or other qualified person knowledgeable of stability, and hull stress assessments of the nontank vessel shall be engaged in nontank vessel emergency operations. These

assessments shall be developed pursuant to the shipboard spill mitigation procedures as set forth in 33 CFR, Part 155.1035(c)).

iii. a private firefighting capability that will respond to casualties in the area(s) in which the nontank vessel will operate. This capability shall be a supplement to the firefighting capability on board the nontank vessel;

iv. dewatering pumps, hoses, and power supplies sufficient to maintain nontank vessel stability and prevent sinking shall be on scene.

2. within 18 hours of notification of the U.S. Coast Guard, and to the extent necessary to avoid a pollution incident, the following must be on scene:

i. resources for shoring, patching or making other emergency, temporary repairs to correct structural, stability, or mechanical problems on the nontank vessel;

ii. equipment necessary to tow an incapacitated nontank vessel to a safe haven.

NOTE: Authority cited: Sections 8670.5, 8670.7, 8670.10, 8670.20, 8670.25, 8670.25.5, 8670.28 and 8670.29, Government Code. Reference: Sections 8670.10, 8670.12, 8670.20, 8670.25, 8670.25.5, 8670.28 and 8670.29, Government Code.

HISTORY

1. New section filed 12–28–99; operative 2–3–2000 pursuant to Government Code section 11343.4 (Register 99, No. 53).
2. Change without regulatory effect repealing subsection (a)(1)(E)1., renumbering and amending former subsection (a)(1)(E)2. to subsection (a)(1)(E)1. and amending subsections (a)(1)(F)–(G) filed 3–30–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 13).
3. Amendment of section and NOTE filed 3–20–2007; operative 5–1–2007 (Register 2007, No. 12).
4. Amendment of subsection (a)(1)(A) filed 8–6–2008; operative 9–5–2008 (Register 2008, No. 32).

Subchapter 6. Oil Transfer and Vessel Operations

Article 1. General Requirements

§ 840. Short Title.

This subchapter shall be known and may be cited as the Department of Fish and Game, Office of Spill Prevention and Response, Oil Transfer and Vessel Operation Regulations.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.7 and 8670.17, Government Code.

HISTORY

1. New subchapter 4, article 1 and section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of subchapter heading and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Change without regulatory effect amending subchapter 6 heading filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
4. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 840.1. Applicability.

(a) The provisions of this subchapter shall apply to:

(1) all oil transfer operations other than internal vessel transfers regardless of the quantity being transferred, conducted within California marine waters, or a shore–based transfer where a spill could impact California marine waters, except as noted in (b) below; and

(2) all drydock associated oil transfers including, but not limited to, oil transfers to or from a tank vessel or nontank vessel in drydock; oil transfers to or from tanks (portable and/or fixed) within the drydock; and oil transfers to or from the drydock; and

(3) all vessels engaged in oil transfer operations. For the purpose of this subchapter, "vessel" is not limited to the definition in Chapter 1, Section 790, of this subdivision and includes tank vessels and nontank vessels.

(b) This subchapter does not apply to:

(1) nontank vessels with an oil carrying capacity of less than 250 barrels;

(2) oil transfers to or from a marine terminal;

(3) small craft refueling docks as defined in Chapter 1, Section 790 of this subdivision;

(4) public vessels as "public vessels" are defined in 33 United States Code (USC) 2701;

(5) dedicated oil spill response vessels when conducting response operations in a response area; or

(6) vessels of opportunity as defined in Chapter 1, Section 790 of this subdivision.

(7) internal vessel transfers.

(c) Both the transfer unit and the receiving unit may be monitored by Staff during any phase of the oil transfer operation.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14, 8670.17 and 8670.18, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 840.2. Administration.

(a) The Staff shall administer this subchapter and shall thereby seek to provide for the following:

(1) the prevention and elimination of any contamination or pollution of the ocean and tidelands,

(2) the prevention and elimination of waste from the marine waters,

(3) the conservation of natural resources,

(4) the protection of human health and safety, and

(5) the protection of the environment.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Section 8670.2, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).

§ 841. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this Subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "#1 and #2 Grade Oils", for the purpose of this subchapter, means oils with an API gravity of 35 to 40 and are primarily intended for use in internal combustion engines that use compression for ignition, or used in turbine engines, or used as a heating oil.

(b) "Boom", for the purpose of this subchapter, means flotation boom or other effective barrier containment material suitable for containment of oil that is discharged onto the surface of the water.

(c) "Person in charge" means that person as defined in 33 CFR 154.105.

(d) "Receiving Unit" means any tank vessel, nontank vessel or marine facility which is not a marine terminal, which receives oil during an oil transfer operation.

(e) "Small marine fueling facility" means either of the following:

(A) a mobile transfer unit, or

(B) a fixed facility that is not a marine terminal, which dispenses primarily nonpersistent oil, and may dispense small amounts of persistent oil, primarily to small craft, and meets all of the following criteria:

(1) has tank storage capacity not exceeding 40,000 gallons in any single storage tank or storage tank compartment.

(2) has total usable tank storage capacity not exceeding 75,000 gallons.

(3) had an annual throughput volume of over-the-water transfers of oil that did not exceed 3,000,000 gallons during the most recent preceding 12-month period.

(f) "SOLAS" means the International Convention for Safety of Life at Sea 1974, and the Protocols of 1978 and 1988, published in SOLAS, consolidated edition 1997, IMO Publications, International Maritime Organization (IMO), 4 Albert Embankment, London SE1 7SR, United Kingdom.

(g) "Staff" means the Administrator or any personnel within the California Department of Fish and Game authorized to act on behalf of the Administrator.

(h) "Transfer" or "Transfer Operation" means the transfer of oil.

(i) "Transfer Unit" means any tank vessel, nontank vessel, or marine facility from which oil is transferred to another vessel or marine facility which is not a marine terminal, during an oil transfer operation.

NOTE: Authority cited: Sections 8670.17, 8670.18 and 8670.28, Government Code. Reference: Section 8670.3, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of subsections (g)(1), (j), (r)(1)(B)-(C), (s) and NOTE, new subsection (*l*) and subsection redesignation and filed 7-12-94 (Register 94, No. 28).
3. Change without regulatory effect amending section filed 7-12-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
4. Amendment filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 842. Incorporation by Reference.

(a) Unless found to conflict with regulations of this subchapter, and to the extent that they govern the transportation or transfer of oil, the following regulations promulgated by the United States Coast Guard are incorporated by reference:

(1) 33 Code of Federal Regulations (CFR) Part 151, Vessels Carrying Oil, Noxious Liquid Substances, Garbage, Municipal or Commercial Waste, and Ballast Water.

(2) 33 CFR Part 154, Facilities Transferring Oil or Hazardous Material in Bulk.

(3) 33 CFR Part 155, Oil or Hazardous Material Pollution Prevention Regulations for Vessels.

(4) 33 CFR Part 156, Oil and Hazardous Material Transfer Operations.

(5) 46 CFR Part 34, Firefighting Equipment.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of subsection (a) and NOTE and filed 7-12-94 (Register 94, No. 28).
3. Amendment filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

Article 1.1. Requirements for the Transfer of Oil

§ 843. General.

(a) No person may conduct an oil transfer operation unless the equipment, personnel and operating procedures meet the requirements of this subchapter.

(b) Any transfer operation which does not meet the requirements of Subsection (a) of this section may be subject to a shutdown of operations. An order issued by the Staff to terminate an oil transfer operation is an order of the Administrator and failure to comply constitutes a violation of Article 9 of the Government Code (commencing with Section 8670.57 et seq.).

(c) The Administrator may grant an exemption or partial exemption from compliance with any requirement in this subchapter if the following conditions are met:

(1) An owner or operator submits a written request for an exemption to the Administrator at least 30 days before operation under the exemption is proposed, unless the Administrator authorizes a shorter time period; and

(2) It is determined from the request that:

(A) compliance with a specific requirement is economically or physically impractical;

(B) no alternative procedure, method, or equipment standard exists that would provide an equivalent level of protection from pollution by oil; and

(C) the likelihood of oil being discharged as a result of the exemption is minimal.

(3) If requested, the applicant must submit any appropriate information to substantiate the request for an exemption. Such information may include an environmental and economic assessment of the effects of and the reasons for the exemption, and any proposed procedures, methods or equipment standards to be followed in lieu of those required. The Administrator may consider any exemption or partial exemption from compliance with any requirement in the Federal regulations granted by the Commandant of the U.S. Coast Guard;

(4) The exemption may specify the procedures, methods, or equipment standards that will apply;

(5) An exemption will be granted or denied in writing. The decision of the Administrator will be rendered within 10 calendar days of receipt of the request and is the final agency action.

(d) Any exemption granted by the State Lands Commission pursuant to Title 2, CCR Section 2310, shall remain in full force and effect until such exemption expires by its own terms or an application is made to the Administrator, pursuant to this section for an extension or amendment of such exemption.

NOTE: Authority cited: Sections 8670.7, 8670.17, 8670.18 and Article 9 (commencing with Section 8670.57 et seq.), Government Code. Reference: Sections 8670.2, 8670.14 and 8670.17, Government Code.

HISTORY

1. New article 1.1 and section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of section and NOTE and filed 7-12-94 (Register 94, No. 28).
3. Amendment of section and NOTE filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 843.1. Persons in Charge: Designation and Qualification.

(a) A separate "person in charge" must be designated for the oil transfer operations of the transfer unit and for the oil transfer operations of the receiving unit.

(b) No person may serve as person in charge of oil transfer operations unless:

(1) the person in charge meets the requirements set forth in 33 CFR 154.710, 33 CFR 155.710 and 156.115, whichever is appropriate.

(2) the person in charge has been designated in writing in accordance with 33 CFR 155.820 as set forth in 33 CFR 154.730, and 33 CFR 155.715.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of NOTE and filed 7-12-94 (Register 94, No. 28).
3. Amendment filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 843.2. Compliance with Oil Transfer Procedures or Operations Manual.

(a) The operator of each vessel required by 33 CFR 155.720 to have oil transfer procedures shall ensure that such procedures are current and shall require vessel personnel to use the oil transfer procedures during each oil transfer operation.

[The next page is 200.39.]

(b) The operator of each marine facility required by 33 CFR 154.300 to have an operations manual shall ensure that the manual's procedures are current and shall require facility personnel to use the operations manual during each oil transfer operation.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading, section and NOTE filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.3. Availability of Oil Transfer Procedures or Operations Manual.

The written oil transfer procedures or operations manual must be:

(a) available for inspection by Staff whenever the transfer unit is conducting an oil transfer operation;

(b) legibly printed in English and any other language or languages used primarily by personnel engaged in the oil transfer operation; and

(c) permanently posted or available at the site of transfer where the procedures can be easily seen and used by members of the crew when engaged in oil transfer operations.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading and section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.4. Contents of the Oil Transfer Procedures or Operations Manual.

The oil transfer procedures or operations manual must contain, either in the order listed or by use of a cross–reference index page, all of the following as appropriate:

(a) a list of each product transferred to or from the vessel or marine facility;

(b) a description of each oil transfer system on the vessel or marine facility including:

(1) a line diagram of the vessel's or marine facility's oil transfer piping, including the location of each valve, pump, control device, vent, and overflow;

(2) the location of the shutoff valve or other isolation device that separates any bilge or ballast system from the oil transfer system;

(3) a description of and procedures for emptying the discharge containment system;

(c) the number of persons required to be on duty during oil transfer operations;

(d) the duties by title of each officer, person in charge, tankerperson, deckhand, and any other person required for each oil transfer operation;

(e) procedures and duty assignments for tending the vessel's moorings during the transfer of oil;

(f) procedures for operating the emergency shutdown and communications;

(g) procedures for topping off tanks;

(h) procedures for ensuring that all valves used during the oil transfer operations are closed upon completion of transfer;

(i) procedures for reporting oil discharges into the water; and

(j) procedures for closing and opening the vessel openings specified in 33 CFR 155.815.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: 33 CFR 155.750; and Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading, first paragraph and subsections (a)–(b)(1) filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.5. Draining Oil.

No person may intentionally drain oil or oily waste from any source into the bilge of any vessel. For purposes of this section, "bilge" does not mean a slop tank as described in 33 CFR 157.15, or an oily residue tank as described in 33 CFR 157.17.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Section 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).

§ 843.6. Emergency Shutdown.

(a) A vessel carrying oil, with an oil capacity of 250 or more barrels, must have on board an operable means for emergency shutdown that would enable the person in charge of an oil transfer operation to stop the flow of oil to another vessel, or within the vessel itself, within 30 seconds.

(b) A small marine fueling facility must have an operable means for emergency shutdown that would enable the person in charge of the oil transfer operation to stop the flow of oil to a vessel.

(c) The means required in paragraphs (a) and (b) of this section may be a pump control, a quick–acting, power actuated valve, or an operating procedure. If an emergency pump control is used, it must stop the flow or back flow of oil if the oil could siphon through the stopped pump.

(d) The means required in paragraph (a) of this section must be operable from the cargo deck, cargo control room, or the usual operating station of the person in charge of the oil transfer operation.

(e) The means required in paragraphs (a) and (b) of this section must be operable from a location that is accessible to the person in charge.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.7. Communications.

(a) During oil transfers, the transfer unit and receiving unit must have continuous two–way voice communication between the persons in charge of the transfer operations on both the transfer unit and receiving unit.

(b) Portable communication devices used to comply with paragraph (a) of this section during the transfer of flammable or combustible liquids must be intrinsically safe, as defined in Title 2, Division 3, Chapter 1, Article 5 of the California Code of Regulations, Section 2370(e).

(c) The primary communication system required by paragraph (a) of this section must be usable and effective in all phases of the transfer operation and all weather conditions. If this communications systems fails, the transfer operation shall be discontinued, as described in the Declaration of Inspection (Section 843.8(z) of this subchapter). The transfer operation shall not resume until the continuous two–way voice communication system is restored.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Title 2 CCR Section 2370(e); and Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.8. Pre–Transfer Requirements for Oil Transfer Operations.

No person may conduct an oil transfer operation unless:

(a) the vessel's moorings and mooring lines used during the transfer operation are strong enough to hold during all expected conditions of surge, current, and weather, and are long enough to allow adjustment for changes in draft, drift, and tide during the transfer operation;

(b) oil transfer hoses and loading arms are long enough to allow the vessel to move to the limits of its moorings without placing strain on any component of the oil transfer system;

(c) each hose is supported to prevent kinking or other damage to the hose and to prevent strain on its coupling;

(d) each part of the oil transfer system is properly aligned;

(e) each part of the oil transfer system not necessary for the transfer operation is securely capped, blank flanged, and/or shut off;

(f) the end of each hose that is not connected for the transfer of oil is plugged, capped, or blanked off using the closure devices required by federal regulation;

(g) the transfer system is attached to a fixed connection on the transfer unit or receiving unit except that when a nontank vessel of less than 250 barrel capacity is receiving fuel, an automatic back pressure shutoff nozzle may be used;

(h) each overboard discharge or sea suction valve that is connected to the vessel's oil transfer or cargo tank system is sealed or lashed in the closed position, except when used to receive or discharge ballast;

(i) each oil transfer hose is in good repair, and is suitable for the purpose intended and free from defect which would permit the discharge of oil through the hose material; has no unrepaired loose covers, kinks, bulges, soft spots, or any other defect which would permit the discharge of oil through the hose material and no gouges, cuts, or slashes that penetrate the first layer of hose reinforcement. (See the recommended practices in the "Hose Technical Information Bulletin: No. IP–11–4; Oil Suction and Discharge Hose: Manual for Maintenance, Testing and Inspection," published by the Rubber Manufacturers Association (RMA), 1440 K Street, N.W., Washington, D.C. 20005). For purposes of this section, "reinforcement" means the strength members of the hose, consisting of fabric, cord and/or metal;

(j) the discharge containment equipment on deck or on the dock that must be deployed pursuant to Sections 844 and 844.3 of this subchapter, is deployed and in place prior to any transfer of oil, and periodically drained to provide the required capacity;

(k) each drain and scupper is closed by mechanical means to adequately prevent any discharge or leaking of oil; freeing ports shall be adequately blocked to prevent any discharge or leaking of oil;

(*l*) all connections in the oil transfer system are leak free, except that a component in the transfer system, such as the packing glands of a pump which cannot be made leak free, shall not leak at a rate that exceeds the capacity of the discharge containment equipment to hold any such leakage during the transfer operation;

(m) the communications equipment and procedures required by this subchapter are operating during the entire transfer operation;

(n) the emergency means of shutdown is in position and operable;

(o) there is a qualified person in charge on the transfer unit and a person in charge on the receiving unit during a transfer operation;

(p) each person in charge required by paragraph (o) of this section:

(1) shall be present at the site of the oil transfer operation and immediately available to the oil transfer personnel;

(2) has readily available a copy of the vessel oil transfer procedures or the facility operations manual, as appropriate at the operations center or central point where transfer operations are controlled and monitored; and

(3) conducts the transfer operation in accordance with the vessel oil transfer procedures or facility operations manual, as appropriate;

(q) the personnel required, under the facility operations manual and the vessel oil transfer procedures, to conduct the oil transfer operation:

(1) are on duty; and

(2) conduct the transfer operation in accordance with the facility's operations manual or vessel's oil transfer procedures, as appropriate;

(r) each person required by paragraph (o) understands and speaks the English language fluently, or engages the services of an interpreter;

(s) the person in charge of oil transfer operations on the transfer unit and the person in charge of oil transfer operations on the receiving unit have held a conference to ensure that each person in charge understands the following details of the transfer operation:

(1) the identity of the product and quantity to be transferred, and availability of a material safety data sheet for the product to be transferred;

(2) the sequence of transfer operations;

(3) the transfer rate;

(4) the name or title and location of each person participating in the transfer operation;

(5) the details of their respective transfer or receiving system and the particulars of the transfer operation;

(6) the critical stages of the transfer operation;

(7) all the federal, state, and local rules that apply to the transfer of oil;

(8) the emergency procedures, which shall include;

(A) acknowledgment that together both units are willing to provide all spill containment resources under each of their control on site;

(B) identification, in writing, of each unit's contracted OSRO;

(C) agreed–upon written emergency shutdown procedures.

(9) the discharge containment procedures;

(10) the discharge reporting procedures;

(11) the watch or shift arrangements;

(12) the transfer shutdown procedures;

(t) the person in charge of oil transfer operations on the transfer unit and the person in charge of oil transfer operations on the receiving unit agree to begin the transfer operation;

(u) To ensure safe operation and early detection of an oil leak, for oil transfer operations between sunset and sunrise, deck lighting shall be provided by the self–propelled vessel that adequately illuminates (as described by 33 CFR 155.790) the following:

(1) each transfer operation work area and each transfer connection point in use on a self–propelled vessel; and

(2) each transfer operation work area and each transfer connection point in use on each barge or small marine fueling facility discharging or receiving oil, unless the barge or small marine fueling facility itself provides adequate illumination.

(3) Where illumination appears to be inadequate, Staff may require verification by instrument of the levels of illumination. On a horizontal plane three feet above the deck or walking surface, illumination must measure at least:

(A) 5.0 foot candles at transfer connection points; and

(B) 1.0 foot candles in oil transfer operation work areas.

(v) appropriate fire fighting equipment is available as required in 46 CFR, Part 34.

(w) in addition to the requirements listed in 33 CFR 154.500(e), all transfer hoses shall have all markings near the two ends in the vicinity of the flanges where they can be easily seen.

(x) all transfer connections shall:

(1) use suitable material in joints and couplings to ensure a leak–free seal;

(2) use a new gasket;

(3) use a bolt in every available hole;

(4) use bolts of the correct size in each bolted connection;

(5) tighten each bolt and nut uniformly and sufficiently to distribute the load to ensure a leak–free seal;

(6) not use any bolt that shows signs of strain or is elongated or deteriorated;

(7) use either:

(A) a bolted or full threaded connection; or

(B) a quick–connected coupling with a means of securing the coupling to prevent accidental release.

(y) the vessel has a fill pipe for which containment can be provided. For vessels less than 250 barrels capacity, an automatic back pressure nozzle can be used.

(z) a written Declaration of Inspection (DOI) which shall include the following, in addition to the requirements of 33 CFR 156.150(c):

(1) identification of each unit's OSRO;

(2) acknowledgment by each unit that their OSRO has been notified in advance;

(3) emergency shut–down procedures;

(4) agreed–upon hand and/or sound signals that initiate and complete the shut–down of the transfer operation.

(5) The Declaration of Inspection shall be filled out and signed by each person in charge and relief person in charge. Each person in charge who is different from the person who originally signed the Declaration of Inspection shall sign the Declaration of Inspection before assuming or re–assuming the duties of a person in charge. Prior to their signing or re–signing the Declaration of Inspection, each person in charge shall inspect the transfer unit or receiving unit, as appropriate, to ensure that the requirements of this subchapter are being maintained;

(aa) a loading plan shall be completed in writing by the receiving unit.

(ab) Transfer operations shall not be started or, if started, shall be discontinued under the following conditions:

(1) during severe weather, electrical storms, or wave conditions;

(2) if a fire occurs on the wharf, on the vessel, on the marine facility, or in the vicinity of the wharf, vessel or marine facility;

(3) any condition that may jeopardize the safety of the transfer;

(4) loss of continuous two–way voice communication.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading and section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 843.9. Personnel Work Limitations.

(a) No shoreside person involved in a transfer operation may work more than 16 hours in any 24 hour period, or more than 40 hours in any 72 hour period, except in an emergency.

(b) No vessel person involved in a transfer operation may work more than 15 hours in any 24 hour period, or more than 36 hours in any 72 hour period, except in an emergency.

(c) For purposes of this section, "work" includes any administrative duties associated with the vessel or transfer operation whether performed on board the vessel or onshore.

(d) For purposes of this section, "emergency" is limited to those situations which threaten life, damage to property or have adverse impact on the public health or safety.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844. Containment and Response Equipment Requirements; Marine Facility and Vessel Oil Transfer Operations.

This section does not apply to small marine fueling facilities. Containment and response equipment requirements for small marine fueling facilities, including mobile transfer units, are addressed in Section 844.3 of this subchapter.

(a) The requirements specified in this section are in addition to those specified in 33 CFR 155 which are incorporated herein by reference.

(b) Containment and Removal of On–Deck Spills.

(1) Transfer units and receiving units must provide appropriate equipment and supplies for the containment, removal and storage of on–deck oil spills of at least seven barrels. Such equipment and supplies must include:

(A) sorbents sufficient to contain seven barrels of oil;

(B) non–sparking hand scoops, shovels, and buckets;

(C) containers suitable for holding seven barrels of recovered waste;

(D) a minimum of 15 gallons of a deck cleaning agent;

(E) appropriate protective clothing to protect personnel from inhalation hazards, eye exposure, and skin contact;

(F) non–sparking portable pump(s) with appropriate hoses; and

(G) the equipment required in this section must remain ready, and pump(s) with appropriate hoses must be ready, for immediate use during transfer operations.

(c) Transfer units, except for small marine fueling facilities, must carry or provide at the point of transfer appropriate equipment and supplies for the containment and removal of both persistent oil, and #1 and #2 grade oil (as defined in Section 841 of this subchapter) spills in water adjacent to the transfer site. Prior to beginning each transfer operation the transfer unit shall provide either one of the following for the duration of the entire transfer operation:

(1) boom deployed so as to enclose the water surface area adjacent to the receiving unit which will provide common containment area for:

(A) either of the following:

1. the entire receiving unit and the point of transfer; or

2. those portions of the receiving unit or seawall from which oil may spill into the water.

(B) where the hull of the transfer unit or seawall is capable of acting as an effective barrier on the side of the receiving unit, the boom on that side may be deployed so that it provides containment between the receiving unit and the transfer unit or seawall.

(C) the boom shall be deployed so that it provides a stand–off of not less than 4 feet from the outboard side of the receiving unit.

(2) sufficient boom, trained personnel and equipment, maintained in a stand–by condition at the point of transfer, such that at least 600 feet of boom, or an amount sufficient to meet the containment requirements in subsection (1), above, whichever is greater, can and will be deployed for the most effective containment immediately, but no longer than 30 minutes, after discovery of a spill.

(d) In addition to the requirements specified in this Subsection (c) above, the owner or operator of a transfer unit shall also identify the equipment, personnel and procedures such that at least an additional 600 feet of boom can and will be deployed. These response resources shall be on–scene and deployed within one hour for the most effective containment in the event of an oil spill.

NOTE: Authority cited: Sections 8670.7, 8670.17, 8670.18 and 8670.28, Government Code. Reference: Sections 8670.2, 8670.14, 8670.25 and 8670.28, Government Code.

HISTORY

1. New article 1.2 and section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer of article heading and amendment of section heading and section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.1. Oil Discharge Cleanup; Marine Facility and Vessel Oil Transfer Operations.

This section does not apply to small marine fueling facilities. Oil discharge cleanup requirements for small marine fueling facilities are addressed in Section 844.4 of this subchapter.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever oil from any source is discharged:

(1) in the transfer operation work area and poses a threat of spilling into marine waters; or

(2) into the water or upon the adjoining shoreline in the transfer area.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under Subsection (a) of this section, unless:

(1) the source of the spill has been secured;

(2) the oil discharged in the oil transfer operation work area is cleaned up;

(3) the oil discharged into the water or upon the adjoining shoreline is cleaned up; and

(4) both persons in charge agree to resume the oil transfer operation.

(c) The U.S. Coast Guard Captain of the Port may authorize resumption of the oil transfer operation if it is deemed appropriate.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14 and 8670.25, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading and section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.2. Reporting Requirements; Marine Facility and Vessel Oil Transfer Operations.

This section does not apply to small marine fueling facilities. Reporting requirements for small marine fueling facilities are addressed in Section 844.5 of this subchapter.

(a) An immediate report must be made by the transfer unit to the California Office of Emergency Services in the event any of the following occurs during an oil transfer operation:

(1) a fire, explosion, collision, or grounding;

(2) any similar incident or occurrence which poses a threat to the vessels involved.

(b) The master or person in charge of a vessel shall report any discharge of oil into the water from such vessel.

(c) Notification.

(1) Unless the Staff and the operator agree otherwise, at least four (4) hours, but not more than twenty–four (24) hours, prior to the initiation of any transfer operation, the transfer unit operator shall provide notice of the transfer to the Staff. For oil transfer operations where the transfer unit operator is given less than four (4) hours notice, the operator shall provide the Staff with notice of the transfer as soon as possible after receiving notice of the anticipated transfer, but in any case prior to the initiation of transfer operations.

(2) The notification requirement in Subsection (a) above also applies to oil transfers to or from a marine facility, tank vessel or nontank vessel within a drydock, and oil transfers to or from the drydock.

(3) Notifications shall be made in writing by facsimile machine or other agreed upon means to the Staff.

(4) The notification shall include the following:

a. the location of the transfer;

b. the expected time of arrival of the transfer unit;

c. time anticipated for initiation of the transfer operation;

d. time anticipated for completion of the transfer operation;

e. the names of the transfer unit and receiving unit involved;

f. the type or types of oil and quantity being transferred;

g. the name and 24 hour telephone and facsimile number of the Qualified Individual; and

h. the name of the transfer unit's contracted oil spill response organization(s).

(5) Acknowledgment by the Staff of the notification required by this section is not required to commence operations.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14 and 8670.25.5, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of section heading and section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.3. Containment and Response Equipment Requirements; Small Marine Fueling Facility Oil Transfer Operations.

(a) The requirements specified in this section are in addition to those specified in 33 CFR 154 which are incorporated herein by reference.

(b) Small marine fueling facilities shall carry on–site appropriate equipment and supplies for the containment and removal of on–deck and on–shore oil spills of at least two barrels. Such equipment and supplies must include:

(1) sorbents sufficient to contain two barrels of oil;

(2) non–sparking hand scoops, shovels, and buckets;

(3) containers suitable for holding two barrels of recovered waste;

(4) a minimum of five gallons of a deck cleaning agent;

(5) appropriate protective clothing to protect personnel from inhalation hazards, eye exposure, and skin contact;

(6) non–sparking portable pumps with appropriate hoses; and

(7) the equipment required in this section must remain ready, and pumps with appropriate hoses must be ready, for immediate use during transfer operations.

(c) Small marine fueling facilities, not including mobile transfer units, must carry or provide at the point of transfer appropriate equipment and supplies for the containment and removal of both persistent oil, and #1 and #2 grade oil (as defined in Section 841 of this subchapter) spills in waters adjacent to the transfer site. Prior to beginning each transfer operation, the small marine fueling facility shall provide either one of the following for the duration of the entire transfer operation:

(1) boom deployed so as to enclose the water surface area adjacent to the vessel which will effectively maintain a common containment and oil entrapment area for:

(A) either of the following:

1. the entire vessel and the point of transfer; or

2. those portions of the vessel and seawall from which oil may spill into the water.

(B) where the hull of the vessel and the face of the dock or seawall are both capable of acting as effective barriers, the boom may be deployed so that it provides containment between the vessel and dock or seawall.

(C) the boom shall be deployed so that it provides a stand–off of not less than four feet from the outboard side of the vessel.

(2) sufficient boom, trained personnel and equipment, maintained in a stand–by condition at the point of transfer, such that at least 600 feet of boom, or an amount sufficient to meet the containment requirements in subsection (1) above, whichever is greater, can and will be deployed for the most effective containment immediately, but no longer than 30 minutes, after discovery of a spill.

(d) In addition to the requirements specified in this Subsection (c) above, the owner or operator of a small marine fueling facility, not including mobile transfer units, shall also identify the equipment, personnel and procedures such that at least an additional 600 feet of boom can and will be deployed. Mobile transfer units shall identify the equipment, personnel and procedures sufficient to contain a two barrel spill. These

response resources shall be on-scene and deployed within one hour for the most effective containment in the event of an oil spill.

NOTE: Authority cited: Sections 8670.7, 8670.17, 8670.18 and 8670.28, Government Code. Reference: Sections 8670.2, 8670.14, 8670.25 and 8670.28, Government Code.

HISTORY

1. New article 1.3 and section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of section and NOTE and filed 7-12-94 (Register 94, No. 28).
3. Renumbering of former section 844.3 to section 844.6 and new section filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 844.4. Oil Discharge Cleanup; Small Marine Fueling Facility Operations.

(a) Each person conducting an oil transfer operation shall stop the transfer operation whenever oil from any source is discharged:

(1) in the transfer operation work area and poses a threat of spilling into marine waters; or

(2) into the water or upon the adjoining shoreline in the transfer area.

(b) Except as permitted under paragraph (c) of this section, no person may resume an oil transfer operation after it has been stopped under paragraph (a) of this section, unless:

(1) the source of the spill has been secured;

(2) the oil discharged in the oil transfer operation work area is cleaned up;

(3) the oil discharged into the water or upon the adjoining shoreline is cleaned up; and

(4) both persons in charge agree to resume the oil transfer operations.

(c) The U.S. Coast Guard Captain of the Port may authorize resumption of the oil transfer operation if it is deemed appropriate.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Section 8670.2, 8670.14 and 8670.25, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of NOTE and filed 7-12-94 (Register 94, No. 28).
3. Renumbering of former section 844.4 to section 844.7 and new section filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 844.5. Reporting Requirements; Small Marine Fueling Facility Operations.

(a) An immediate report must be made by the vessel and the small marine fueling facility to the California Office of Emergency Services, in the event any of the following occurs during an oil transfer operation:

(1) a fire, explosion, collision, or grounding;

(2) any similar incident or occurrence which poses a threat to the vessels or facilities involved.

(b) The master or person in charge of a vessel or small marine fueling facility (including Mobile Transfer Units) shall immediately report any discharge of oil into the water.

(c) Notification: Mobile Transfer Units Only.

(1) Unless the Staff and the operator agree otherwise, at least four hours, but not more than 24 hours, prior to the initiation of any transfer operation, the mobile transfer unit operator shall provide notice of the transfer to the Staff. For mobile transfer unit operations where the operator is given less than four hours notice, the operator shall provide the Staff with notice of the transfer as soon as possible after receiving notice of the anticipated transfer, but in any case prior to the initiation of transfer operations.

(2) Notifications shall be made in person, by telephone or by facsimile machine to the Staff.

(3) The notification shall include the following:

a. the location of the transfer;

b. the expected time of arrival of the unit;

c. time anticipated for initiation of the transfer operation;

d. time anticipated for completion of the transfer operation;

e. the names of the transfer unit or receiving unit involved;

f. the type or types of oil being transferred;

g. the name and 24 hour telephone and facsimile number of the Qualified Individual; and

h. the name of the Mobile Transfer Unit's oil spill response organization(s).

(4) Acknowledgment by the Staff of the notification required by this section is not required to commence operations.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14 and 8670.25.5, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with amendment of subsections (b)(7), (c)(2), (d) and NOTE and filed 7-12-94 (Register 94, No. 28).
3. Editorial correction of subsection (c) (Register 95, No. 41).
4. Repealer and new section filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

Article 1.2. Additional Requirements for Lightering Operations

§ 844.6. Applicability.

(a) This Article applies to vessels which engage in oil lightering operations where a spill could impact the marine waters of California. Lightering or lightering operation means the transfer of a cargo of oil in bulk from one vessel to another. Lightering includes all phases of the operation from the beginning of mooring activities between the transfer unit and the receiving unit to the departure of the either the transfer unit or the receiving unit. A lightering operation does not include bunkering. These rules are in addition to rules found in Article 1.1 of this subchapter. The requirements of this article shall not apply to a vessel that conducts a lightering operation in an effort to prevent an oil spill or other harm to public safety or the environment.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.17 and 8670.18, Government Code.

HISTORY

1. New section filed 2-18-94 as an emergency; operative 2-18-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-20-94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2-18-94 order transmitted to OAL 5-27-94 with relocating of subsection (b)(2) to (c) and amendment of NOTE and filed 7-12-94 (Register 94, No. 28).
3. Repealer of former section 844.6 and renumbering of former section 844.3 to section 844.6, including relocation and renumbering of former article 1.3 heading to article 1.2 heading and amendment of article heading and section filed 8-13-2002; operative 9-12-2002 (Register 2002, No. 33).

§ 844.7. General Requirements; Lightering Operations.

(a) No vessel may transfer cargo oil upon marine waters of the State of California where the cargo oil is to be lightered, unless:

(1) the vessel is in compliance with the requirements of this subchapter;

(2) both the receiving unit and the transfer unit have on board at the time of transfer, a valid Certificate of Inspection, Certificate of Compliance, or a Tank Vessel Examination Letter, as would have been required under 46 U.S.C. 3710 or 3711, had the transfer taken place in a port or place subject to the jurisdiction of the United States; and

(3) the receiving unit and transfer unit as required by 33 CFR 151 have on board, at the time of transfer, an International Oil Pollution Prevention (IOPP) Certificate or equivalent documentation of compliance with Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978. Such documentation is the same as that which required by 33 CFR 151 for vessels in the navigable waters of the United States. The IOPP Certificate or documentation of compliance shall be that prescribed by 33 CFR 151.19 and 33 CFR

151.21, and shall be effective under the same timetable as specified in 33 CFR 151.19.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer of former section 844.7 and renumbering and amendment of former section 844.4 to section 844.7 filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.8. Applicability.

NOTE: Authority cited: Sections 8670.7, 8670.18 and 8670.28, Government Code. Reference: Sections 8670.2 and 8670.17, Government Code.

HISTORY

1. New article 1.4 and section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer of article 1.4 (sections 844.8–844.12) and repealer of section filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.9. Tug Requirements.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.17, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of subsection (a) and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.10. Mooring Masters.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14 and 8670.17, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of subsections (a) and (b) and NOTE and new subsection (c) and filed 7–12–94 (Register 94, No. 28).
3. Repealer filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.11. Assistant to the Mooring Master.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2, 8670.14 and 8670.17, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 844.12. Underkeel Clearance.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.17, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Repealer filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

Article 1.3. Transfer Operations Inspection Program

§ 845. Inspections.

(a) Inspectors may board and inspect any vessel which is conducting, preparing to conduct, or has just finished conducting an oil transfer before either the transfer unit or the receiving unit has departed. The Administrator has the primary responsibility for carrying out the provisions of the Act within the Administrator's jurisdiction.

(b) The Administrator shall designate persons to act in the capacity of inspector for purposes of this article. Such personnel shall be readily identifiable by credentials issued by the Administrator. Credentials issued pursuant to this article shall be carried by the inspector conducting any inspection and made available for viewing upon request from any interested party.

(c) As used in Section 845.2 below, the term Administrator shall also mean any person having the authority to conduct inspections as delegated pursuant to this article.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.18, Government Code.

HISTORY

1. New article 1.5 and section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of subsection (b) and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Renumbering of former article 1.5 to article 1.3 and amendment of subsections (a) and (b) filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 845.1. Compliance with Federal, State and Local Regulations.

All operators involved in transfer operations shall comply with all applicable federal, state, and local pollution prevention regulations, including, but not limited to, the provisions under 33 CFR Parts 154, 155, and 156.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.2 and 8670.14, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

§ 845.2. Inspections and Monitoring.

(a) The Administrator shall carry out an inspection program which shall include the following:

(1) at least once every three years, the Administrator shall conduct a system safety inspection of each vessel engaged in transfer operations in the marine waters of California. Such an inspection shall determine whether the vessel is in compliance with equipment, procedures, and other requirements as specified by this subchapter.

(2) monitoring transfer operations at the transfer site on a continuing, random basis.

(b) Inspectors' Access to Vessels and Records.

(1) Every vessel operator shall provide the Administrator access at any time to any and all policies, guidelines and reports relating to the testing, inspection, maintenance and operation of the vessel, including but not limited to operations manuals and U.S. Coast Guard Inspection Reports.

(2) All vessel operators involved in transfer operations shall ensure that the Administrator has access at any and all times on board any and all vessels engaged in transfer operations. The vessel operator shall provide, at a minimum, SOLAS approved access to board the vessel. Access shall be provided to the Administrator for the purpose of monitoring transfer operations and compliance with regulations of the U.S. Coast Guard and the Administrator with regard to oil pollution prevention during such operations. The Administrator shall have access to any and all

areas of the vessel necessary, as deemed by the inspector, to monitor any and all phases, aspects, and parts of the transfer operations.

(3) Access under paragraphs (1) and (2) shall be provided without warrant or prior notification by the Administrator.

(4) If the Administrator is denied access as specified under this section, all transfer operations at the vessel shall terminate and may not proceed until the earlier of the following occurs:

(A) the Administrator gives approval for transfers to proceed; or

(B) a period of 48 hours has elapsed from the time that the Administrator informed that access was denied. During such 48 hour period the Administrator shall pursue appropriate legal remedies to gain access, or enjoin further oil transfers.

(5) If access as specified under this section is denied, the Administrator shall do all of the following:

(A) provide notification of the denial of access to the U.S. Coast Guard Marine Safety Office having jurisdiction;

(B) provide notification of the denial of access to the State Lands Commission; and

(C) take whatever legal action is necessary to obtain access, including, but not limited to, the following:

1. seeking any orders or other documents necessary or appropriate from a court having proper jurisdiction; or

2. seeking any other orders or documents necessary or appropriate.

(c) In the event of an oil spill, the presence of any of the Administrator's inspectors or any other agent or employee of the Administrator shall in no way relieve or alter any responsibility the operator of a vessel involved in transfer operations may have to report the discharge to the Office of Emergency Services, as required under Government Code Section 8670.25.5, and to comply with all applicable contingency plans and all requirements under the Government Code regarding response to oil spills.

NOTE: Authority cited: Sections 8670.7, 8670.17 and 8670.18, Government Code. Reference: Sections 8670.18 and 8670.25.5, Government Code.

HISTORY

1. New section filed 2–18–94 as an emergency; operative 2–18–94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6–20–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–18–94 order transmitted to OAL 5–27–94 with amendment of section and NOTE and filed 7–12–94 (Register 94, No. 28).
3. Amendment of subsections (b)(2) and (b)(5)(A) filed 8–13–2002; operative 9–12–2002 (Register 2002, No. 33).

Chapter 4. Vessel Requirements

Subchapter 1. Tank Vessel Escort Program for the San Francisco Bay Region

Article 1.

§ 851. Short Title.

NOTE: Authority cited: Sections 8670.17 and 8670.23, Government Code. Reference: Section 8670.17, Government Code.

HISTORY

1. New chapter 3 (sections 851–851.10) and article 1 filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New chapter 3 (sections 851–851.10) and article 1 refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order including amendment of subchapter heading and repealer of section transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Change without regulatory effect renumbering former chapter 3 to chapter 4 and amending subchapter 1 heading filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
5. Repealer of article 1 heading filed 11–8–96; operative 1–1–97 (Register 96, No. 45).

§ 851.1. Effective Date of This Subchapter.

This subchapter, as amended, shall be effective on June 9, 2004.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Sections 8670.17.2(b), 8670.23.1(d), (e)(1) and (h), Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order including amendment of section and NOTE transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Amendment of section and NOTE filed 8–31–94; operative 9–30–94 (Register 94, No. 35).
5. Amendment of section heading, section and NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).
6. Amendment filed 5–19–2000; operative 6–18–2000 (Register 2000, No. 20).
7. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
8. Amendment filed 9–4–2001; operative 10–4–2001 (Register 2001, No. 36).
9. Change without regulatory effect amending section filed 10–7–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 41).

§ 851.2. Purpose and Scope.

This subchapter sets forth tank vessel escort requirements for the San Francisco, San Pablo and Suisun Bays. These requirements specify that tank vessels carrying 5,000 or more long tons of oil in bulk as cargo shall be escorted by a suitable escort tug or tugs. The escort tugs will be available, and shall respond as needed to influence the speed and direction of travel of the tank vessel in the event of a casualty, or steering or propulsion failure, thereby reducing the possibility of groundings or collisions and the risk of oil spills from these tank vessels. This subchapter established the criteria for matching tugs to tankers and barges. Tankers will be matched according to a matrix that correlates a tanker's displacement with the braking force of a tug(s). Barges must be matched based on a one–to–one correlation of the deadweight tonnage of the barge to the braking force of the tug(s).

The Administrator shall review the matching criteria and other program elements within two years of the effective date of this subchapter. The program review will include a survey of the tanker–related incidents in U.S. waters to determine the types of failures that have occurred, an assessment of tug technology and any advances made in design and power, and the tug escort–related rules and policies that are implemented by other coastal states and maritime organizations. At the conclusion of the review, the Administrator will determine whether it is necessary to modify the tug/tanker matching criteria or any other provision of the program requirements.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Sections 8670.17.2(b) and 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Amendment of section and NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).

§ 851.3. Definitions.

Definitions governing the construction of this subchapter can be found in Government Code Section 8670.3, and Chapter 1 of this subdivision.

NOTE: Authority cited: Sections 8670.3, 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Sections 8670.3 and 8670.17.2(a), Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94

or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order including amendment of subsection (i)(1), new subsection (*l*) and subsection relettering transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Change without regulatory effect repealing and adding new first paragraph, repealing subsections (a)–(j) and (m) and subsection relettering filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
5. Repealer and new section, and amendment of NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).

§ 851.4. Applicability.

(a) This subchapter shall apply to all tank vessels capable of carrying 5,000 or more long tons of oil in bulk as cargo when these vessels are underway on waters in the San Francisco, San Pablo and Suisun Bays, as follows:

(1) tank vessels carrying 5,000 or more long tons of oil as cargo shall be required to comply with all the requirements in this subchapter;

(2) tank vessels carrying less than 5,000 long tons of oil as cargo shall only be required to comply with the reporting requirement as stated in Subsection 851.7

(b) The escort requirements of this subchapter shall not apply to tank vessels that are only shifting location within an anchorage. Any tug used during such a shifting maneuver need not be an escort tug registered with the Clearing House.

(c) This subchapter shall not apply to tank vessels otherwise covered by the requirements of this subchapter in the event of an emergency. The master of the tank vessel shall report to the Clearing House any deviation from the requirements outlined in this subchapter as soon as practicable, and in no case later than the departure of the tank vessel from the marine waters of the state. For purposes of this section, an emergency shall include, but not be limited to, any of the following:

(1) imminent and immediate danger to the vessel, its cargo, or its crew; or

(2) imminent and immediate danger to a marine terminal, or to the escort tug; or

(3) imminent and immediate danger to a vessel in close proximity to the tank vessel; or

(4) any emergency declared by the Captain of the Port.

(d) This subchapter (except for this Subsection 851.4(d)) shall not apply to tankers with double hulls, as that term is defined in 33 CFR 157.03(kk), when the tanker also has the following:

(1) Fully redundant steering and propulsion systems to include:

(A) two independent propulsion systems each with a dedicated propeller, engine (or motor), electrical generation system, electrical system (including the switchboard), fuel system, lube oil system, and any other system required to provide the vessel with independent means of propulsion; and

(B) two independent rudders each with separate steering systems; and

(C) the propulsion and steering components, as described in Subsection (A) and (B) above, shall be arranged in separate spaces, such that a fire or flood in one space will not affect the equivalent system in the other space(s); and

(D) a bow thruster with an assigned power source;

(2) A Navigation System in compliance with the federal navigational equipment requirements set forth in 33 CFR Sections 164.35, 164.37, 164.38(b), 164.40, 164.41, 164.42, and 164.43.

(3) No exemption to this subchapter shall be allowed for a tanker requesting a U.S. Coast Guard Captain of the Port letter of deviation, pursuant to 33 CFR Sections 164.51, 164.53, and 164.55.

(4) The Administrator may require tankers that are exempt from this subchapter under the conditions outlined in Subsection (d) to periodically demonstrate the tanker and crew's ability to maneuver in response to a partial or total loss of propulsion and/or steering at a level of safety at least equal to that of an escorted tanker.

(e) This subchapter shall apply to all tugs being used to escort tank vessels in waters identified as escort zones.

(f) The tank vessel master remains responsible for the safe navigation and maneuvering of the vessel in all circumstances. The requirements outlined in this section are in addition to, and not a limitation of, any other responsibility created by custom, law, or regulation.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1, Government Code. Reference: Section 8670.23.1, Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order including amendment of subsections (b) and (c), and NOTE transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Amendment of section and NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).
5. Amendment of subsections (b) and (d) and repealer and new subsections (d)(1)–(4) filed 9–4–2001; operative 10–4–2001 (Register 2001, No. 36).
6. Amendment of NOTE filed 9–15–2006; operative 10–15–2006 (Register 2006, No. 37).

§ 851.5. Escort Zone Requirements.

(a) Six tank vessel escort zones are established as follows:

(1) Zone 1: All waters in the area encompassed by a straight line drawn between Point Bonita Light, through Mile Rocks Light to the shore (the COLREGS Demarcation Line), and eastward to the Golden Gate Bridge;

(2) Zone 2: All waters from the Golden Gate Bridge, south to a line drawn between the southern tip of Bay Farm Island and the southeastern tip of Point San Bruno Peninsula, and north to a line drawn from Point San Pablo to San Pablo Bay Light 4 (Light List number 5880), to San Pablo Bay Channel Light 5 (Light List number 5885), to Point San Pedro;

(3) Zone 3: All waters from the southern end of Zone 2 to one mile north of the San Mateo Bridge;

(4) Zone 4: All waters in the navigable channel from one mile north of and to one mile south of the San Mateo Bridge;

(5) Zone 5: All waters from the eastern boundary of Zone 2 to the western approaches of the Carquinez Bridges at Light 15;

(6) Zone 6: All waters from Light 15, through the Carquinez Strait, north on the Sacramento Ship Channel to one mile beyond the Ryer Island Ferry Terminal and east on the San Joaquin River to one mile beyond the Antioch Bridge;

(b) Tank vessels required to have escorts under this subchapter shall be escorted in the zones as specified below:

(1) Escort tugs are required for tank vessels operating within Zones 1, 2, 4, or 6;

(2) Escort tugs will not be required in Zones 3 or 5, or in areas outside of Zones 1 through 6;

(3) No tank vessel may transit in a zone that requires an escort tug unless escorted by a tug or tugs of sufficient size and capability, as specified in section 851.9 (for tankers) and 851.9.1 (for barges).

(4) In Zone 1, escort tugs shall be stationed as follows:

(A) on an inbound transit, the escort tug shall be in Zone 1 prior to the tank vessel's arrival to the area bounded by an arc eight nautical miles seaward of and centered on Mile Rocks Light; and

(B) on an outbound transit, the escort tug shall remain in Zone 1 until the tank vessel leaves the area bounded by an arc eight nautical miles seaward of and centered on Mile Rocks Light.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Section 8670.17.2(a), Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).

4. Amendment of section heading, section and NOTE filed 11-8-96; operative 1-1-97 (Register 96, No. 45).

§ 851.5.1. Escort Plans.

(a) All tank vessel masters shall use an Escort Plan for transits through zones 1, 2, 4, or 6. The tank vessel shall not continue or commence a transit through any Escort Zone without an Escort Plan that is complete and adequate. The plan shall document the steps that the tank vessel owner/operator and/or master will take to comply with the requirements of this subchapter. The Escort Plan requirements set forth in this section are only planning standards and may not reflect the exigencies of an actual incident response. However, the Escort Plan must demonstrate that the vessel master is prepared to take the actions necessary to assure a reasonable level of success in providing the protection intended by this subchapter, as stated in section 851.2. The Escort Plan shall include:

(1) the tank vessel's intended route(s);

(2) the intended transit speed(s);

(3) a communication plan, to include the radio frequencies that will be used and any other means of electronic communication;

(4) the following characteristics of the tank vessel:

(A) the location and strength of the bitts and chocks to be used by the escort tugs,

(B) the location of the pushing surfaces on the hull that are strong enough to sustain the forces that can be exerted by the escort tug(s),

(C) the number of crew assigned to escort-related duties,

(D) any pertinent performance characteristics and related limitations of the steering and propulsion system(s);

(5) the escort tugs to be used during the transit as required in section 851.9 (for tankers) or 851.9.1 (for barges);

(6) the response actions that will most likely be implemented in the event of an emergency, taking into account the available bitts and chocks, pushing surfaces, line type, and expected tides and currents.

(b) Escort Plans shall be prepared using one of the following:

(1) a format as designed, completed and submitted by the tank vessel owner/operator; or

(2) a Checklist as recommended by the Harbor Safety Committee of the San Francisco Bay region, and approved by the Administrator. The vessel owner/operator shall assure that the vessel master completes the Checklist according to the requirements in this subchapter.

(c) Review, approval and use of an Escort Plan designed and submitted by the tank vessel owner/operator:

(1) a tank vessel owner/operator may develop an Escort Plan for a vessel or vessels, and submit that plan to the Administrator for review and approval prior to using the plan for escorted transits;

(2) the Escort Plan developed by the vessel owner/operator shall include all the information required in subsection 851.5.1(a). The requirement for information regarding the tug(s) to be used during the transit may be met by stating the size and braking force capacity of the tug(s) needed for each of the vessels covered by the plan.

(3) each plan shall be either approved, approved with conditions, or denied within 60 days after the Administrator receives the plan. Approval, once given, may be revoked if it is found that the plan submitter is not complying with the requirements of this subchapter;

(A) to be approved, the plan must comply with the requirements in this section, must match tug(s) to the tank vessels in accordance with the requirements in this subchapter, and must demonstrate that the tank vessel owner/operator and/or master maintains a level of readiness that will allow for effective implementation of the plan. The plan submitter shall be notified in writing when a plan has been approved.

(B) approval shall be denied or revoked if the plan, or the implementation of the plan, does not comply with the requirements of this subchapter. If a plan is denied or revoked, the Administrator shall notify the owner/operator in writing of the reasons for denial or revocation, and provide an explanation of those actions necessary to secure approval. The Checklist form of escort plan, as prescribed in this section, shall be used unless and until a new or revised escort plan is submitted and approved by the Administrator.

(4) once approved, the master and pilot shall use and comply with the Escort Plan on each escorted transit:

(A) the details of the Escort Plan shall be reviewed and discussed as part of the pre-escort conference (section 851.7);

(B) as part of the pre-escort communications, the pilot or, if there is no pilot on board, the master shall notify the Clearing House that the plan has been reviewed, and shall inform the Clearing House of the tugs that have been chosen for the escort.

(5) the Checklist format, as described in this section, shall be used for all escorted transits unless or until an Escort Plan is submitted by the vessel owner/operator, and approved by the Administrator.

(d) Completion, review and use of Escort Plans prepared using the Checklist format developed by the Harbor Safety Committee:

(1) the Checklist shall include all the items enumerated in subsection 851.5.1(a), as well as a schematic drawing of a tank vessel sufficient to illustrate the location of the bitts and chocks, and those areas on the hull that are capable of withstanding the forces exerted by the escort tug(s). The Administrator shall provide a copy of the approved Checklist to the Clearing House for distribution to tank vessel owner/operators, masters and/or pilots.

(2) the master shall complete the Checklist, and shall verify that all the requisite elements have been included. The master shall sign the Checklist to indicate that, to the best of the master's knowledge, the information on the Checklist is correct, and is in compliance with the requirements of this subchapter. If there is no pilot on board, the master shall notify the Clearing House when the Checklist has been completed and shall inform the Clearing House of the tugs that have been chosen for the escort. The Administrator may request a copy of any Checklist at any time to determine if the planning process has been completed adequately.

(3) the Checklist shall be completed by the tank vessel master at the following points during a transit operation:

(A) for vessels arriving from sea, the Checklist shall be completed prior to entering Zone 1;

1. Alternatively, the agent or owner/operator may complete the Checklist and electronically send the completed form to the master and the Clearing House:

i. before the vessel's estimated time of arrival to the San Francisco Bay Pilotage area, or

ii. before the vessel's arrival at the San Francisco Bay Precautionary Area, or

iii. after the vessel's departure from its last Port of Call.

(B) for in-bay movements or for departures, the Checklist shall be completed prior to beginning the transit.

(4) if a pilot is on board, the pilot shall review the Checklist as cited in subsection 851.5.1(d) and shall verify that all the elements have been completed adequately. The pilot shall sign the Checklist after reviewing and verifying its adequacy. The pilot shall then notify the Clearing House that the planning process has been completed, and shall inform the Clearing House of the tugs that have been chosen for the escort.

(A) the pilot shall determine that the Checklist is adequate if the following are met:

1. all the items on the Checklist have been addressed completely; and

2. the information provided demonstrates that the tank vessel master is prepared to take the actions necessary to assure a reasonable level of success in using the escort tug(s) in response to a vessel casualty.

(B) if the pilot determines that the Checklist is not adequate, the pilot shall notify the Clearing House, and explain the reason(s) for such determination. The Clearing House shall then immediately notify the Administrator that a Checklist has been determined to be inadequate by the pilot.

(C) The Administrator shall review all inadequacy determinations made by a pilot and shall decide whether the determination is appropriate. The Administrator may affirm or overturn such determination, or may provide for conditional approval of a Checklist, as follows:

1. the Checklist will be considered adequate if it is complete, if the tug to tanker match has been done in accordance with this subchapter, and the information provided demonstrates that the tank vessel master is pre-

pared to take the actions necessary to assure a reasonable level of success in using the escort tug(s) in response to a vessel casualty. If a Checklist is determined to be inadequate, the vessel may be ordered to discontinue operations until an adequate Checklist is completed;

2. a Checklist may be approved conditionally if there is a minor deficiency in one or more of the requisite elements. Conditional approval may require that the tank vessel operate under specified precautionary measures (such as operating at a slower speed). If the owner/operator of a tank vessel fails to comply with the requirements of the conditional approval, the Administrator may order the tank vessel to discontinue operations until an acceptable Checklist for that vessel has been completed and approved.

(D) The pilot is not responsible for delaying or stopping the transit solely because of a plan's inadequacy.

(5) The tank vessel owner/operator or the master shall ensure a copy of the completed, signed Checklist is submitted to the Clearing House within 14 days after the transit covered by the Checklist. The master, pilot, ship's agent or vessel owner/operator may send the copy to the Clearing House. A copy of the Checklist shall also be maintained aboard the vessel for a period of one year after the transit. A copy of the Checklist shall be made available to the Administrator upon request.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Sections 8670.17.2(b) and 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
2. New subsections (d)(3)(A)1. and (d)(4)(D), and amendment of subsections (d)(4) and (d)(5) filed 5-19-2000; operative 6-18-2000 (Register 2000, No. 20).
3. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
4. New subsections (d)(3)(A)1.-iii., amendment of subsection (d)(4), new subsection (d)(4)(D) and amendment of subsection (d)(5) filed 9-4-2001; operative 10-4-2001 (Register 2001, No. 36).

§ 851.6. Clearing House Responsibilities.

(a) The Administrator shall establish a Clearing House which shall be responsible for performing escort compliance and monitoring duties, to include the following:

(1) monitor, verify, and record the braking force of each escort tug that will be used to comply with this subchapter;

(2) ensure that the braking force measurement is certified by the American Bureau of Shipping (ABS) or by any member in the International Association of Classification Societies;

(A) the braking force measurement shall be monitored by the Clearing House for those escort tugs that are tested in the San Francisco Bay region;

(B) escort tugs may be tested in another port if the braking force measurement is conducted in a manner consistent with the ABS (or equivalent) standards as used by the Clearing House. The tug owner/operator shall register such measurement with the Clearing House, and shall provide verification that the measurement complies with the ABS (or equivalent) standards.

(3) maintain and publish a register which lists the following for each escort tug whose braking force is measured under this section:

(A) the tug's name;

(B) the tug operator;

(C) the length of the tug;

(D) for tractor tugs, bollard pull ahead or astern, or the braking force determined by an alternate compliance model developed in accordance with the requirements of this subchapter;

(E) for conventional tugs, bollard pull astern;

(F) type and configuration of the propulsion system;

(G) type and configuration of the steering system.

(4) receive notification of a tank vessel's arrival and/or movement as required under Section 851.7;

(5) receive notification of the displacement of a tanker, and the tug(s) chosen for an escorted transit. The Clearing House shall use this reported information to determine if the tanker is correctly matched to the escort tug(s) as required in this subchapter, and shall immediately report to the Administrator when such a match has not been done correctly. The verification shall be made prior to the tanker's arrival and/or movement. The Clearing House shall also be responsible for verifying the tug vessel's stability when these tugs are operating westward of the Golden Gate Bridge as specified in Section 851.8(f);

(6) receive notification of the deadweight tonnage of a barge and the tug(s) that have been chosen for the escorted transit. The Clearing House shall use this reported information to determine if the barge is correctly matched to the escort tug(s) as required in this subchapter, and shall immediately report to the Administrator if the match has not been done correctly. The verification shall be made prior to the arrival and/or movement of the barge;

(7) maintain copies of blank Checklists for distribution upon request to tank vessel owner/operators, masters and/or pilots;

(8) receive notification of the completion of an Escort Plan, or the completion and adequacy of a Checklist, and report to the Administrator when a pilot makes a determination that a Checklist is not adequate;

(9) maintain copies of the completed Checklists submitted by the tank vessel owner/operator or masters. Copies must be kept for a period of 3 years from the date of the transit covered by the Checklist. A copy of any Checklist shall be made available to the Administrator upon request;

(10) receive reports from tug owners, operators or agents of any tug casualty that occurs during an escorted transit, and develop and maintain a database of all such casualty reports;

(11) monitor compliance with the requirements of this subchapter and report all violations to both the Office of Spill Prevention and Response and the Harbor Safety Committee for the San Francisco Bay Region.

(b) The Administrator shall ensure that the duties of the Clearing House are performed in an effective and impartial manner. The Administrator may enter into a contract or establish a memorandum of understanding to designate an individual, organization, corporation or agency to operate as the Clearing House.

(c) The Clearing House shall be authorized to assess and collect a fee to cover the costs incurred in complying with the tug escort requirements of this subchapter. The owner/operators of all escort tugs and all tank vessels required to have a tug escort shall pay the fee assessed by the Clearing House.

NOTE: Authority cited: Sections 8670.17.1, 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Sections 8670.17.1 and 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 5-6-93 as an emergency; operative 5-6-93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-16-93 as an emergency; operative 9-4-93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-3-94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-93 order including amendment of subsection (a)(3) transmitted to OAL 11-30-93 and filed 1-11-94 (Register 94, No. 2).
4. Amendment of section heading, section and NOTE filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
5. Amendment of subsections (a)(5), (a)(7) and (a)(12) filed 5-19-2000; operative 6-18-2000 (Register 2000, No. 20).
6. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
7. Amendment of subsections (a)(2), (a)(3)(D), (a)(5), (a)(7) and (a)(12) filed 9-4-2001; operative 10-4-2001 (Register 2001, No. 36).
8. Amendment of subsection (a)(7), repealer of subsection (a)(10) and subsection renumbering filed 5-10-2004; operative 6-9-2004 (Register 2004, No. 20).

§ 851.7. Communication and Reporting Requirements Before, During and After an Escorted Transit.

(a) No more than one hour prior to entering or transiting the marine waters of the San Francisco, San Pablo or Suisun Bays, the pilot or, if there is no pilot onboard, the master of a tank vessel shall report the vessel's name and position to the Clearing House, and shall report the status of the vessel as follows:

(1) tank vessels carrying 5,000 or more long tons of oil as cargo shall report as "*Escort Required*"; or

(2) tank vessels carrying less than 5,000 long tons of oil as cargo and requiring no escort need not be reported.

(b) After completing the review of the Checklist or the Escort Plan, as specified in section 851.5.1, the pilot or, if there is no pilot onboard, the master of the tank vessel shall report the following to the Clearing House:

(1) a statement that the Escort Planning process has been completed;

(2) if a pilot is onboard, a statement from the pilot as to whether the Checklist is completed, and whether the Checklist is or is not adequate;

(3) a listing of the tugs that were chosen for the escort during the Escort Planning process;

(4) for a tanker, the vessel's displacement;

(5) for a barge, the vessel's deadweight tonnage.

(c) Pre–Escort Conference: Before commencing an escorted transit, the pilot or, if there is no pilot onboard, the master of the tank vessel shall initiate communications with the escort tug(s). During this pre–escort conference, all parties shall plan and discuss the details of the escorted transit as specified on the Checklist or in the Escort Plan, including, but not limited to, the following:

(1) the intended route;

(2) the intended destination;

(3) the speed of the vessel;

(4) the positioning of the escort tug(s) relative to the tank vessel being escorted;

(5) the manner in which an emergency connection would be made between the escort tug and tank vessel;

(6) radio communications, including primary and secondary frequencies; and

(7) anticipated weather and tidal conditions.

(d) The master of the escort tug(s) shall report the name of the tug(s) and the name of the tank vessel to the Clearing House upon arrival at the following locations:

(1) for inbound tank vessel movements; when passing Alcatraz, and when on–station;

(2) for in–bay and outbound tank vessel movements; when on–station at the tank vessel prior to movement of the tank vessel.

(e) At all times during the escorted transit, the master or pilot of the tank vessel shall maintain direct, two–way radio communication with the master or pilot of the escort tug. The radio communication shall be on a channel agreed to by both the master or pilot of the tank vessel and the master or pilot of the escort tug.

(f) Reporting tug casualties during and after an escorted transit:

(1) the master of the escort tug shall immediately notify the master or pilot of the escorted vessel of any casualty that occurs to the tug during the escorted transit. A casualty shall include any loss of main propulsion, primary steering, or any component or system that reduces the maneuverability of the tug, or any other occurrence that adversely affects the tug's ability to perform the escort function;

(2) the tug owner, operator or agent shall file a written casualty report with the Clearing House within 72 hours of occurrence. The Clearing House shall maintain a database of these reports for three years.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Section 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Amendment of section heading, section and NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).
5. Amendment of subsections (a)(2) and (f)(2) filed 5–19–2000; operative 6–18–2000 (Register 2000, No. 20).
6. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
7. Amendment of subsections (a)(2) and (f)(4) filed 9–4–2001; operative 10–4–2001 (Register 2001, No. 36).

§ 851.8. Requirements for Escort Tugs; Braking Force Measurement, Crew and Training Standards, Equipment and Stationing Criteria.

(a) Braking force measurement:

(1) any escort tug used to comply with the requirements of this subchapter must have its braking force verified and registered with the Clearing House, as follows:

(A) for tractor tugs escorting in an ahead position the braking force is measured as the ahead bollard pull;

(B) for tractor tugs escorting in an astern position the braking force is measured as the astern bollard pull;

(C) for conventional tugs the braking force is measured as the astern bollard pull.

(2) The braking force shall be re–measured after any modifications and/or repairs to the main engines, hull, shaft–drive line, or steering, that could affect the bollard pull. The new measurements must be verified and registered with the Clearing House.

(3) The Clearing House shall publish procedures and standards to be followed when conducting braking force measurement. These procedures, entitled "San Francisco Bay Region Clearing House, Rules for Bollard Pull Tests", dated May 19, 2000, are incorporated by reference. These procedures and standards shall be made available upon request to the Clearing House.

(4) Any escort tug used to comply with the requirements of this subchapter shall also meet one of the following:

(A) the escort tug shall have its braking force re–measured within 3 years of its last bollard pull test, or;

(B) the escort tug shall submit to an Escort Tug Inspection Program, as follows:

1. Escort tugs 150 gross tons or greater, and classed escort tugs shall be made available for inspection by the Administrator twice in five years during their dry dock examination. The period between inspections shall not exceed three years.

2. Escort tug maintenance records shall be made available for inspection by the Administrator.

3. If dry dock examination extensions are necessary, escort tugs shall comply with the direction of the cognizant Officer in Charge, Marine Inspection, or American Bureau of Shipping principal surveyors' direction.

4. For classed escort tugs, a copy of the Class Surveyor's report confirming that the condition of the drive train (shafts, propellers, nozzles or other type drive) and main engines are in the same state as when the builder's or last bollard pull certificate was issued, shall be forwarded to the Administrator.

5. Escort tug companies shall participate and have a certificate of compliance from one of the following Management Systems:

i. American Waterways Operators Responsible Carrier Program;

ii. International Safety Management;

iii. ISO 9000 (quality management).

6. Escort tugs of less than 150 gross tons shall be made available for inspection by the Administrator once in five years during their dry dock examination. These escort tugs shall use a certified Marine Surveyor and shall comply with subsections 2, 3, and 4, above.

(C) Escort tugs that submit to the Escort Tug Inspection Program, as described above, can perform escort duties in any port in the state, if the tugs meet the requirements of the appropriate subchapter (i.e., Subchapter 1, San Francisco Bay Region; Subchapter 2, Los Angeles/Long Beach Harbor; Subchapter 3, Port Hueneme Harbor; Subchapter 4, Humboldt Bay; Subchapter 5, San Diego Harbor), of this Chapter 4 of the California Code of Regulations.

(b) Any escort tug used to comply with the requirements of this subchapter, must meet crew standards as follows:

(1) An escort tug shall have a minimum of four persons on board including one certified tug master and two certified deck hands. The fourth person shall be a crew member capable of resolving mechanical difficulties aboard an escort tug in the event of an emergency;

(2) The requirement for four crew members does not preclude additional deck hands who are gaining experience for certification;

(3) The certified deck hands required under this subsection shall at all times be awake, alert and ready to respond during an escorted transit. The fourth person must be immediately available to respond to any mechanical difficulties aboard the escort tug. Immediate response may be assured by an alarm or other signaling device to wake or alert the fourth person to the emergency.

(A) The Administrator may review the equipment and crew on an escort tug to assure compliance with this provision. The Administrator may require that the fourth person be awake and alert and ready to respond if the tug operator does not provide adequate mechanism to assure that the fourth person is immediately available to respond to a mechanical difficulty.

(4) Working hours for escort crew members shall be limited to 15 hours in any 24–hour period, not to exceed 36 hours during any 72–hour period except in an emergency or a drill. Working hours shall include any administrative duties associated with the tug whether performed on board the tug or on shore.

(c) Training requirements for the crew of any escort tug used to comply with the requirements of this subchapter are as follows:

(1) to qualify for certification as the master or deck hand on an escort tug, an applicant must do all of the following:

(A) possess a current and valid U.S. Coast Guard Merchant Mariner's Document;

(B) show proof of at least 960 hours on duty of prior service aboard a tug, at least 240 hours of which must have been in the San Francisco Bay region;

(C) successfully complete an approved education program which covers the following topics:

1. basic tugboat seamanship;
2. line handling skills;
3. communication systems;
4. emergency response to the loss of steering or propulsion on an escorted tank vessel and on the escort tug itself.

(2) in addition to the requirements of subsection 851.8(c)(1), certification as the master of an escort tug requires that the applicant also do the following:

(A) possess a U.S. Coast Guard license appropriate to the escort tug in service; and

(B) show proof of an additional 240 hours on duty of service aboard a tug in the San Francisco Bay region (for a total of 480 of the requisite 960 hours of service); and

(C) successfully complete an approved education program which covers knowledge of local waters, basic seamanship, and the use of the escort tug in reducing the risk of an escorted vessel's grounding or collision.

(3) individuals may be considered to have satisfied certain educational requirements without attending an education program, if they meet the following criteria:

(A) an individual with a U.S. Coast Guard rating of Able Seaman Special (OSV) is considered to have met the educational requirements in subsection 851.8(c)(1)(C) 1 and 2;

(B) an individual with any Coast Guard license appropriate for the escort tug in service is considered to have met the educational requirements in subsections 851.8(c)(1)(C).

(4) the Administrator shall review and approve the educational programs for masters and deck hands of escort tugs, and shall establish and maintain a list of all such approved programs:

(A) an educational program shall be approved if it provides the coursework required by this section, and can adequately train students in the requisite skills;

(B) a request for approval of a program shall be submitted to the Administrator in writing and shall include the following:

1. a description of the course content and materials;
2. the qualifications of the instructors;
3. the estimated cost of the program to the students;
4. a description of the site(s) where the course will be held, both classroom and field locations.

(C) the Administrator shall notify the applicant of approval or denial within 30 days of the submittal of the application:

1. if the educational program is denied, the applicant will be notified of the reasons for denial and may resubmit the program for review after the deficiencies have been remedied;

2. once approved, the educational program must be submitted for re–evaluation at least once every 5 years or when a significant change occurs in the course content or materials. The 5–year re–submittal shall include an updated description of course content, materials, cost, and instructor qualifications, as well as copies of student evaluations from classes conducted during the previous year;

3. the Administrator may audit the course at any time to assure compliance with the requirements of this section.

(5) The Administrator shall assure compliance with tug crew training and qualification requirements. Compliance with crew training and qualification requirements shall be verified as follows:

(A) tug owner/operators shall establish and maintain adequate documentation to verify the training and qualifications of individual crew members, and shall make this information available to the Administrator upon request;

(B) the Administrator may review the owner/operator's documentation annually to assure compliance with this section;

(C) the Administrator may request this documentation at any time.

(d) The following equipment must be onboard an escort tug and in operable condition during all escorted transits:

(1) a line–throwing gun for use in Zone 1, with 300 feet of tag line. The tag line shall be of suitable strength and size for deploying the tow line;

(2) power line–handling equipment fore or aft for rapid, mechanically assisted deployment of lines. The primary line–handling equipment shall be in the position (fore or aft) best suited for the design of the particular tug in escort service;

(3) tow line with a breaking strength that is 2.5 times the certified braking force of the escort tug;

(4) a quick release device to be used when an escort tug is in a tethered mode;

(5) one working radar;

(6) fendering appropriate to absorb impact in skin–to–skin operations, and located at both the bow and stern to act as pivot points when pulling away from the tank vessel. In addition, the fencing must be sufficient to assure that there are no exposed corners, large holes or metal parts which could inflict damage on the escorted vessel, and must cover sufficient surface area to minimize sliding when working at an angle to the tank vessel.

(e) Annual inspection of the escort tug's equipment:

(1) the owner/operator shall assure that the required equipment is on board and operable during all escorted transits;

(2) the Administrator shall verify that the required equipment is on board each escort tug, and in operable condition. This verification may be obtained by an annual inspection which may be announced or unannounced. In conducting such inspections, the Administrator shall be guided by the standards established by the American Waterways Operators (AWO) in their Responsible Carrier Program, Sections III and IV, dated 2/21/95.

(f) Stability requirements for all escort tugs that operate westward of the Golden Gate Bridge are as follows:

(1) an escort tug shall have a load–line certificate; or

(2) an escort tug shall have a letter verifying stability issued by the American Bureau of Shipping or any member in the International Association of Classification Societies. The letter shall establish that the escort tug complies with the stability requirements outlined in federal Load Line Regulations at 46 CFR, Sections 42.09–10(a), 42.09–15(a), (b), and (c) except subparagraphs (1) and (2), and 42.09–25(a) and (b) except for the portion of the last line of (b) that reads "... and meeting applicable requirements in this subchapter"; and 46 CFR Sections 173.090, 173.095 and 174.145. A copy of this letter shall be kept on file with the Clearing House.

(g) Stationing requirements for escort tugs:

(1) an escort tug shall not simultaneously engage in the escort of more than one tank vessel;

(2) escort tugs shall maintain a station–keeping distance of no more than 1000 feet ahead or aside, or 500 feet astern of the tank vessel while engaged in escort activity;

(3) escort tugs shall standby as the tank vessel transits Zones 3 and/or 5, as follows:

(A) the escort tug(s) shall standby in Zone 2 or 6 as the tank vessel transits Zone 5; and

(B) the escort tug(s) shall standby in Zone 2 or 4 as the tank vessel transits Zone 3; or

(C) the escort tug(s) may accompany the escorted tank vessel through Zone 3 and/or 5 in lieu of standing by.

(4) in Zone 1, the escort tug(s) shall be stationed as follows:

(A) on an inbound transit, the escort tug shall be in Zone 1 prior to the tank vessel's arrival to the area bounded by an arc eight nautical miles seaward of and centered on Mile Rocks Light; and

(B) on an outbound transit, the escort tug shall remain in Zone 1 until the tank vessel leaves the area bounded by an arc eight nautical miles seaward of and centered on Mile Rocks Light.

(h) Escort transit log:

(1) escort tug masters shall keep a record in the ship's log of every escorted transit;

(2) the record of the escorted transit in the ship's log shall include information regarding the sequence of events during the transit, the crew assignments, any casualties that may occur, and any drills conducted.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1, Government Code. Reference: Section 8670.23.1, Government Code.

HISTORY

1. New section filed 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8–16–93 as an emergency; operative 9–4–93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1–3–94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8–16–93 order including amendment of subsections (b)(1), (2) and (4) transmitted to OAL 11–30–93 and filed 1–11–94 (Register 94, No. 2).
4. Amendment of section heading, section and NOTE filed 11–8–96; operative 1–1–97 (Register 96, No. 45).
5. Amendment filed 5–19–2000; operative 6–18–2000 (Register 2000, No. 20).
6. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
7. Amendment filed 9–4–2001; operative 10–4–2001 (Register 2001, No. 36).
8. Amendment of subsection (a)(2), new subsections (a)(4)–(a)(4)(C) and amendment of NOTE filed 9–15–2006; operative 10–15–2006 (Register 2006, No. 37).

§ 851.9. Tanker and Tug Matching Criteria, and Tanker Crew and Equipment Requirements.

(a) Default Matrix Option for Matching Tugs to Tankers: The tug or tugs used for an escorted transit shall be able to provide sufficient braking force to stop the escorted tanker from a speed of 5 knots through the water. The braking force of the tug(s) shall match the tanker's displacement, as indicated in the following matrix:

	Zones 1 and 2					*Zones 4 and 6*				
Assisting Current	slack	1 kt	2 kts	3 kts	4 kts	slack	1 kt	2 kts	3 kts	4 kts
Displacement*	Braking Force in kips (1,000 pounds of force)									
0 to < 20	20	20	30	40	40	40	50	70	90	110
20 to < 30	20	30	40	50	60	50	70	90	120	160
30 to < 40	30	40	50	60	70	60	90	120	160	210
40 to < 50	30	40	60	70	90	70	110	150	200	250
50 to < 60	40	60	70	90	110	100	140	190	250	320
60 to < 80	50	70	90	120	140	120	180	250	330	420
80 to < 100	60	80	110	140	180	150	220	300	400	520
100 to < 120	70	100	130	170	210	180	270	370	500	650
120 to < 140	80	110	150	190	240	210	310	430	580	760
140 to < 160	90	140	190	240	310	240	350	490	660	860
160 to < 180	100	150	210	270	350	260	390	550	740	970
180 to < 200	110	170	230	300	390	**	**	**	**	**
200 to < 220	120	180	250	330	420	**	**	**	**	**

* 1,000 long tons

** The channel depth in zones 4 and 6 limits vessels that may use the channel to those drawing less than 35 feet. This table does not address vessels in zones 4 and 6 with a displacement greater than 180,000 long tons because such vessels would draw more than 35 feet and would thus not be allowed into these zones.

(1) Applicable current velocity: The current velocities shall be determined using the published tide and current tables developed and maintained by NOAA, and used by the pilots. The current velocity used shall be the one published for the estimated time of arrival at the points noted below. The estimated time of arrival shall include a window of 30 minutes before and after the scheduled arrival to account of possible delays or changes. Tank vessel operators are responsible for adjusting the estimated arrival time when it appears that it will fall outside of the originally estimated one hour window.

(2) Location of current readings: The specific current velocity to be used in conjunction with the matrix shall be the published readings for the following locations:

(A) The Golden Gate Bridge – the predicted current velocity at the Golden Gate Bridge shall apply to vessels in zones 1 and 2 that are west of a north–south line drawn through the eastern tip of Alcatraz Island and terminating at Angel Island or to vessels in zones 1 and 2 that are west of the eastern entrance to Racoon Strait.

(B) The Bay Bridge; west of Yerba Buena Island – the predicted current velocity at the Bay Bridge shall apply to vessels in zone 2 that are south of an arc drawn from Alcatraz Island east to Treasure Island and east of the north–south line drawn through Alcatraz Island.

(C) 1.25 miles north of Point Chauncey – The predicted current velocity at 1.25 miles north of Pt. Chauncey shall apply to vessels in zone 2 that are north of an arc with a radius of 2.7 nautical miles centered at the intersection of the Bay Bridge and the San Francisco Peninsula drawn from Alcatraz Island east to Treasure Island and east of the north–south line drawn through the eastern tip of Alcatraz Island.

(D) The San Mateo Bridge The predicted current velocity at the San Mateo Bridge shall apply to vessels while in zone 4.

(E) The Carquinez Bridge – the predicted current velocity in Carquinez Strait shall apply to vessels in zone 6.

How to use the Default Matrix Option for Matching Tugs to Tankers: The matrix provides current velocities for slack water, 1, 2, 3, and 4 knots. The slack water column shall be used only when the water is truly slack. The 1 knot column shall be used for any velocity above 0 and equal to 1. The 2 knot column shall be used for any velocity above 1 and equal to 2, and so on up to the 4 knot maximum.

In those situations where the current velocity is above 4 knots, such as may occur at the Golden Gate, the tank vessel requiring an escort tug shall reschedule the transit to a time when the current velocity drops to 4 knots or below.

(b) Alternative To The Default Matrix for Matching Tugs to Tankers: Measurement methodologies other than those used to establish the Default Matrix may be used instead of, or in addition to, the Matrix as follows:

(1) Alternate Compliance Model for Escort Tugs: Tug owner/operators may propose an alternate method for measuring the braking force of any tug (in kips). Such alternate method may be used to demonstrate that the tug can provide higher steering or braking forces (in kips) than the simple bollard pull measurement would indicate. An alternate measurement may only be submitted once in any 12 month period and shall comply with the following:

(A) the owner/operator shall assure that the following are included when developing a methodology for calculating an alternate braking force for a given escort tug:

1. the alternate measurement is conducted from a starting speed of 10 knots for zones 1 and 2, and 8 knots for zone 4 and 6;

2. the escort tug is not required to exceed the limits of its ability to generate the forces, and in no instance submerges the deck edge to achieve the alternate measurement;

3. the escort tug operates all its equipment at or below the manufacturer's recommended guidelines for the safe working load of the tug;

4. unless demonstrated otherwise by full scale testing, all machinery shall be assumed to operate at or below performance levels published by the manufacturer;

5. any current bollard pull values registered with the Clearing House shall be utilized where appropriate in any formulas or models;

6. any known condition that would impair the escort tug's ability to perform shall be included in the calculation.

(B) the measurement must be conducted by a marine architect or engineer approved by the Administrator:

1. the tug owner/operator shall submit the name of the marine architect or engineer to the Administrator for approval prior to having that individual or his/her company conduct an alternate measurement.

2. the Administrator shall approve a marine architect or engineer if that person has demonstrated the education, knowledge and experience necessary to conduct the testing and modeling of tug capabilities and braking force.

(C) the alternate model and the resultant measurement shall be approved by the Administrator before the alternate model may be used to match a tanker to a tug or tugs. The Administrator shall approve the alternate model if it provides both of the following:

1. a higher force (in kips) than the simple bollard pull measurement would indicate; and

2. at least the same level of protection as the braking forces established in the default matrix.

(D) after an alternate model is approved, the Administrator shall provide the Clearing House with the new braking force measurement for the subject tug(s). The new measurements shall be used with the Default Matrix established in this section.

(2) Alternate Compliance Model for Tankers: Tanker owner/operators may develop a model for the vessels in their fleet relative to the steering and braking demands of the vessels, and the braking capabilities of tugs. The steering and braking demands established by the alternate model may be used instead of the Default Matrix to match escort tugs to the tankers. An alternate compliance model may only be submitted once in any 12–month period and shall comply with the following:

(A) the measurement must be conducted by a marine architect or engineer approved by the Administrator. The tanker owner/operator shall submit the name of the marine architect or engineer to the Administrator for approval prior to having that individual or his/her company conduct an alternate model:

1. the Administrator shall approve a marine architect or engineer if that person has demonstrated the education, knowledge and experience necessary to conduct the testing and modeling of tug capabilities and braking force.

(B) the alternate model and the resultant measurements shall be approved by the Administrator before the alternate model may be used to match a tanker to a tug or tugs. The Administrator shall approve the alternate model if the following conditions are met:

1. under the alternate model the tanker can complete a safe transit, staying within the 95th percentile of constraint as established in "The San Francisco Bay Tanker Escort Study," dated 7/95, prepared by Glosten Associates; and

2. the alternate model provides at least the same level of protection as the braking forces established in the Default Matrix, and can be achieved using no more than three tugs as required in subsection 851.9(d).

(C) After an alternate model is approved, the Administrator shall provide the Clearing House with the tanker in kips which corresponds to the tanker's displacement and speed under the approved alternate model.

(c) The Administrator may allow deviations from compliance for the matching of tugs to laden tankers when these vessels make short transits from the berth to berth within a zone and are assisted by docking tugs and transiting at speeds less than 8 knots.

(1) The tanker master or owner/operator shall make a request for such deviations to the Administrator through the Clearing House at least 24 hours prior to the desired shift.

(2) The Administrator shall approve or deny the deviation request by verbally notifying the Clearing House within 12 hours of the request. A written confirmation shall follow within 24 hours.

(d) Maximum number of tugs to be used during an escorted transit:

(1) the tanker must be accompanied by a sufficient number, but no more than three tugs to provide the braking forces specified in this section;

(e) Speed limits for tankers are as follows:

(1) tankers that use the Default Matrix as provided in this section shall not proceed at a speed in excess of 10 knots through the water in Zones 1, 2, 3 and 5, nor more than 8 knots through the water in Zones 4 and 6, with the following qualifications:

(A) the speed or speeds selected by the tanker for the transit must permit stationing the escort tug(s) to allow the tug(s) to effectively influence the tanker's movement in the event of a casualty;

(B) the tanker shall proceed at a safe speed. The determination of a safe speed shall include, but not be limited to:

1. environmental factors such as the depth of the water, visibility, wind conditions, and the speed of the tidal currents; and

2. proximity of other vessel traffic and any other vessels at anchor.

(C) Tankers shall in any case have their engines ready for immediate maneuver and shall not operate in any control modes or with fuels that prevent an immediate response to an engine order.

(2) tank vessels may be exempt from the speed limits specified in subsection 851.9(e)(1) if they establish and use an approved alternate compliance model for determining the steering and braking demands of their vessels, as provided in this section. In such cases, the speed limit will be that used to establish the alternate compliance model, and must be specified in the Escort Plan, or on the Checklist.

(f) Crew requirements:

(2) the tanker shall comply with all applicable federal regulations relating to anchor readiness;

(3) tankers shall have sufficient and qualified supervisors to provide direct supervision of line-handling crew operations. Supervisors shall have direct radio communication capability with the bridge of the tanker.

(g) Equipment requirements:

(1) each tanker shall have deck chocks and bitts that are of sufficient size, strength, and number to accommodate the anticipated braking force of the escort tug(s);

(2) the tanker owner/operator shall indicate the location and strength of the bitts and chocks in the Escort Plan for each vessel.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Section 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 5-6-93 as an emergency; operative 5-6-93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-16-93 as an emergency; operative 9-4-93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-3-94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-93 order including amendment of subsections (d)-(f) transmitted to OAL 11-30-93 and filed 1-11-94 (Register 94, No. 2).
4. Repealer and new section filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
5. New subsections (a)(1) and (a)(2), repealer of subsections (c)(1) and (c)(2), and new subsections (c)-(c)(2) filed 5-19-2000; operative 6-18-2000 (Register 2000, No. 20).
6. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
7. Amendment filed 9-4-2001; operative 10-4-2001 (Register 2001, No. 36).

§ 851.9.1. Barge and Tug Matching Criteria, and Barge Crew and Equipment Requirements.

(a) A barge must be accompanied by a sufficient number, but no more than three tugs to provide the braking force specified in this section:

(1) the line-haul tug which provides the power to push or tow a barge shall not become an escort tug during the course of a transit unless the line-haul tug has been relieved of its duties as the primary towing vessel, and replaced with another tug that serves as primary towing vessel,

(2) any line-haul tug that does become the escort tug after being relieved of all line-haul duties, must meet all the requirements for escort tugs as specified in this subchapter.

(b) The tug or tugs used to escort a barge must be able to provide sufficient braking force to stop the barge, measured as follows:

(1) the braking force shall be measured as the escort tug's astern static bollard pull;

(2) the escort tug shall have total astern static bollard pull in pounds equal to, not less than, the barge's deadweight tonnage;

(c) A barge shall not exceed 8 knots through the water during an escorted transit.

(d) Crew Requirements:

(1) A barge shall have sufficient and qualified line-handling-capable deck hands onboard the barge, standing by and available to receive lines from each escort tug;

(A) the deck hands for the barge shall be made available from the line-haul tug;

(B) in the interest of crew safety, when entering or leaving Zone 2 bound to or from the sea (Golden Gate Bridge), crew transfers to or from the barge may be made in the vicinity of Alcatraz Island;

(C) when a barge is fitted with an emergency tow wire, or comparable mechanical device of sufficient strength and handling characteristics to control the barge, or the escort tug is made fast to the barge, deck hands shall not be required on board the barge.

(2) Barges shall have sufficient and qualified supervisors to provide direct supervision of line-handling crew operations. Supervisors shall have direct radio communication capability with the bridge of the tug that is towing the barge.

(e) Equipment requirements:

(1) each barge shall have deck chocks and bitts that are of sufficient size, strength and number to accommodate the anticipated braking force of the escort tug(s);

(2) the barge owner/operator shall indicate the location and strength of the bitts and chocks in the Escort Plan for each vessel or on the Checklist for each transit.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Section 8670.23.1(e)(1), Government Code.

HISTORY

1. New section filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
2. Amendment of subsection (a)(1) filed 5-19-2000; operative 6-18-2000 (Register 2000, No. 20).
3. Editorial correction reinstating section as it existed prior to amendments printed in error in Register 2000, No. 20 (Register 2000, No. 42).
4. Amendment of subsection (a)(1) filed 9-4-2001; operative 10-4-2001 (Register 2001, No. 36).

§ 851.10. Penalties.

Any person who knowingly, intentionally or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, Government Code, beginning with Section 8670.57.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1, Government Code. Reference: Sections 8670.23.1 and 8670.57-8670.69.6, Government Code.

HISTORY

1. New section filed 5-6-93 as an emergency; operative 5-6-93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 8-16-93 as an emergency; operative 9-4-93 (Register 93, No. 34). A Certificate of Compliance must be transmitted to OAL by 1-3-94 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 8-16-93 order transmitted to OAL 11-30-93 and filed 1-11-94 (Register 94, No. 2).
4. Amendment of section and NOTE filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
5. Amendment of NOTE filed 9-15-2006; operative 10-15-2006 (Register 2006, No. 37).

§ 851.10.1. Requests for Redetermination.

The owner/operator of a tank vessel or an escort tug may request redetermination of an action taken relative to an inadequacy decision or conditional approval of an Escort Plan or Checklist, denial or revocation of approval of an educational program, or application for use of an alternative compliance model. A request for redetermination must be submitted in writing and shall be processed as follows:

(a) the request must be submitted to the Administrator within 15 calendar days from the date of the decision being disputed;

(b) the request must contain the basis for the redetermination and, if available, provide evidence which rebuts the basis for the decision;

(c) within 15 calendar days following the receipt of the request for redetermination, a notice shall be sent indicating that the Administrator shall adhere to the earlier decision or that the decision has been modified or rescinded.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1, Government Code. Reference: Sections 8670.23.1 and 8670.57-8670.69.6, Government Code.

HISTORY

1. New section filed 11-8-96; operative 1-1-97 (Register 96, No. 45).
2. Amendment of NOTE filed 9-15-2006; operative 10-15-2006 (Register 2006, No. 37).

Subchapter 2. Tank Vessel Escort Program for the Los Angeles/Long Beach Harbor

§ 851.20. Purpose and Scope.

This subchapter sets forth tank vessel escort requirements for tank vessels underway in the Los Angeles/Long Beach Harbor and their approaches. These requirements specify that tank vessels carrying 5,000 or more long tons of oil in bulk as cargo shall be escorted by a suitable escort tug or tugs. When required, the escort tug(s) shall take action under the direction of the tank vessel master or pilot, to influence the speed and direction of travel of the tank vessels in the event of a casualty, steering or

propulsion failure, thereby reducing the possibility of groundings or collisions and the risk of an oil spill from these tank vessels.

This subchapter establishes the criteria for matching tugs to tankers and barges. Tankers will be matched according to a matrix that correlates a tanker's displacement with the braking force of a tug(s). Barges less than 20,000 displacement tons shall be matched based on the aggregate displacement tonnage of both the primary towing vessel and the tank barge. Barges with a displacement tonnage greater than 20,000 require a tethered escort and a one–to–one correlation between the sum of the total displacement tonnage of the primary towing vessel and its barge, and the escort tug(s).

The Administrator shall review the matching criteria, other program elements and enforcement mechanisms within three years of August 15, 2001. The program review will include a survey of the tank vessel–related incidents in U.S. waters to determine the type of failures that have occurred, an assessment of tug technology and any advances made in design and power, and the tug escort–related rules and policies that are implemented by other coastal states and maritime organizations, and any changes to bathymetry in the Harbor. At the conclusion of the review, the Administrator will determine whether it is necessary to modify the tug/tank vessel matching criteria or any other provision of the program requirements.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New subchapter 2 and section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Change without regulatory effect amending subchapter 2 heading filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of subchapter 2 heading, section and NOTE filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
4. Amendment filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.21. Definitions.

Definitions governing the construction of this subchapter can be found in Government Code Section 8670.3, and Chapter 1 of this subdivision.

NOTE: Authority cited: Sections 8670.3, 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Change without regulatory effect amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of section and NOTE filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
4. Repealer and new section filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.22. Applicability.

(a) This subchapter shall apply to all laden tank vessels when they are:

(1) Inbound from the seaward limits of the pilot operating areas to anywhere inside the Federal Breakwater;

(2) transiting anywhere inside the Federal Breakwater (from dock to anchor, anchor to dock and shifting between docks); and/or

(3) outbound from dock or anchor to the Federal Breakwater.

(b) This subchapter shall apply to all escort tugs being used to escort tank vessels during transits described in subsection (a), above.

(c) This subchapter (except for this Subsection (c)) shall not apply to tankers with double hulls, as that term is defined in 33 CFR 157.03, when the tanker also has fully redundant steering and propulsion systems; as well as integrated navigation systems to minimally include:

(1) Redundant propulsion and steering systems:

(A) two independent propellers each with a dedicated engine (or motor), propulsion system (electrical generation system) electrical system (including the switchboard), fuel system, lube oil system; and any other system required to provide the vessel with independent means of propulsion; and

(B) two independent rudders each with separate steering systems; and

(C) the propulsion and steering components, as described in subsections (A) and (B), above, shall be arranged in separate spaces, such that a fire or flood in one space will not affect the equivalent system in other space(s);

(D) a bow thruster with an assigned power source.

(2) A navigation system in compliance with the federal navigational equipment requirements set forth in 33 CFR Sections 164.35, 164.37, 164.38(b), 164.40, 164.41, 164.42, and 164.43.

(3) No exemption to this subchapter shall be allowed for a tanker requesting a U.S. Coast Guard Captain of the Port letter of deviation, pursuant to 33 CFR Sections 164.51, 164.53, and 164.55.

(4) The Administrator may require tankers that are exempt from this subchapter under the conditions outlined in Subsection (c) above to periodically demonstrate the tanker and crew's ability to maneuver in response to a partial or total loss of propulsion and/or steering at a level of safety at least equal to that of an escorted tanker.

(d) This subchapter shall not apply to purely dedicated response vessels.

(e) Consistent with Section 851.26(e) of this subchapter, nothing in these regulations shall prohibit the master or pilot from taking any action necessary to avoid:

(1) a collision or grounding; and/or

(2) damage to the tank vessel or escort tug and/or its crew and/or cargo.

(f) The requirements outlined in this section are in addition to, and not a limitation of, any other responsibility created by custom, law, or regulation. The tank vessel master remains responsible for the safe navigation and maneuvering of the tank vessel in all circumstances.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code; 33 USC 2002(b) and 2007; and 33 CFR 157.03.

HISTORY

1. New section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Amendment of section and NOTE filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
3. Repealer of subsection (c) and new subsections (c)–(c)(4) filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.23. Requirements for Escort Tugs; Bollard Pull Testing and Certification, Equipment Requirements, Crew and Training Standards.

(a) Bollard Pull Testing Requirements.

(1) All escort tugs in the Los Angeles/Long Beach Harbor used for escorting tank vessels, shall have their static bollard pull (ahead and astern) measured for determining their forces in kips.

(2) Static bollard pull measurements shall be verified by a member of IACS, and in accordance with the following standards:

(A) The measurement shall be taken with the escort tug's trim and/or displacement corresponding to applicable loadline requirements or letter of stability.

(B) Auxiliary equipment (such as pumps and generators) which is driven from the main engine(s) or propeller shaft(s) in normal operation of the escort tug shall be connected during the measurement process.

(C) All bollard pull measurements shall be derived solely on the basis of the escort tug's capabilities. No outside assistance shall be allowed.

(D) The propeller(s) blades fitted during the measurement shall be the same as those used when the escort tug is in normal operation.

(E) Water depth shall be a minimum of 45 feet (not underwater clearance).

(F) Water current shall not exceed 1.0 knot.

(G) Wind velocity shall not exceed 10 knots.

1. Measurements of water current and wind velocity shall be provided to the classification society surveyor by the escort tug owner's representative.

(H) Towline length shall be a minimum of 300 feet.

(I) The strain cell used for the measurements shall have been calibrated within the past 12 months. The classification surveyor shall verify this fact. The accuracy of the strain cell shall be +/–2% within a temperature range of –40° and 104°F.

(J) Instruments providing both a continuous read–out and the bollard pull graphically as a function of the time, shall be connected to the strain cell.

(K) The surveyor for the classification society shall:

1. be aboard the escort tug during the measurement process to verify that the bollard pull report is correct;

2. determine the escort tug's static bollard pull capacity by averaging the forces recorded (without any significant tendency of decline) for a period of at least 15 minutes while maintaining a fixed reading with the engine(s) operating at the manufacturer's recommended continuous output;

3. sign the completed "BOLLARD PULL REPORT" of the Los Angeles/Long Beach Harbor Safety Committee; and

4. sign and issue a "BOLLARD PULL CERTIFICATE".

(3) Escort tug companies shall provide the Los Angeles/Long Beach Harbor Safety Committee with the results of the static bollard pull measurements taken pursuant to the provisions of this subchapter.

(4) Results of any and all static bollard pull measurements shall be inventoried and published by the Marine Exchange.

(5) Escort tugs which do not have current bollard pull certifications on file with the Marine Exchange and the Harbor Safety Committee or which do not meet the requirements for alternative compliance for bollard pull measurements, cannot be used for the escort of tank vessels in the Los Angeles/Long Beach Harbor.

(6) The braking force shall be re–measured after any modifications and/or repairs to the main engines, hull, shaft–drive line, or steering, that could affect bollard pull. The new measurements must be reported to the Los Angeles/Long Beach Harbor Safety Committee and on file with the Marine Exchange.

(7) Any escort tug used to comply with the requirements of this subchapter shall also meet one of the following:

(A) the escort tug shall have its braking force re–measured within 3 years of its last bollard pull test, or;

(B) the escort tug shall submit to an Escort Tug Inspection Program, as follows:

1. Escort tugs 150 gross tons or greater, and classed escort tugs shall be made available for inspection by the Administrator twice in five years during their dry dock examination. The period between inspections shall not exceed three years.

2. Escort tug maintenance records shall be made available for inspection by the Administrator.

3. If dry dock examination extensions are necessary, escort tugs shall comply with the direction of the cognizant Officer in Charge, Marine Inspection, or American Bureau of Shipping principal surveyors' direction.

4. For classed escort tugs, a copy of the Class Surveyor's report confirming that the condition of the drive train (shafts, propellers, nozzles or other type drive) and main engines are in the same state as when the builder's or last bollard pull certificate was issued, shall be forwarded to the Administrator.

5. Escort tug companies shall participate and have a certificate of compliance from one of the following Management Systems:

i. American Waterways Operators Responsible Carrier Program;

ii. International Safety Management;

iii. ISO 9000 (quality management).

6. Escort tugs of less than 150 gross tons shall be made available for inspection by the Administrator once in five years during their dry dock examination. These escort tugs shall use a certified Marine Surveyor and shall comply with subsections 2, 3, and 4, above.

(C) Escort tugs that submit to the Escort Tug Inspection Program, as described above, can perform escort duties in any port in the state, if the tugs meet the requirements of the appropriate subchapter (i.e., Subchapter 1, San Francisco Bay Region; Subchapter 2, Los Angeles/Long Beach Harbor; Subchapter 3, Port Hueneme Harbor; Subchapter 4, Humboldt Bay; Subchapter 5, San Diego Harbor), of this Chapter 4 of the California Code of Regulations.

(b) Equipment Requirements for Escort Tugs.

All escort tugs used to escort tank vessels shall be equipped with and shall maintain in good working order:

(1) primary and secondary VHF radios; and

(2) fendering appropriate to absorb the impact inherent in hull–to–hull operations; and

(3) power line handling equipment fore and aft to mechanically assist in the deployment and/or retrieval of tow lines.

(A) Tow lines provided by tank vessels and/or escort tugs shall:

1. be maintained in sufficient number, length, condition and strength to assure effective control of the intended vessel maneuver, based on weather conditions, the tank vessel's size, and the escort tug's certified static bollard pull or alternative model forces;

2. have a certified strength of at least 1.5 times the escort tug's certified static bollard pull or the alternative model forces found in Section 851.29 of this subchapter.

(c) Any escort tugs used to comply with the requirements of this subchapter shall meet crew standards as follows:

(1) Federal regulations regarding hours of work apply to licensed and unlicensed crew members. According to these regulations, working hours shall include any administrative duties associated with the tug whether underway or at the dock. Hours of rest shall be in accordance with Part A, Chapter 8, Section A–VIII/1, paragraphs 1–4, of the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers, 1978, as amended in 95 (STCW) standard, which is incorporated by reference.

(2) An escort tug, during escort and assist operations required by this subchapter, shall have a minimum of three crewmembers on board ready to respond at the tug master's discretion during an escort transit. At least one crewmember shall be capable of resolving mechanical difficulties aboard an escort tug in the event of an emergency.

(3) The Administrator may review the equipment and crew on an escort tug to assure compliance with this subsection.

(d) Training requirements for the crew of any escort tug used to comply with the requirements of this subchapter shall include, but are not limited to:

(1) In addition to demonstrable skills that satisfy federal requirements (46 CFR, Section 10.464) for towing vessel licensure, the following training elements are required (with refresher training every 5 years):

(A) Masters/Mates:

*1. Bridge management training;

*2. Radar training;

3. Navigation/boat handling training or proficiency evaluation, including Rules of the Road refresher training;

4. Company policy and procedure orientation, including review of international, federal and state requirements;

*5. Marine firefighting/fire prevention;

*6. Personal safety, including:

i. First aid and CPR certification;

ii. Confined space hazard awareness;

iii. Injury prevention;

iv. Cargo knowledge/hazard awareness.

*7. Responsibility and authority of master including supervisory skills training;

*8. Currency of knowledge, as required by federal law (46 CFR 15.812) to serve as pilot on non–self propelled tank vessels;

*9. Knowledge of local geography:

i. Terminal location and approaches;

ii. Anchorages;

iii. Tanker routes.

(B) Crew members, other than masters/mates:

1. Deck equipment operations and safety training;

2. Company policy and procedure orientation, which shall include a review of applicable international, federal and state requirements;

*3. Vessel firefighting/fire prevention;

*4. Personal safety, including:

i. First aid and CPR certification;

ii. Confined space hazard awareness;

iii. Injury prevention;

iv. Lock-out/tag-out procedure.

5. Marine diesel operations training, including engine room equipment and alarms.

In addition to the subjects listed above within this Subsection (B) crew members, other than masters and mates, shall demonstrate their ability to operate the vessel in place of the master/mate in an emergency situation, when the master/mate is unable for any reason to operate in his/her capacity.

(C) All crew members:

1. Employee orientation, including:

i. Drug and alcohol policy;

ii. Safety as a condition of employment;

iii. Vessel layout/deck operations;

iv. Required safety gear;

v. Job responsibilities.

*2. Emergency procedures orientation:

i. Fire;

ii. Collision/allision;

iii. Sinking;

iv. Grounding;

v. Man overboard;

vi. Personal injury;

vii. Oil spill reporting.

3. Knowledge and use of tug escorts:

i. How to use an escort tug to reduce the risk of grounding or collision of an escorted vessel;

ii. The roles of the tug (as servant of the vessel) and the pilot during escorts;

iii. The primacy of safety of life and the escort tug;

4. Capabilities and performance limitations of the escort tug, including but not limited to:

i. Handling and performance characteristics of escort tugs (e.g., stability, hydrodynamics, tripping, etc.);

ii. Propulsion type;

iii. Force capabilities;

iv. Line and connection system integrity;

v. Navigation systems.

(2) Training required as a condition of U.S. Coast Guard licensure (e.g., firefighting) may be used to satisfy the training specifications listed in Subsection (d)(1) above, as appropriate.

(3) Compliance with the crew training and qualification requirements listed in Subsection (d)(1) above shall be verified as follows:

(A) Companies that comply with the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers (STCW) certification and have a Safety Management System (SMS) in place shall provide internal audit reports and STCW training certificates to the Administrator upon request; or

(B) Companies that are not STCW certified, but which have a SMS in place shall request approval from the Administrator by providing all of the following:

1. Details of their training program; and

2. Certified audit reports; and

3. Demonstration of proficiency of the crew in the training elements prior to approval when deemed necessary by the Administrator.

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*Federal requirements

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 7-28-94; operative 8-29-94 (Register 94, No. 30).

2. Change without regulatory effect amending subsection (c)(1)(B) filed 7-12-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).

3. Amendment of section heading, section and NOTE filed 8-19-98; operative 9-18-98 (Register 98. No. 34).

4. Repealer of subsections (a)(5) and (a)(8), subsection renumbering and amendment of newly designated subsection (a)(6) filed 7-12-99 as an emergency; operative 7-12-99 (Register 99, No. 29). A Certificate of Compliance must be transmitted to OAL by 11-9-99 or emergency language will be repealed by operation of law on the following day.

5. Reinstatement of section as it existed prior to 7-12-99 emergency amendment by operation of Government Code section 11346.1(f) (Register 2000, No. 2).

6. Repealer of subsections (a)(5) and (a)(8), subsection renumbering and amendment of newly designated subsection (a)(6) filed 1-10-2000; operative 2-9-2000 (Register 2000, No. 2).

7. Amendment of section heading, repealer of subsections (c)-(c)(2) and new subsections (c)-(d)(3)(B)3. filed 9-27-2004; operative 10-27-2004 (Register 2004, No. 40).

8. New subsections (a)(6)(A)-(a)(6)(A)3. filed 4-25-2005; operative 4-25-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 17).

9. Amendment of subsection (a)(6)(A)1. filed 3-1-2006 as an emergency; operative 3-1-2006 (Register 2006, No. 9). A Certificate of Compliance must be transmitted to OAL by 6-29-2006 or emergency language will be repealed by operation of law on the following day.

10. Amendment of subsection (a)(6)(A)1. refiled 6-29-2006 as an emergency; operative 6-29-2006 (Register 2006, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-27-2006 or emergency language will be repealed by operation of law on the following day.

11. Amendment of subsection (a)(6), repealer of subsections (a)(6)(A)-(a)(6)(A)3., new subsections (a)(7)-(a)(7)(C) and amendment of NOTE filed 9-15-2006; operative 10-15-2006 (Register 2006, No. 37).

§ 851.24. Pre-Escort Conference.

(a) Prior to commencing an escorted transit, the tank vessel master/pilot shall:

(1) contact the escort tug master, mate or officer in charge of the watch, to confirm the number and position of the escort tug(s); and

(2) establish the radio frequency to be used for communications; and

(3) establish the anticipated direction of movement and destination of the tank vessel; and

(4) communicate any other pertinent information that the master/pilot and escort tug master, mate or officer in charge of the watch deem necessary to facilitate operations in the case of an unplanned event.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7-28-94; operative 8-29-94 (Register 94, No. 30).

2. Change without regulatory effect amending subsection (a) filed 7-12-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).

3. Repealer and new section filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

4. Amendment of subsections (a)(1)-(2) and (a)(4) filed 7-16-2001; operative 8-15-2001 (Register 2001, No. 29).

§ 851.25. Speed Limits for Tankers.

(a) Tankers transiting between the seaward limits of the pilot operating areas and anywhere inside the Federal Breakwater shall restrict their speed as follows:

(1) eight (8) knots for vessels 60,000 displacement tons and less;

(2) six (6) knots for vessels exceeding 60,000 displacement tons.

(b) The maximum speed limits contained in subsections (a)(1) and (a)(2) reflect favorable circumstances and conditions and shall be adjusted for safety based on weather and tidal conditions and the proximity of other vessel traffic.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7-28-94; operative 8-29-94 (Register 94, No. 30).

2. Renumbering of former section 851.25 to section 851.26 and new section filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

3. Amendment of section heading and section filed 7-16-2001; operative 8-15-2001 (Register 2001, No. 29).

§ 851.26. General Escort Tug Requirements for Tankers.

(a) The force requirements contained in this subchapter reflect favorable circumstances and conditions. The tanker master/pilot shall arrange for additional escort tug(s) should adverse weather conditions, unusual port congestion, the contemplated movement of the vessel or other conditions or circumstances so require.

(b) The master/pilot of inbound tankers shall confirm by VHF contact with the required escort tugs(s), that the tug(s) is/are stationed at the appropriate seabouy prior to the tankers reaching the seaward limit of the pilot operating area.

(c) Tanker Crew Requirements.

(1) a tanker shall have:

(A) sufficient and qualified line handling capable crew members standing by and available to immediately receive lines from each escort tug. The crew shall not be assigned duties that would interfere with their ability to immediately respond to an emergency situation;

(B) its anchors ready for letting go prior to entering the pilot operating areas (inbound tankers only);

(C) sufficient and qualified supervisors to provide direct supervision of line handling crew operations for tankers. Supervisors shall have direct radio communication capability with the bridge of the tanker.

(d) Tanker Equipment Requirements:

(1) each tanker shall have appropriate and suitably maintained bitts and chocks that are of sufficient size, strength, and number to accommodate the anticipated forces of the escort tug(s);

(2) the tanker owner/operator shall indicate the location of the appropriate bitts and chocks, as well as the safe working loads, on the ship's general arrangement plan for each tanker. This information shall also be communicated to the pilot during the pre–escort conference required by Section 851.24 of this subchapter.

(e) Notwithstanding any other provision of this subchapter:

(1) any additional requirements for tug escort as deemed necessary by the U.S. Coast Guard shall supersede the requirements of this subchapter;

(2) During a nonemergency situation the master/pilot, may only adjust the minimum escort requirements contained in this subchapter with the concurrence of the Coast Guard Captain of the Port.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Repealer of former section 851.26 and renumbering of former section 851.25 to section 851.26, including amendment of section heading, section and NOTE filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
3. Amendment of section heading and section filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.27. Tanker and Tug Matching Criteria.

(a) Force Selection Matrix. The tug(s) used for the escorted vessel movements described in Section 851.22, Subsections (a) and (b), shall provide forces equivalent to those delineated in the following Force Selection Matrix. Where multiple tugs are needed to meet these requirements, the total number of escort tugs for a single tank vessel movement or transit shall not exceed two.

(b) To meet the requirements of the Force Selection Matrix, tractor tugs shall be tethered, inbound and outbound. Conventional tugs may be tethered or untethered inbound, but shall be tethered outbound.

Section 851.27. Force Selection Matrix

	Tractor Tugs			*Conventional Tugs*				
	Ahead Forces for Tugs Using Stern Line (Vsp) Astern Forces for Tugs Using Headline (Asd)		*2nd Tug Ratio*	*Ahead Forces*		*2nd Tug Ratio*	*Astern Forces*	
Tanker Displacement					*Short*			*Short*
Long Tons	*Kips*	*Short Tons*	R_{T2}	*Kips*	*Tons*	R_{c2}	*Kips*	*Tons*
0 to <60,000	20	10	2.7	50	25	1.2	30	15
60,000 to <100,000	40	20	2.7	60	30	1.3	50	25
100,000 to <140,000	50	25	2.7	80	40	1.4	80	40
140,000 to <180,000	60	30	2.8	120	60	1.4	100	50
180,000 to <212,000	90	45	3.8	220	110	1.6	120	60
212,000 to <220,000	100	50	3.8	250	125	1.6	120	60
220,000 to <260,000	120	60	5.3	410	205	1.6	140	70
260,000 to <300,000	140	70	5.4	480	240	1.6	160	80
300,000 to <340,000	170	85	5.6	590	295	1.6	190	95

(c) the above force requirements can be met by employing either:

(1) a single tractor tug, in which case the required force is set forth in the tractor tug column in the matrix above; or

(2) a single conventional tug, in which case the tug must meet both the required forces set forth in the conventional tug ahead and astern columns in the matrix above.

(d) accurate tug–to–tanker matching calculations for two tugs to meet the force requirements set forth in the above matrix, may be derived by using either:

(1) two conventional tugs; or

(2) a combination of two tugs, which may be employed, as follows:

(A) When using one tractor and one conventional tug the combined tug forces shall be calculated by subtracting the tractor tug's force measurement from the required force amount set forth in the tractor tug column in the matrix above, and multiplying the balance by the ratio (R_{T2}) provided for the second tug in that tank vessel displacement category. The resulting force amount must be met by the conventional tug using its ahead force measurement.

E.g., force ahead of second tug ≥ (force required from tractor tug column – force tractor) x R_{T2}. I.e., force required from tractor tug column ≤ force tractor + (force ahead of second tug ÷ R_{T2}).

The conventional tug must also meet an astern force amount that shall be calculated by subtracting the tractor tug's force measurement from the required force amount set forth in the tractor tug column in the matrix above and multiplying the balance by 1.0.

E.g., force astern second tug ≥ (force required from tractor tug column – force tractor) x 1. i.e., force required from tractor tug column ≤ force tractor + force astern conventional.

(B) When using two tractor tugs, the second tractor tug's force requirement shall be determined in the same way as for a second conventional tug.

Example: a 180,000 displacement tanker requires a 90 kip tractor tug to meet the minimum escort standards of this subchapter. In a situation where a 70–kip tractor tug is available, one additional tug could be used to fulfill the remaining 20 kip requirement by multiplying this balance by the ratio (R_{t2}) for this category. Thus, the ahead force and the astern force of the second tug must be:

Ahead force for the second tug (90–70)= 20 x 3.8 = 76 (kips).

Astern force for the second tug (90–70)= 20 x 1 = 20 (kips).

(C) When using two conventional tugs, the combined tug forces shall be calculated by subtracting the force measurement of the tug working at the transom from the required conventional tug ahead force amount set forth in the conventional tug ahead force column in the matrix above, and multiplying the balance by the ratio provided for the second tug, (R_{c2}) in that tank vessel displacement category. The resulting force amount must be met by the second conventional tug using its ahead force measurement.

E.g., force ahead of second tug ≥ (ahead force required from conventional tug column – force ahead of first conventional tug) x R_{c2}.

I.e., ahead force required from conventional tug column ≤ force ahead of first conventional tug + (force ahead of second tug ÷ R_{c2}).

The second conventional tug must also meet an astern force amount that shall be calculated by subtracting the first tug's astern force measurement from the required force amount set forth in the conventional tug astern force column in the matrix above, and multiplying the balance by 1.0.

E.g., force astern of second tug ≥ astern force required from conventional tug column – force astern of first conventional tug.

I.e., astern force required from conventional tug column ≤ force astern of first conventional tug + force astern of second tug.

Example: a 180,000 displacement tanker requires a 220 kip ahead force and 120–kip astern force conventional tug to met the minimum escort standards of this subchapter. In a situation where a 150–kip ahead force with 100–kip astern force conventional tug is available, one additional tug could be used to fulfill the remaining force requirements (second tugs forces x R_{c2}). Thus, the ahead force and the astern force of the second tug must be:

Ahead force for the second tug = (220–150) x 1.6 = 112 (kips)

Astern force for the second tug = (120–100) x 1 = 20 (kips)

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Repealer and new section filed 8–19–98; operative 9–18–98 (Register 98, No. 34).
3. Amendment of subsections (b) and (d)(1), redesignation and amendment of a portion of subsection (d)(2)(A) as (d)(2)(B) and subsection relettering filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.27.1. Tank Barge and Tug Matching Criteria, Tethering, Stationing and Equipment Requirements.

(a) The tug(s) used to escort a tank barge must be able to provide sufficient braking force to stop the tank barge.

(1) The braking force shall be measured either as:

(A) the escort tug's ahead static bollard for tractor tugs using stern lines (VSP); or

(B) astern static bollard pull for tractor tugs using headlines (ASD); or

(C) astern static bollard pull for conventional tugs;

(2) At the appropriate seabouy:

(A) Tethered escort tug(s) are required for all tank barges and their primary towing vessels whose aggregate displacement tonnage exceeds 20,000;

(B) The escort tug(s) shall have the minimum individual or aggregate braking force, when tethered or untethered, as specified in Subsection (3) A. and B. below:

(3)

Total Displacement Tonnage of the Tank Barge and the Primary Towing Tug	*Minimum Required Escort Tug(s) Static Bollard Pull in Short Tons*	
	Tethered Escort Tug(s)	*Untethered Escort Tug(s)*
A. 0 to 20,000 displacements	10 short tons	15 short tons
B. >20,000 displacement tons	*Tethered Escort Tug(s)* A total astern static bollard pull (in pounds) equal to or greater than the sum of both the primary towing tug's and barge's total displacement tonnage. (E.g., where the total towing tug and tank barge displacement is 25,000 displacement tons, the escort tug(s)' astern static bollard pull shall be at least 25,000 pounds or 12.5 short tons.)	

(4) A tank barge must be accompanied by a sufficient number, but no more than two tugs to provide the braking force specified in this section.

(5) The towing tug which provides the power to push or tow a tank barge shall not become an escort tug during the course of a transit unless the towing tug has been relieved of its duties as the primary towing vessel, and replaced with another tug that serves as the primary towing vessel.

Any towing tug that does become the escort tug after being relieved of all towing duties must meet all the requirements for escort tugs as specified in this subchapter.

(6) The primary towing vessels for tank barges transiting between the seaward limits of the pilot operating areas and anywhere inside the Federal Breakwater shall restrict their speed to four (4) knots.

(b) Stationing Requirements.

(1) The primary towing tug master or mate shall confirm by VHF contact with the required escort tug(s), that the tug(s) is/are stationed at the appropriate seabouy prior to the tank barge reaching the seaward limit of the pilot operating area.

(c) Equipment Requirements.

(1) Each tank barge shall have deck chocks and bitts that are of sufficient size, strength and number to accommodate the anticipated forces of the escort tug(s) as stated in subsection (a)(3) above;

(2) The tank barge owner/operator shall illustrate the location of the bitts and chocks, and any other locations on the hull, which are capable of withstanding the forces exerted by the escort tug(s), within documentation kept on file with the Marine Exchange, and onboard the towing tug.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1(d), Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7–16–2001; operative 8–15–2001 (Register 2001, No. 29).

§ 851.28. General Requirements for Tank Vessels.

(a) All laden, inbound tank vessels engaged in movements described in Section 851.22, Subsections (a) and (b), shall:

(1) comply with the escort requirements specified in Section 851.27, or its alternatives found in Section 851.29; and

(2) report their displacement upon arrival and departure to the Vessel Traffic Information Service/Marine Exchange; and

(3) either through the tank vessel owner/operator or the agent acting on their behalf, provide the accurate displacement of the tank vessel when ordering tug escort services from the tug provider(s); and

(4) be met by the required escort tug at the seaward limit of the pilot operating areas; and

(5) not proceed closer than two nautical miles from the Federal Breakwater entrance unless the required escort tug is in position at the seaward limit of the pilot operating areas.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7–28–94; operative 8–29–94 (Register 94, No. 30).
2. Renumbering of former section 851.28 to new section 851.30 and new section 851.28 filed 8–19–98; operative 9–18–98 (Register 98, No. 34).

§ 851.29. Alternative to Section 851.27 Requirements for Matching Escort Tugs to Tank Vessels.

(a) Measurement methodologies other than those used to establish the requirements in Section 851.27 may be used instead of, or in addition to, that section as follows:

(1) Escort tug operators may propose an alternative method for measuring the forces of any escort tug (in kips) than the static bollard pull measurement indicates. An alternative measurement may be submitted only once in any 12 month period and shall comply with the following:

(A) the owner/operator shall assure that the following are included when developing a methodology for calculating alternate forces for a given escort tug:

1. The alternate measurement is conducted from a starting speed of five (5) knots;

2. the escort tug is not required to exceed the limits of its ability to generate the forces, and in no instance submerges the deck edge to achieve the alternate measurement;

3. the escort tug operates all its equipment at or below the manufacturer's recommended guidelines for its safe working load;

4. unless demonstrated otherwise by full scale testing, all machinery shall be assumed to operate at or below performance levels published by the manufacturer;

5. any current bollard pull values registered with the Marine Exchange shall be utilized where appropriate in any formulas or models;

6. any known condition that would impair the escort tug's ability to perform shall be included in the calculation.

(B) the measurement must be conducted by a naval architect or licensed marine engineer approved by the Administrator:

1. the escort tug operator shall submit the name of the naval architect or licensed marine engineer to the Administrator for approval prior to having that individual or his/her company conduct an alternate measurement.

2. the Administrator shall approve a naval architect or licensed marine engineer if that person has demonstrated the education, knowledge and experience necessary to conduct the testing and modeling of escort tug capabilities and forces.

(C) The alternate model and the resultant measurements shall be approved by the Administrator before the alternate model may be used to match a tanker to an escort tug or tugs. The Administrator shall approve the alternate model if it provides both of the following:

1. A higher force (in kips) than the static bollard pull measurement indicates; and

2. at least the same level of protection as the forces required by Section 851.27.

(D) After an alternate model is approved, the Administrator shall provide the Los Angeles/Long Beach Harbor Safety Committee with a list of the escort tug combinations which correspond to the tank vessel displacements and speeds under the approved alternate methodology.

(2) Tanker operators may develop a model for the vessels in their fleet relative to the steering and braking demands of the vessels. The steering and braking demands established by the alternate model may be used to match escort tugs to tankers in lieu of those specified in Section 851.27. An alternate compliance model may be submitted only once in any 12 month period and shall comply with the following:

(A) The measurement must be conducted by a naval architect or licensed marine engineer approved by the Administrator.

1. The tanker operator shall submit the name of the marine architect or licensed marine engineer to the Administrator for approval prior to having that individual or his/her company conduct an alternate model.

2. the Administrator shall approve a naval architect or licensed marine engineer if that person has demonstrated the education, knowledge and experience necessary to conduct the testing and modeling of escort tug capabilities and forces.

(B) The alternate model and the resultant measurements shall be approved by the Administrator before the alternate model may be used to match a tank vessel to an escort tug or tugs. The Administrator shall approve the alternate model if:

1. It provides at least the same level of protection as the forces established in Section 851.27; and

2. can be achieved using no more than two escort tugs as required by this subchapter.

(C) After an alternate model is approved, the Administrator shall provide the Marine Exchange and the Los Angeles/Long Beach Harbor Safety Committee with the tank vessel demand in kips which corresponds to the tanker's displacement and speed under the approved alternate model.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 7-28-94; operative 8-29-94 (Register 94, No. 30).

2. Renumbering of former section 851.29 to new section 851.32 and new section 851.29 filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

§ 851.30. Reporting.

Anyone may report violations of the provisions of this subchapter to:

(a) the Office of Spill Prevention and Response; or

(b) The United States Coast Guard Captain of the Port.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. Renumbering of former section 851.28 to new section 851.30, including amendment of section and NOTE, filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

§ 851.31. Compliance Monitoring and Notification.

Compliance monitoring of these regulations shall be accomplished by the procedures specified in either subsection (a) or (b), below:

(a) The development of a compliance monitoring program(s) or process(es) designed by the Port of Los Angeles and the Port of Long Beach (Ports), or their designees.

(1) The program(s) or process(es) shall specify how the Ports will provide the Administrator, or his designee, with notification of a violation(s) to the regulations; and or

(2) that the vessel, under normal, not exigent circumstances, is to be detained until the requirements of this subchapter have been fully met.

(A) The program and/or process shall be submitted to the Administrator for his/her review and approval no later than 120 days from the effective date of this regulation.

(B) The Administrator shall have 60 days within which to review and either approve, conditionally approve or disapprove the Ports' submittal. Upon termination of this time line the Administrator shall:

1. Fully approve the proposed program and/or process provided by the Ports and provide written confirmation of this approval.

2. Conditionally approve the proposal(s). The Administrator shall provide a written explanation for the conditional approval and state the objectional items contained in the proposal. The Ports shall be given 30 days from the date of their receipt of the Administrator's explanation, to resubmit a proposal which will either excise or mitigate, with an explanation, the Administrator's objections. The Administrator shall have 30 days from the date of receipt of the Ports' amended proposal, and shall either fully approve or fully disapprove this document.

3. Disapprove the Ports' proposals.

(b) If either of the Ports' program(s) and/or process(es) is/are disapproved, or if either of the ports fail to submit a program, the Administrator shall implement the compliance monitoring provisions of this subchapter by the adoption of further regulations. These regulations may include the establishment of a Clearing House function within the Marine Exchange or through any other legal means deemed appropriate by the Administrator.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.67(b), Government Code.

HISTORY

1. New section filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

§ 851.32. Remedies.

(a) Nothing herein shall limit or prevent any action by any party in a court of competent jurisdiction.

(b) Any person who knowingly, intentionally or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or an administrative civil penalty as prescribed in Article 9 of the Government Code beginning with Section 8670.57.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.67(b), Government Code.

HISTORY

1. Renumbering of former section 851.29 to new section 851.32, including amendment of section and NOTE, filed 8-19-98; operative 9-18-98 (Register 98, No. 34).

Subchapter 3. Tank Vessel Escort Regulations for Port Hueneme Harbor

§ 851.50. Purpose and Scope.

The regulations in this subchapter set forth tank vessel escort requirements for Port Hueneme. These requirements specify the number of tugs required for escort service. The escort tugs will be available to influence the speed and direction of travel of a tank vessel in the event of a steering or propulsion failure, thereby reducing the possibility of a grounding or collision and the risk of an oil spill from these tank vessels.

The Administrator shall periodically review the elements of the tank vessel escort program. The program review will include a survey of the tanker-related incidents in U.S. waters to determine the types of failures that have occurred, an assessment of tug technology and any advances made in design and power, and the related tug-escort rules and policies that are implemented by other coastal states and maritime organizations. At the conclusion of the review, the Administrator will determine whether it is necessary to modify any provision of the program requirements.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New subchapter 3, article 1 (sections 851.50–851.54) and section filed 3–21–95; operative 4–20–95 (Register 95, No. 12).
2. Change without regulatory effect amending subchapter 3 heading filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effect amending section and NOTE filed 10–21–96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
4. Amendment of subchapter heading and section filed 1–15–98; operative 2–14–98 (Register 98, No. 3).
5. Repealer of article heading and amendment of second paragraph filed 12–21–2004; operative 1–20–2005 (Register 2004, No. 52).

§ 851.51. Definitions.

In addition to the definitions found in Government Code Section 8670.3 and Chapter 1, Section 790 of this Subdivision, the following definitions shall apply to this subchapter. Where similar terms are defined, the following will supersede the definition in Government Code Section 8670.3 and Chapter 1:

(a) "Escort" means maintaining a position in the vicinity of the tank vessel, based on existing conditions, which will enable a tug to provide timely and effective response to prevent a vessel casualty.

(b) "Master" means the licensed master of the tanker.

(c) "Operator" means the operator of an uninspected towing vessel licensed under federal statutes and/or regulations to engage in the towing of a barge.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.3 and 8670.17.2, Government Code.

HISTORY

1. New section filed 3–21–95; operative 4–20–95 (Register 95, No. 12).
2. Change without regulatory effect amending first paragraph, repealing subsections (c), (e) and (g)–(j), and subsection relettering filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Repealer of subsection (a), subsection relettering, and amendment of NOTE filed 1–15–98; operative 2–14–98 (Register 98, No. 3).
4. Amendment of first paragraph filed 12–21–2004; operative 1–20–2005 (Register 2004, No. 52).

§ 851.51.1. Requirements for Escort Tugs.

(a) A tug may be used for escort services if authorized by the Oxnard Harbor District and/or the U.S. Navy for use in Port Hueneme.

(b) Tugs used for escort services must be equipped with at least 500 horsepower.

(c) The braking force shall be re-measured after any modifications and/or repairs to the main engines, hull, shaft-drive line, or steering, that could affect the bollard pull. The new measurements must be registered with the Oxnard Harbor District.

(d) Escort tugs that submit to the Escort Tug Inspection Program, as described in Sections 851.8(a)(4)(B) and 851.23(a)(7)(B), can perform escort duties in any port in the state, if the tugs meet the requirements of the appropriate subchapter (i.e., Subchapter 1, San Francisco Bay Region; Subchapter 2, Los Angeles/Long Beach Harbor; Subchapter 3, Port Hueneme Harbor; Subchapter 4, Humboldt Bay; Subchapter 5, San Diego Harbor), of this Chapter 4 of the California Code of Regulations.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. Change without regulatory effect adding new section filed 10–21–96 pursuant to Section 100, title 1, California Code of Regulations (Register 96, No. 43).
2. Amendment of NOTE filed 12–21–2004; operative 1–20–2005 (Register 2004, No. 52).
3. New subsections (c)–(d) filed 9–15–2006; operative 10–15–2006 (Register 2006, No. 37).

§ 851.52. Tug Escort for Tankers.

(a) All tankers operating in Port Hueneme, whether entering, departing, shifting or berthing, shall use two escort tugs between the Pilot Boarding Area and the designated berth. For purposes of this Article, oil spill response vessels and offshore supply vessels as defined in 46 USC 2101, are not required to engage escort tugs in accordance with this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 3–21–95; operative 4–20–95 (Register 95, No. 12).
2. Amendment of section heading, section and NOTE filed 1–15–98; operative 2–14–98 (Register 98, No. 3).

§ 851.53. Tug Escort for Barges.

(a) All tank barges operating in Port Hueneme, whether entering, departing, or shifting, except as specified in subparagraph (a)(4), shall use a tug or tugs for escort, in addition to the towing vessel, based on the following criteria:

(1) Tank barges of 150 feet or less: No escort tug is required unless deemed necessary by the Master or Operator as appropriate for that size vessel.

(2) Tank barges greater than 150 feet, but less than or equal to 250 feet: One escort tug is required; the horsepower of the tug shall be appropriate for that size vessel as deemed necessary by the Master or Operator as appropriate for that size vessel.

(3) Tank barges greater than 250 feet: At least one escort tug is required; the horsepower of the tug shall be 1500 horsepower or greater. Additional tugs shall be used as deemed necessary by the Master or Operator as appropriate for that size vessel.

(4) Empty tank barges operating in Port Hueneme shall have a tug escort on a case-by-case basis as deemed necessary by the Master or Operator as appropriate for that size vessel.

(b) In accordance with Section 851.53(a), tank barges entering or departing Port Hueneme shall be escorted by a tug or tugs between the Pilot Boarding Area and the designated berth. For purposes of this Article, oil spill response vessels and offshore supply vessels as defined in 46 USC 2101, are not required to engage escort tugs in accordance with this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Section 8670.17.2, Government Code.

HISTORY

1. New section filed 3–21–95; operative 4–20–95 (Register 95, No. 12).
2. Amendment of section heading, section and NOTE filed 1–15–98; operative 2–14–98 (Register 98, No. 3).

§ 851.54. Remedies.

(a) Nothing herein shall limit or prevent any action by any party in a court of competent jurisdiction.

(b) Any person who knowingly, intentionally or negligently violates any provision of this Subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, beginning with Government Code Section 8670.57.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.57, Government Code.

HISTORY

1. New section filed 3–21–95; operative 4–20–95 (Register 95, No. 12).
2. Amendment subsection (b) and amendment of NOTE filed 12–21–2004; operative 1–20–2005 (Register 2004, No. 52).

Subchapter 4. Tank Vessel Escort Regulations for Humboldt Bay

Article 1. General Provisions and Definitions

§ 851.80. Purpose and Scope.

The regulations in this subchapter set forth tank vessel escort requirements for tank vessels entering, shifting within, or leaving Humboldt Bay.

"Humboldt Bay" encompasses those harbor boundaries which include all submerged lands of Humboldt Bay (Inner Harbor); and the open water boundary defined as the area centered on the Humboldt Bay Sea Buoy and extending radially outward for a distance of one mile then landward to the perpendicular intersection with the north and south spits.

The escort tug requirements specify that tank vessels carrying as cargo a total volume of oil greater than or equal to 5,000 long tons or 5% of the vessel's deadweight tonnage, whichever is less, shall be escorted by a suitable escort tug(s).

The escort tug(s) shall be used to influence the speed and direction of travel of a tank vessel in the event of a steering or propulsion failure, thereby reducing the possibility of groundings or collisions and the risk of an oil spill from these tank vessels.

The Administrator shall review the tug/tank vessel matching criteria and other requirements of this subchapter within two years of the effective date of this subchapter. The review will include a survey of the tank vessel–related incidents in U.S. waters to determine the type of failures that have occurred, an assessment of tug technology and any advances made in design and power, and the escort tug–related rules and policies that are implemented by other coastal states and maritime organizations. At the conclusion of the review, the Administrator will determine whether it is necessary to modify the tug/tank vessel match criteria or any other requirements of this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New subchapter 4, article 1 (sections 851.80–851.86) and section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

§ 851.81. Definitions.

In addition to the definitions found in Government Code Section 8670.3 and Chapter 1, Section 790 of this subdivision, the following definition shall apply to this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Bona fide sister tug" means a tug which has not had its bollard pull capabilities verified by a member of the International Association of Classification Societies, but is constructed and maintained with the same hull form, engines, type of propulsion, stability, maneuverability, speed, power, and endurance of a tested and certified escort tug.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

§ 851.82. Escort Tug Requirements for Tank Vessels.

(a) Escort tugs, alone or in combination, must have total ahead bollard pull in pounds greater than or equal to the tank vessel's deadweight tonnage. When required under this subsection and subsection 851.85(j)(2), additional escort tugs shall stand by during transit and be prepared to render assistance.

(b) All tankers transiting the waters of Humboldt Bay, carrying as cargo a total volume of oil greater than or equal to 5,000 long tons or 5% of the vessel's deadweight tonnage, whichever is less, shall use a minimum of one escort tug. For purposes of this subchapter, oil spill response vessels, and offshore supply vessels as defined in 46 USC 2101, are not required to engage escort tugs in accordance with this subchapter.

(c) All tank barges transiting the waters of Humboldt Bay, carrying as cargo a total volume of oil greater than or equal to 5,000 long tons or 5% of the vessel's deadweight tonnage, whichever is less, shall use at least one escort tug, in addition to the barge's line–haul tug. For purposes of this subchapter, oil spill response vessels, and offshore supply vessels as defined in 46 USC 2101, are not required to engage escort tugs in accordance with this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

§ 851.83. Requirements for Escort Tug Crew Members.

Any escort tug used to comply with the requirements of this subchapter, must meet crew standards as follows:

(a) Escort tug operators shall, at a minimum, be duly licensed Operators of Uninspected Towing Vessels as set forth in Title 46, Code of Federal Regulations (CFR), Section 10.464.

(b) Escort tug crews shall have a minimum of two certified deck hands. An engineer, if employed, may not be included as a deck hand. This requirement does not preclude additional deck hands who are gaining experience for certification, but such deck hands cannot be used to meet the manning requirements of this section.

(c) Escort tug crews shall possess Coast Guard license(s)/document(s) appropriate for the escort tug and service.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

§ 851.84. Requirements for Escort Tugs.

All escort tugs approved for use under this subchapter shall be equipped with and shall maintain in good working order:

(a) Primary and secondary VHF radios;

(b) 300 feet of tag line;

(c) Power line–handling equipment fore and aft for rapid, mechanically assisted deployment of lines. The primary winch shall be in the position best suited for the design of the particular vessel in escort service;

(d) Tow line with a "safe working load" that is 2.5 times the certified bollard pull rating of the escort tug;

(e) One working radar;

(f) Fendering as follows:

(1) appropriate to absorb the impact inherent in hull–to–hull operations;

(2) located at both the bow and stern to act as pivot points when pulling away from the tank vessel;

(3) sufficient to assure that there are no exposed corners, large holes or metal parts which could inflict damage on the escorted vessel; and

(4) sufficient surface area to minimize sliding when working at an angle.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

§ 851.85. Requirements During Tank Vessel Escorts.

(a) Escort tugs shall maintain a station–keeping distance from the tank vessel being escorted of no further than 1,000 feet ahead or aside, or 500 feet astern of the tank vessel while engaged in the escort activity.

(b) An escort tug shall not simultaneously engage in the escort of more than one tank vessel.

(c) The speed or speeds selected for the transit must permit stationing the escort tug to allow the escort tug to effectively influence the tank vessel's movement in the event of a casualty.

(d) A tanker shall have sufficient and qualified line–handling–capable crew members standing by and available to immediately receive lines from each escort tug. In addition, the tanker shall comply with all applicable federal regulations relating to anchor readiness.

(e) The line–haul tug for a tank barge shall have sufficient and qualified line–handling–capable deck hands standing by available to receive lines from each escort tug. When the tank barge is fitted with an emergency tow wire or comparable, adequate mechanical device, or the escort tug is made fast to the tank barge, crew transfers shall not be required.

(f) Tank vessels shall have sufficient and qualified direct supervision of line–handling–crew operations. Supervisors shall have direct radio communication capability with the bridge of the tank vessel or vessel towing a barge.

(g) The master of any tank vessel shall maintain, at all times for which escort tug services are required, direct two way radio communications on VHF–FM with the master of the escort tug on a channel agreed to by both the master of the tank vessel and the master of the escort tug providing escort services.

(h) Notwithstanding any other provision of this subchapter, all escort tugs in Humboldt Bay which meet the requirements of this subchapter for the escort of tank vessels shall have their bollard pull (ahead and astern) measured, except as provided in (i) below.

(1) Bollard pull measurements shall be verified by a member of the International Association of Classification Societies.

(2) Bollard pull measurements verified by a member of the International Association of Classification Societies in other ports of the State shall meet the requirements of this section, provided that evidence of the results of these measurements are on file with the Humboldt Bay Harbor District.

(3) Escort tug companies shall provide the Humboldt Bay Harbor District with the results of the bollard pull measurements verified pursuant to the provisions of this subchapter.

(4) Escort tugs whose bollard pull has not been measured and verified or are not within the scope of the definition of "bona fide sister tug", shall not be used for the escort of tank vessels in Humboldt Bay.

(i) An escort tug determined by the master/pilot to be a "bona fide sister tug" may be used with the same (ahead and astern) bollard pull as the certified sister tug.

(j) The braking force shall be re–measured after any modification and/or repairs to the main engines, hull, shaft–drive line, or steering, that could affect the bollard pull. The new measurements must be registered with the Humboldt Bay Harbor District.

(k) Escort tugs that submit to the Escort Tug Inspection Program, as described in Sections 851.8(a)(4)(B) and 851.23(a)(7)(B), can perform escort duties in any port in the state, if the tugs meet the requirements of the appropriate subchapter (i.e., Subchapter 1, San Francisco Bay Region; Subchapter 2, Los Angeles/Long Beach Harbor; Subchapter 3, Port Hueneme Harbor; Subchapter 4, Humboldt Bay; Subchapter 5, San Diego Harbor), of this Chapter 4 of the California Code of Regulations.

(*l*) Notwithstanding any other provision of this subchapter:

(1) The tank vessel master remains responsible for the safe navigation and maneuvering of the tank vessel in all circumstances. The requirements outlined in this subchapter are in addition to, and not a limitation of, any other responsibilities created by custom, law, or regulation.

(2) Where an emergency exists, the tank vessel master may adjust the minimum escort tug requirements contained in this subchapter. For purposes of this subchapter, an emergency is defined as any of, but is not limited to, the following:

(A) imminent and immediate danger to the tank vessel, its cargo or its crew;

(B) imminent and immediate danger to a marine terminal, service or escort tug;

(C) imminent and immediate danger to a vessel in the proximity of the escorted vessel; or

(D) any emergency declared by the United States Coast Guard Captain of the Port which would necessitate a modification to the provisions set forth in this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).
2. New subsections (j)–(k) and subsection reletting filed 9–15–2006; operative 10–15–2006 (Register 2006, No. 37).

§ 851.86. Remedies.

(a) Nothing herein shall limit or prevent any action by any party in a court of competent jurisdiction.

(b) Any person who knowingly, intentionally or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, Government Code, beginning with Section 8670.57.

NOTE: Authority cited: Sections 8670.17.2(d) and 8670.23.1(d), Government Code. Reference: Sections 8670.17.2, 8670.23.1 and 8670.57, Government Code.

HISTORY

1. New section filed 2–27–97; operative 3–29–97 (Register 97, No. 9).

Subchapter 5. Escort Tug Requirements for San Diego Harbor

§ 852. Purpose and Scope.

The regulations in this subchapter set forth tank vessel escort requirements for the San Diego Harbor. Escort tugs shall be available to influence the speed and direction of travel of a tank vessel in the event of a casualty, or a steering or propulsion failure, thereby reducing the possibility of a grounding or collision and the risk of an oil spill.

The Administrator shall periodically review the tug/tank vessel matching criteria and other requirements of this subchapter. The review will include a survey of the tank vessel–related incidents in U.S. waters to determine the type of failures that have occurred, an assessment of tug technology and any advances made in design and power, and the escort tug–related rules and policies that are implemented by other coastal states and maritime organizations. At the conclusion of the review, the Administrator will determine whether it is necessary to modify the tug/tank vessel match criteria or any other requirements of this subchapter.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New subchapter 5 (sections 852–852.6) and section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of section and NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

§ 852.1. Definitions.

Definitions governing the construction of this subchapter can be found in Government Code Section 8670.3, and in Chapter 1, Section 790 of this Subdivision.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.3, 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

§ 852.2. Minimum Requirements for Escort Tugs.

(a) Only tugs meeting the requirements set forth in this subchapter shall be allowed to provide escort services.

(b) The owner/operator of any tug offering escort services to tank vessels shall submit the tug to bollard pull testing before providing escort services. See Section 852.3 of this subchapter for testing requirements.

(c) A tug must demonstrate a minimum ahead bollard pull of 10 tons to qualify for escort service.

(d) In order to escort tankers over 20,000 deadweight tons, a tug must demonstrate a minimum ahead bollard pull of 18 tons.

(e) The tug(s) assigned to a tank vessel shall be capable of providing a combined total ahead bollard pull of no less than 2 pounds of thrust per deadweight ton of assigned tank vessel.

(f) An escort tug's primary assist lines must have a specified breaking strength not less than 1.5 times the tug's maximum bollard pull.

(g) For any transit between Ballast Point and sea that requires an escort tug(s), a tank vessel shall have at least one escort tug which is adequately equipped to perform in open ocean conditions.

(h) Escort tugs must have the capability to communicate with the tank vessel by primary and secondary VHF–FM radios.

(i) Escort tugs shall be fendered as appropriate to absorb the impact of normal skin–to–skin operations, protecting both the tank vessel and the escort tug from metal to metal contact. To the extent possible, the fendering shall have a surface which minimizes sliding when the escort tug is working at an angle to the tank vessel.

(j) Any tugs working beyond the Line of Demarcation must have crews that are certified in accordance with the International Convention on Standards of Training, Certification, and Watchkeeping for Seafarers 95 (STCW)

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of subsections (b) and (f), new subsection (j) and amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

§ 852.3. Testing Requirements for Escort Tugs.

(a) All testing shall be conducted under the supervision of the American Bureau of Shipping (ABS) standards and practices, or other classification society recognized by the International Association of Classification Societies (IACS) at the expense of each owner/operator. Alternatively, a building certificate of bollard pull for the class will be accepted.

(b) A copy of the test certificate and tug specifications are to be provided by the tug owner/operator, in writing, to the United States Coast Guard Captain of the Port and the San Diego Harbor Safety Committee before providing escort services.

(1) Tug specifications shall include, but are not limited to, the following:

(A) tug name;

(B) tug owner/operator;

(C) tug length;

(D) for tractor tugs, bollard pull ahead;

(E) for conventional tugs, bollard pull ahead and astern;

(F) type and configuration of the propulsion system;

(G) type and configuration of the steering system;

(H) type and configuration of ocean towing equipment.

(c) The braking force shall be re–measured after any modification and/or repairs to the main engines, hull, shaft–drive line, or steering, that could affect the bollard pull. A copy of the bollard pull test certificate and tug specifications are to be provided by the tug owner/operator, in writing, to the United States Coast Guard Captain of the Port and the San Diego Harbor Safety Committee before providing escort services.

(d) Escort tugs that submit to the Escort Tug Inspection Program, as described in Sections 851.8(a)(4)(B) and 851.23(a)(7)(B), can perform escort duties in any port in the state, if the tugs meet the requirements of the appropriate subchapter (i.e., Subchapter 1, San Francisco Bay Region; Subchapter 2, Los Angeles/Long Beach Harbor; Subchapter 3, Port Hueneme Harbor; Subchapter 4, Humboldt Bay; Subchapter 5, San Diego Harbor), of this Chapter 4 of the California Code of Regulations.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of subsections (a) and (b) and amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).
3. Amendment of subsection (c) and new subsection (d) filed 9–15–2006; operative 10–15–2006 (Register 2006, No. 37).

§ 852.4. Minimum Escort Tug Requirements for Tankers.

Only those tankers designed or modified to carry 5,000 long tons or more of oil or petroleum products as cargo are required to engage escort tugs in accordance with this subchapter except as provided in (i) below.

(a) Each tanker shall engage escort services as follows:

(1) for inbound transits prior to passing between buoys 5 and 6, escort tug(s) shall remain with the tanker until it is properly berthed or anchored;

(2) for outbound transits from the berth or anchorage, escort tug(s) shall remain with the tanker until either safely at sea or after passing between buoys 5 and 6;

(3) while shifting from one location to another within the harbor.

(b) Before commencing an escorted transit, the pilot or master of the tankers shall initiate communications with the escort tug. During this pre–escort communication, all parties shall plan and discuss the details of the escorted transit including, but not limited to, the following:

(1) the intended route;

(2) the intended destination;

(3) the speed of the tanker;

(4) the positioning of the tug(s) relative to the tanker being escorted;

(5) the manner in which an emergency connection would be made between the tug(s) and tanker;

(6) radio communications, including primary and secondary frequencies; and

(7) anticipated weather, tidal, and sea conditions.

(c) Except as provided in (i) below, each tanker shall engage escort services as required by this subchapter whether laden or unladen.

(d) Each tanker shall have a minimum of one escort tug, except as stated in (e) and (i) below.

(e) All tankers over 20,000 deadweight tons shall have a minimum of two escort tugs.

(f) Escort tug(s) shall maintain an optimum station–keeping position as directed by the pilot or tanker master so as to best render assistance if needed. In any case, the escort tug(s) shall stay within 1/8 mile of the tanker while providing escort services.

(g) Tankers requiring escort services shall proceed at a safe speed which shall not exceed 10 knots or the speed at which their escort tug(s) can render assistance, whichever is less. Safe speed shall also take into consideration other factors, including but not limited to, depth of water, visibility, wind conditions, tidal currents, escort tug wakes, other traffic, and vessels at anchor.

(h) All tugs engaging in escort services for a tanker shall have multiple main propulsion systems.

(i) Exemptions:

(1) Where an emergency or extraordinary circumstances exist to threaten public safety, the environment, and/or the vessel, its crew or cargo, the pilot or master of a tanker is authorized to override this section consistent with provisions of the Inland Navigational Rules Act (33 USC 2001 et seq.) for same or similar circumstances. The pilot or master shall report any such event to the U.S. Coast Guard Captain of the Port. For purposes of this section, an emergency or extraordinary circumstances shall include, but not be limited to, any of the following:

(A) imminent and immediate danger to the vessel, its cargo or its crew;

(B) imminent and immediate danger to a marine terminal, service or escort tug;

(C) imminent and immediate danger to a vessel in the proximity of the escorted vessel; or

(D) any emergency declared by the U.S. Coast Guard Captain of the Port.

(2) A tanker shall not be required to engage escort services when it is carrying 5% of the vessel's deadweight tonnage, or 5,000 long tons, whichever is less, of oil or petroleum products as cargo, and is in ballast and inert or gas free.

(3) This subchapter shall not apply to tankers with double hulls, as that term is defined in 33 CFR Section 157.03, when the tanker also has fully redundant steering and propulsion systems. To be considered fully redundant, a steering and propulsion system shall include at least the following:

(A) two propellers with an engine dedicated to each; and

(B) two rudders with separate steering motors; and

(C) an operating bow thruster with a dedicated power source.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of subsection (i)(2) filed 7–24–98; operative 8–23–98 (Register 98, No. 30).
3. Amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

§ 852.5. Minimum Escort Tug Requirements for Barges.

Only those barges designed or modified to carry 5,000 long tons or more of oil or petroleum products as cargo, and which are laden with 5% or more of the vessel's deadweight tonnage in oil or petroleum products, shall be required to engage escort tug(s) in accordance with this subchapter.

(a) Each barge shall engage escort services as follows:

(1) for inbound transits prior to passing between buoys 5 and 6, escort tug(s) shall remain with the barge until it is properly berthed or anchored;

(2) for outbound transits from the berth or anchorage, escort tug(s) shall remain with the barge until either safely at sea or after passing between buoys 5 and 6;

(3) while shifting from one location to another within the harbor.

(b) Before commencing an escorted transit, the pilot or master of the dedicated tug of a barge shall initiate communications with the escort tug. During this pre–escort communication, all parties shall plan and discuss the details of the escorted transit including, but not limited to, the following:

(1) the intended route;

(2) the intended destination;

(3) the speed of the barge;

(4) the positioning of the tug(s) relative to the barge being escorted;

(5) the manner in which an emergency connection would be made between the tug(s) and barge;

(6) radio communications, including primary and secondary frequencies; and

(7) anticipated weather, tidal, and sea conditions.

(c) Barges shall have a minimum of one escort tug in addition to their dedicated tug.

(d) Exemption:

(1) Where an emergency or extraordinary circumstances exist to threaten public safety, the environment, and/or the vessel, its crew or cargo, the pilot or master of the dedicated tug of a barge is authorized to override this section consistent with provisions of the Inland Navigational Rules Act (33 USC 2001 et seq.) for same or similar circumstances. The pilot or master shall report any such event to the United States Coast Guard Captain of the Port. For purposes of this section, an emergency or extraordinary circumstances shall include, but not be limited to, any of the following:

(1) imminent and immediate danger to the vessel, its cargo or its crew;

(2) imminent and immediate danger to a marine terminal, service or escort tug;

(3) imminent and immediate danger to a vessel in the proximity of the escorted vessel; or

(4) any emergency declared by the U.S. Coast Guard Captain of the Port.

NOTE: Authority cited: Sections 8670.17.2(a) and 8670.23.1, Government Code. Reference: Sections 8670.17.2 and 8670.23.1, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

§ 852.6. Remedies.

(a) Nothing herein shall limit or prevent any action by any party in a court of competent jurisdiction.

(b) Any person who knowingly, intentionally or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9 of Chapter 7.4, Division 1, Title 2 of the Government Code, beginning with Section 8670.57.

NOTE: Authority cited: Sections 8670.17.2 and 8670.23.1, Government Code. Reference: Sections 8670.17.2, 8670.23.1, 8670.57 and 8670.67, Government Code.

HISTORY

1. New section filed 1–23–97; operative 2–22–97 (Register 97, No. 4).
2. Amendment of NOTE filed 3–30–2005; operative 4–29–2005 (Register 2005, No. 13).

Subchapter 6. Vessel Traffic Information Service for the Ports of Los Angeles and Long Beach

Article 1. General Requirements

§ 852.20. Effective Date of Regulations.

This subchapter shall be effective May 1, 1995, and shall remain in effect no longer than five years from the effective date unless extended, amended or otherwise replaced by subsequent regulations. Any such amendment or replacement of these regulations shall provide for the best achievable protection of the marine waters of California.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code.

HISTORY

1. New subchapter 6 (§§ 852.20–852.30), article 1 (§§ 852.20–852.30) and section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 852.21. Purpose and Scope.

This subchapter sets forth reporting, fee and payment requirements for certain vessels using the Vessel Traffic Information Service (VTIS) for the Ports of Los Angeles and Long Beach. The regulations specify the amount of the fee to be imposed on covered vessels and the method of payment. State law, Section 445 et. seq., of the Harbors and Navigation Code, requires certain vessels to report to the VTIS when navigating within the area of coverage as specified in Section 852.24, of this subchapter. By reporting to the VTIS, covered vessels, and other vessels using waters within the VTIS area, will be provided with information to reduce the possibility of groundings or collisions and the risk of oil or fuel spills from such events.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 852.22. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this Subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Covered vessel" means any of the following:

(1) Every power–driven vessel of 40 meters (approximately 131 feet) or more in length, while navigating.

(2) Every towing vessel of 8 meters (approximately 26 feet) or more in length, while navigating. "Towing vessel," as used in this subchapter, means any commercial vessel engaged in towing another vessel astern or alongside or by pushing it ahead.

(3) Every vessel issued a certificate to carry 50 or more passengers for hire, when engaged in trade.

(4) Covered vessel does not include military or public vessels of the United States, or vessels transiting the VTIS area as described in Section 852.24 which are engaged in innocent passage as defined in Article 19, Convention on the Law of the Sea.

(b) "Fee" means the fee assessed pursuant to Section 852.28 of this subchapter and deposited in the Vessel Safety Account of the Oil Spill Prevention and Administration Fund in the State Treasury.

(c) "Marine Exchange" means the Marine Exchange of Los Angeles–Long Beach Harbor, Inc., a corporation organized under the Non–Profit Mutual Benefit Corporation Law, (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code.

(d) "Operator" is the person defined in Section 651(q) of the Harbors and Navigation Code.

(e) "Ports" means the Ports of Los Angeles and Long Beach.

(f) "VTIS area" means the Designated Reporting Area specified in Section 852.24 of this subchapter.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).
2. Change without regulatory effect amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effect amending definition of "Covered vessel" and "Marine exchange" filed 1–9–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 852.23. Applicability.

(a) This subchapter shall apply to all covered vessels as defined in Section 852.22 of this subchapter and, in part, to those vessels found in subsection (b), below.

(b) Vessels described in this subsection shall comply with the requirements of Section 447.5 of the Harbors and Navigation Code:

(1) Every power–driven vessel of 20 meters or more in length.

(2) Every vessel of 100 gross tons or more carrying one or more passengers for hire.

(3) Every dredge and floating plant.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).
2. Change without regulatory effect amending section filed 1–9–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 852.24. Designated Reporting Area.

(a) The VTIS area includes the waters of San Pedro Bay, San Pedro Channel, and Santa Monica Bay and navigable waters seaward of the breakwaters that are encompassed by the arc of a circle having its center at Point Fermin Light, with a radius of twenty–five (25) nautical miles drawn from a position on the shore in the vicinity of Laguna Beach, clockwise to a point on the shore approximately midway between Santa Monica and Malibu.

(b) The VTIS area does not include any waters inland from the lines of demarcation, as specified in Title 33 Code of Federal Regulations, Section 80.1114.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).
2. Change without regulatory effect amending subsection (a) filed 1–9–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 852.25. Reporting Requirements.

(a) No person shall operate, navigate or transit within the VTIS area with a covered vessel unless the operator of such covered vessel complies with reporting requirements specified in Section 446 of the Harbors and Navigation Code, the Tariff Rules of the applicable port, and pays the fee as prescribed by local Tariff Rule or by Section 852.28 of this subchapter.

(b) No person shall operate, navigate or transit within the VTIS area with a vessel described in subsections 852.23(b) of this subchapter, unless the operator of such vessel complies with the reporting requirements specified in Section 447.5 of the Harbors and Navigation Code, and the Tariff Rules of the applicable port.

(c) Vessels moving from an anchorage area within the VTIS area shall report to the Marine Exchange at least 15 minutes, but no more than 1 hour, prior to getting underway.

(d) In addition to information required by Section 446 of the Harbors and Navigation Code, the operator of a covered vessel shall also report the vessel's LOA, as defined, and whether or not any dangerous cargo, as listed in 33 Code of Federal Regulations Part 160, Subpart C, is on board the vessel or its tow.

(e) A covered vessel operating within the harbor complex inland of the lines of demarcation, as specified in Section 852.24(b) of this subchapter, and not engaging a pilot, shall report to the appropriate pilot station in accordance with the Tariff Rules of each of the ports.

(f) All communication with the VTIS required by this section shall be conducted in accordance with applicable Federal regulations which have been incorporated in the VTIS Operations Manual developed by the Marine Exchange.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).
2. Change without regulatory effect adding new subsection (b) and subsection relettering filed 1–9–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

§ 852.26. Duties of the Marine Exchange and the Administrator.

(a) The Administrator shall enter into an agreement with the Marine Exchange which shall operate the VTIS in accordance with Section 8670.21 of the Government Code, and Division 3, Chapter 1, Article 4 of the Harbors and Navigation Code. The Administrator shall direct the Marine Exchange to perform the following duties:

(1) facilitate the safe transit of vessel traffic to prevent collisions, rammings, groundings, and environmental damage through aiding navigation by providing information regarding ship locations and traffic; and

(2) receive notification of a covered vessel's arrival and movement as required under Section 446 of the Harbors and Navigation Code prior to the entry of such vessels into the VTIS area; and

(3) monitor compliance with the requirements of this subchapter and report all violations to the office of Oil Spill Prevention and Response and the Harbor Safety Committee for the Los Angeles/Long Beach Region; and

(4) act as an agent of the Administrator for the collection of the fee as prescribed in Section 852.27 of this subchapter. The requirements of this subchapter create no other agency relationship, express or implied, between the Administrator and the Marine Exchange.

(b) The Administrator shall ensure that the duties of the Marine Exchange in the operation of the VTIS are performed in an effective and impartial manner.

(c) The Administrator shall convene, as appropriate, the Los Angeles/Long Beach Harbor Safety Committee, established pursuant to Section 8670.23 of the Government Code, to provide a public forum for oversight of the VTIS operation. Any recommendation or finding of the Harbor Safety Committee shall be forwarded to the Administrator according to the schedule set forth in Section 8670.23(k) of the Government Code or at any other time deemed appropriate by the Harbor Safety Committee.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Sections 8670.21 and 8670.23(e), Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 852.27. Collection and Payment of Fee.

(a) In the event that the Ports of Los Angeles and/or Long Beach fail to impose a fee in accordance with Section 446.5 of the Harbors and Navigation Code and Section 8670.21(e)(2) of the Government Code that the Administrator deems sufficient to pay the cost of operating the vessel traffic service, the Administrator shall assess a VTIS reporting fee as set

forth in Section 852.28. The fee shall be collected by the Marine Exchange, acting for the Administrator for fee collection purposes only.

(b) The fee shall be imposed on all covered vessels whenever transiting through or navigating within the VTIS area.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).
2. Change without regulatory effect amending subsection (a) filed 1–9–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 2).

[The next page is 200.51.]

§ 852.28. Fee Determination.

(a) On behalf of the Ports or the Administrator, the Marine Exchange shall collect a fee from every covered vessel for each entry to the harbor complex, according to the following schedule:

(1) Each Vessel Over	But Not Over	Fee
0 Meters	150 Meters LOA	$180.00
150 Meters	190 Meters LOA	$200.00
190 Meters	230 Meters LOA	$230.00
230 Meters	270 Meters LOA	$270.00
270 Meters	310 Meters LOA	$300.00
310 Meters	–	$340.00

(A) Exceptions to this requirement are as follows:

1. Any covered vessel for hire operating in a scheduled passenger or freight service between the mainland California coast and Santa Catalina Island which traverses the VTIS area, shall pay a fee of $300.00 per month, per covered vessel during the months of June, July and August and $150.00 per month, per covered vessel during all other months of the year.

2. Any covered vessel engaged in commercial rescue or emergency assistance service for hire, primarily to recreational boaters, which traverses the VTIS area, shall pay a fee of $25.00 per month per covered vessel.

3. Any covered vessel for hire, engaged in off shore oil well maintenance and service, or, any vessel engaged in construction projects, when such vessels is navigating between points in the California mainland coast range, from Point Dume south to Dana Point and including Santa Catalina Island or a designated dumping area for dredging spoils, which traverses the VTIS area, shall pay a fee of $300.00 per month per covered vessel.

(2) The fees prescribed in this subsection may be collected in combination with any other fees collected by the Marine Exchange, provided that the Marine Exchange maintains records of such collections. If the Marine Exchange chooses to collect fees in combination with other fees, all records shall be made available to the Administrator upon request, for accounting purposes.

(b) Upon written request of the Marine Exchange, the Administrator shall review the fee schedule to determine if adjustments may be necessary according to the costs incurred by the Marine Exchange, and the projected revenues for the upcoming State fiscal year. Any adjustment to the fee schedule shall be made in consultation with the Ports.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 852.29. Fee Usage.

The fee collected on behalf of the Administrator by the Marine Exchange shall be deposited in the Vessel Safety Account of the Oil Spill Prevention and Administration Fund in the State Treasury. Money in this account shall be used only for the following purposes:

(a) to establish and fund the operation of a VTIS for the Ports;

(b) to reimburse the U.S. Coast Guard for the cost of assigning Coast Guard personnel to the VTIS;

(c) to reimburse the Marine Exchange for actual costs incurred in the collection of fees pursuant to this subchapter;

(d) to repay any loans made to establish and operate the VTIS;

(e) to provide a reasonable reserve for contingencies.

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Section 8670.21, Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

§ 852.30. Penalties.

Any person who intentionally or negligently violates any provision of this subchapter shall be liable for an administrative civil penalty as prescribed in Government Code Section 8670.67(b).

NOTE: Authority cited: Section 8670.21, Government Code. Reference: Sections 8670.21 and 8670.67(b), Government Code; and Division 3, Chapter 1, Article 4, Harbors and Navigation Code.

HISTORY

1. New section filed 3–2–95; operative 4–3–95 (Register 95, No. 9).

Chapter 5. Loans, Claims and Grants

Subchapter 1. Local Government Grant Program

Article 1. General Provisions and Definitions

§ 852.60.1. Short Title.

This Chapter shall be known and may be cited as the Local Government Grant Program.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Sections 8574.1, 8574.7, 8670.1, 8670.3, 8670.6, 8670.35 and 8670.38, Government Code.

HISTORY

1. New chapter 4, subchapter 1 and section filed 2–22–93; operative 2–22–93 (register 93, No. 9).
2. Change without regulatory effect renumbering former chapter 4 to chapter 5, amending subchapter 1 heading, and amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effecting amending section filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
4. Amendment of NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.60.2. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this Subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Applicant" means any local government which is applying for a grant. Such government must be required to implement a Hazardous Materials Area Plan pursuant to Health and Safety Code Section 25503, and must have jurisdiction over or be directly adjacent to marine waters.

(b) "Area Plan" see "Hazardous Materials Area Plan".

(c) "Fund" means the Oil Spill Prevention and Administration Fund established pursuant to Section 8670.38 of the Government Code.

(d) "Grant" means an award of funds to a local government based on the evaluation and selection of the applicant government's proposal for the completion, update or revision of an oil spill contingency plan element. The awarding of a grant is subject to availability of cash reserves in the Oil Spill Prevention and Administration Fund.

(e) "Grant Agreement" means the written agreement, and any amendment(s) and written change orders thereto, which is/are signed by the Administrator or his/her designated representative and the grant recipient, and which defines the terms, provisions and conditions governing the grant.

(f) "Grant Recipient" means the local government which receives a grant award from the Department of Fish and Game, Office of Spill Prevention and Response (Department or OSPR).

(g) "Hazardous Materials Area Plan", referred to as an Area Plan in this subchapter, means the plan specified in Section 25503 of the Health and Safety Code pertaining to emergency response to a release or threatened release of a hazardous material within a city or a county and any additional minimum planning requirements identified in this subchapter.

(h) "Local Oil Spill Contingency Plan Element" or "local plan" means that element of a Hazardous Materials Area Plan pertaining to emergency response to a release or threatened release of oil or other hazardous material within a city or a county and any additional minimum planning requirements identified in this subchapter.

(i) "Regional Plan" for purposes of prioritization of grant awards pursuant to this subchapter, means a regional oil spill contingency plan element which encompasses all local governments within an entire U.S. Coast Guard Designated Area.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Sections 8574.1, 8574.7, 8670.1, 8670.3, 8670.6, 8670.35 and 8670.38, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effect amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Change without regulatory effecting amending subsections (a), (f) and (h) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
4. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.60.3. Objectives of Local Government Grant Program.

The objective of the local government grant program is to encourage local governments to complete, update or revise an oil spill contingency plan element and to help provide a coordinated response and cleanup effort between local governments and State and Federal officials in order to provide the best achievable protection of the California Coast.

NOTE: Authority cited: Sections 8574.7, 8670.35, 8670.39 and 8670.40, Government Code. Reference: Sections 8574.7 and 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Amendment of NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.60.4. Duties and Responsibilities.

The Administrator has the lead state authority and responsibility for overseeing oil spill response and clean up activities in marine waters, identification of natural resources, protection priorities and damage assessment after an oil spill, in consultation with other state agencies and local governments.

In the event of an oil spill in marine waters, the Department of Fish and Game shall conduct an initial on–scene assessment of the spill and review the measures being taken by the responsible party and determine the appropriate level of response. In the event that the United States Coast Guard is on the scene first and has done an assessment, the Department may accept the Coast Guard's initial assessment and response determination if it is consistent with the guidelines set forth in the state oil spill contingency plan. The State shall establish a Unified Command with the U.S. Coast Guard at a spill in which both the State and Federal forces are involved.

The Unified Command shall consist of the State's On–Scene Coordinator, the Federal On Scene Coordinator, the senior representative of the party responsible for the spill if the party is identified and assumes responsibility and, if included in the MOU described in Subsection (d) below, the representative(s) from the local jurisdiction(s) directly impacted by the spill. The local government representative(s) shall be designated within the local oil spill contingency plan element prepared pursuant to Section 852.62.2(a)(1)(E) of this subchapter.

Such participation by local governments in the Unified Command shall be conditioned on the following:

(a) Completion of a local plan that meets the requirements of Government Code Section 8670.35 and this subchapter.

(b) Participation by local governments in the area contingency planning process of the United States Coast Guard.

(c) Recognition of the Federal On–Scene Coordinator and the State On–Scene Coordinator who have the authority to issue orders and direction to the responsible party.

(d) Upon completion of the process described in Article 2 of this subchapter, a memorandum of understanding (MOU) shall be entered into among the State and all local governments within a county. The MOU is for the purposes of ensuring a unified and coordinated effort between State and local government agencies through appropriate mutual aid in the event of an incident and the coordinated and informed representation within the Unified Command.

NOTE: Authority cited: Section 8574.1, 8574.7, 8670.7 and 8670.35, Government Code. Reference: Sections 8574.1, 8574.7, 8670.7 and 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending second and third paragraphs and subsection (d) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

Article 2. Grant Application Provisions

§ 852.61.1. Scope and Applicability.

(a) The regulations contained in this Article set forth the minimum criteria to be developed or identified in a local oil spill contingency plan element submitted by local governments responsible for the completion, updating or revision of an oil spill plan element in order to apply for and receive a grant from the Fund.

(b) This Article applies to all eligible applicants.

NOTE: Authority cited: Sections 8670.35, 8670.38 and 8670.39, Government Code. Reference: Sections 8574.1, 8574.7, 8670.7, 8670.35 and 8670.38, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Amendment of NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.2. Grant Application Process.

(a) An applicant shall submit the documents specified in Section 852.61.6 of this Article in order to apply for a grant.

(b) An original and five (5) copies of the documents required in Subsection (a) shall be submitted to the Administrator. All applications and supporting documents submitted prior to the applicable deadline will become the property of the Administrator. The original documents or one copy will be retained for a minimum of three (3) years for all applicants receiving a grant award.

(c) Documents required in Subsection (b) shall be delivered to the Department of Fish and Game, (OSPR) at the address set forth in the Grant Application.

(d) The documents required in Subsection (b) must be received by the Administrator on or before the close of the application period specified in Section 852.61.4. Grant applications received after the applicable deadline will be returned to the applicant unopened.

(e) Submission of the documents required in Subsection (b) shall be deemed to be an applicant's acceptance of the terms and conditions set forth in this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (c) and (d) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.3. Grant Applicant Eligibility.

(a) The Administrator may award a grant to an applicant if the following eligibility criteria are met:

(1) The applicant is a local government which is required to implement an Area Plan pursuant to Section 22503(a) and (b) of the Health and Safety Code, and has jurisdiction over or is directly adjacent to marine waters as defined; and

(2) The applicant has elected to complete, update or revise an oil spill contingency plan element of a Hazardous Materials Area Plan pursuant to Section 25503 of the Health and Safety Code, in accordance with this subchapter.

(b) A county, whose designated jurisdiction excludes an independently eligible city(s), is not eligible to obtain additional funds which the ex-

cluded city(s) may be eligible to receive, unless it is a county–city joint plan proposal as specified in Section 852.61.8 of this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Sections 8574.1, 8574.7, 8670.7 and 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsection (b) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.4. Grant Application Period.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code; and section 22 of the Act. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Repealer filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.5. Grant Amount.

(a) No grant to an individual local government may exceed $50,000. Grants awarded to local governments submitting joint proposals to prepare, update or revise an area plan(s), as specified in Section 852.61.8 of this subchapter, shall be awarded an amount not to exceed $50,000 for each local government covered by the proposal. Grant awards for subsequent fiscal years shall be determined subject to and in accordance with, annual appropriations by the California Legislature for such purposes.

(b) Grant amounts shall be determined by the Administrator, based on the number of eligible grant recipients selected to receive an award pursuant to Section 852.61.8 and the extent to which the proposal addresses the minimum planning requirements set forth in Section 852.62.2 of this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending section filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.6. Contents of the Grant Application.

Applicants shall submit to the Administrator a Grant Application which shall include, but not be limited to, the following:

(a) A Local Government Grant Application (Application), form #FG–OSPR 1914 (New 2/92). The Application must be signed by an authorized official(s) of the Local Government(s) covered by the proposal.

(b) A Project Proposal, which shall include all of the following:

(1) A description of the oil spill contingency plan element to be completed, updated or revised pursuant to Sections 852.62.1 and 852.62.2 of this Article.

(2) An explanation of the proposal's goals or objectives;

(3) A map identifying the geographical area covered by the proposal;

(4) A description of the procedures and methodology to be used to complete, update or revise the oil spill contingency plan element. This shall include, but is not limited to, a description of the work plan; need for consulting services; milestones for completion; levels of plan review; provisions for ensuring consistency with the area plans for United States Coast Guard Captain of the Port Areas, the State and National Oil Spill Contingency Plans, and local coastal programs pursuant to Section 30500, Public Resources Code; and target completion date;

(5) A list of all persons required to implement the proposal by name and title or position, and a brief job description.

(c) A Budget Report consisting of a breakdown of costs to be incurred during the project term. This shall include, but is not limited to, personnel services, contracted professional and consultant services, and operating expenses that include publication costs required to implement the proposal.

(d) A Declaration by the authorized official(s) identified in Subsection (a) of this section stating that the person or entity submitting the application is authorized to submit the application on behalf of the local government(s).

NOTE: Authority cited: Sections 8574.1, 8574.7, 8670.7, 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Sections 8574.1, 8574.7, 8670.7, 8670.35 and 8670.38, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (b)(1), (b)(4) and (d) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.7. Review of Grant Application.

(a) The Administrator shall have thirty (30) calendar days in which to review the grant application and verify that it is complete and includes all necessary documents and information as set forth in Section 852.61.6.

(b) If the information contained in the grant application, including supporting documents, is insufficient, the Administrator may request additional information. The applicant shall have 10 (ten) calendar days from the date of the request to submit the requested information to the Administrator. Failure to submit the additional information during this time period may result in the disqualification of applicant. The Administrator may, at his or her discretion, extend the 10 (ten) calendar day period for good cause.

(c) The Administrator shall have twenty (20) calendar days following the initial review period or deadline for submission of additional information, whichever is applicable, to conduct a detailed technical review of the proposal to determine whether it contains the minimum planning requirements set forth in Subsection 852.62.2 of this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsection (c) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of subsections (a) and (c) and amendment of NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.8. Evaluation and Selection of Grant Recipient.

(a) The Administrator may select one or more grant recipients from those applicants meeting the grant eligibility criteria set forth in Section 852.61.3, provided the grant proposals they submitted contain the minimum planning requirements set forth in Section 852.62.2 of this subchapter.

(b) The Administrator will apply the following criteria to determine prioritization of grant awards in the event that maximum grant awards can not be given to all applicants during any one fiscal year. The total number of points possible is 150.

(1) Prioritization will be given in decreasing order from (A) to (F), with the highest priority going to (A), Regional Plan Proposals covering one of the Coast Guard Designated Areas, which are outlined in Subsection (d) below.

(A) Regional Plan Proposals, as defined in Section 852.60.2, which include all cities and counties in a Coast Guard Designated Area for oil spill response. 80 points.

(B) Regional Plan Proposals which include less than all cities and counties in a Coast Guard Designated Area for oil spill response. 70 points.

(C) County–City Joint Proposals which cover at least one county and one city for oil spill response. 60 points.

(D) County Plan Proposals which cover one county for oil spill response. 50 points.

(E) Multi–City Plan Proposals which cover two or more cities for oil spill response. 40 points.

(F) City Plan Proposals which cover one city for oil spill response. 30 points.

(2) Following prioritization in accordance with Subsection (b)(1) above, the Administrator may take into account the following criteria in order to make the selection of grant recipients:

(A) The length of coast line that would be protected by the proposal. 20 points.

(B) The risk of oil spills, based on history of spills, and/or volume of oil transported in and along the coastline covered by the proposal and/or number of marine facilities covered by the proposal. 50 points.

(C) Notwithstanding subparagraph (b), the Administrator shall have the discretion to award grants to: grant applicants which have not previously received a grant award; to grant applicants submitting grant applications for the purpose of updating a local government oil spill contingency plan element, in order to be consistent with any changes in the National and/or State Contingency Plan(s); or to applicants submitting proposals covering areas of the coast, determined by the Administrator to be important in order to provide the best achievable protection for the California Coast, including, but not limited to sensitive environmental areas, areas containing unique environmental characteristics, and/or key areas of economic concern.

(d) For purposes of this subchapter, the proposed geographic boundaries for the Coast Guard Designated Areas are as follows:

(1) North Coast – Oregon Border to the Sonoma/Mendocino County line.

(2) San Francisco & Delta Region – Sonoma/Mendocino County line to the Santa Cruz/San Mateo County line, including San Francisco Bay and the portions of the Sacramento/San Joaquin Delta used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento.

(3) Central Coast – Santa Cruz/San Mateo County line to the San Luis Obispo/Monterey County line.

(4) Northern Los Angeles/Long Beach – San Luis Obispos, Ventura and Santa Barbara Counties.

(5) Southern Los Angeles/Long Beach – Los Angeles and Orange Counties.

(6) San Diego – San Diego/Orange County line to the Mexico Border.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (a), (b)(1), (b)(1)(A) and (b)(2) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.9. Notice of Grant Award or Denial.

(a) Within 10 (ten) business days following the review period specified in Section 852.61.7, the Administrator shall notify each applicant in writing whether its grant application was approved for award or denied.

(b) If the grant award is for less than the amount requested in the grant application, the applicant shall have five (5) business days from the date of notification of grant award to submit a revised budget, or to withdraw the application. The administrator shall have five (5) business days from the date of receipt of revised budget to approve or deny the revision.

(c) The notice of denial shall include the basis for denial and the name of a person who may be contacted for further information.

(d) Request for Reconsideration. The grant recipient shall have ten (10) calendar days from the date of the notice of denial to submit a written request for reconsideration of any decision to deny award. The request must contain the basis for requesting reconsideration and, if applicable, provides evidence which rebuts the basis for the denial. Within ten (10) calendar days from the date the request for reconsideration is received, OSPR will advise the grant recipient, in writing, of the Administrator's decision to grant or deny the request.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsection (a) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.10. Grant Agreement.

(a) The written Grant Agreement shall contain the State of California standard agreement and addendums required by the Department of General Services, the grant proposal, the budget approved by Administrator, assure compliance with the terms and conditions specified in Section 852.61.11, and contain any other terms or conditions which the Administrator may deem necessary to carry out the purpose of this subchapter.

(b) Within forty–five (45) calendar days from the date the grant recipient is notified of the grant award or the date of approval of the revised budget, whichever is applicable, the OSPR shall mail the Grant Agreement to grantee.

(c) Upon receipt of the Grant Agreement, the grantee is required to return a signed original and five (5) copies to the OSPR within Sixty (60) calendar days along with a copy of the resolution, order, motion, or ordinance of the affected local governments' local governing body(s) by law having authority to enter into the proposed Grant Agreement, approving and authorizing execution of the Grant Agreement. Failure to execute the agreement within this period may constitute withdrawal of the application.

(d) Modifications to the executed Grant Agreement may be made only upon prior written approval by the Administrator or his or her designated representative. All requests for modification shall include a detailed description of the proposed change(s) and the reason(s) for the changes.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending section filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of subsections (a)–(c) filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.11. Terms and Conditions of a Grant Agreement.

The Grant Agreement shall contain the following terms and conditions:

(a) Midterm Report. The grant recipient shall be required to submit a midterm progress report to the Administrator within thirty (30) calendar days following the midterm of the project. The midterm of the project shall be based on the completion date specified in the grant proposal, unless otherwise agreed to by the Administrator. The report shall include, but not be limited to, all of the following:

(1) A statement that the oil spill contingency plan element being completed, updated or revised is or is not on schedule, and a description of the project tasks or milestones and the status of each. Pertinent reports or interim findings shall be appended.

(2) A discussion of any difficulties or special problems encountered in accomplishing the project tasks.

(3) A financial report comparing costs to date with the approved scope of work and the original approved budget. The report should state whether the program is progressing within the approved budget, and an explanation of any current or anticipated deviations. The report shall include a Statement of Expenditures showing the program's expenditures incurred to date.

(4) A report of any changes in personnel assigned to the development, review or approval of the project.

(b) Compliance. Grant recipients shall comply with all applicable federal, state and local laws, ordinances, regulations and permits.

(c) Subcontractors. Grant recipients shall maintain a list of all subcontractors required to implement the proposal, including name, address, and a description of their work. Applicants must comply with all applicable State Administrative Manual requirements when utilizing subcontractors for services required pursuant to the Grant Agreement.

(d) Auditing:

(1) All grant recipients shall maintain an accounting system which utilizes Generally Accepted Accounting Principles and practices. The Administrator, the State Controller's and the State Auditor General's office, or their designated representatives, shall have a right of reasonable access during normal business hours to all of the grant recipient's records pertaining to the grant.

(2) In addition to accounting records, all source documents associated with the accounting records shall be maintained by the grant recipient in sufficient detail to demonstrate that the funds were used for the purpose for which the grant program is intended. Source documents include, but are not limited to, bid summaries, contracts with the grant recipient, change orders showing approval by a city or county official, purchase orders, invoices, paid warrants, time sheets, labor distribution reports and payroll registers.

(3) The accounting records and source documents shall be retained for at least three (3) years after the grant is awarded, or until resolution of all issues which may arise as a result of any litigation, claim negotiation or audit, whichever is later.

(4) If an audit reveals that grant funds have not been spent in accordance with the Grant Agreement, the Administrator shall terminate the Grant Agreement, and take such steps as necessary to recover funds not spent in accordance with the Grant Agreement. Further, the grant recipient shall be required to forfeit the unexpended portion of the grant. Such forfeitures shall revert to the Fund.

(e) Grant Termination. The Administrator may, upon determining that the receipient has failed to comply with the terms or conditions of the Grant Agreement, terminate any grant in whole, or in part, at any time before the date of completion. The Administrator shall notify the recipient in writing of the termination, the reasons for the termination of the grant, and the effective date of termination. Termination of the Grant Agreement shall result in forfeiture of any funds withheld pursuant to Section 852.61.12(b) of this subchapter.

(f) Request for Reconsideration. The grant recipient shall have ten (10) calendar days from the date of the notice of grant termination to submit a written request for reconsideration of any decision to terminate the Grant Agreement. The request must contain the basis for requesting reconsideration and, if applicable, provide evidence which rebuts the basis for the grant termination. Within ten (10) calendar days from the date the request for reconsideration is received, OSPR will advise the grant recipient, in writing, of the Administrator's decision to grant or deny the request.

(g) Final Report. Upon completion and approval of the oil spill plan element by the Administrator in accordance with the Grant Agreement, pursuant to Section 852.62.3 of this subchapter the grant recipient shall submit a final report. The report shall be submitted within sixty (60) calendar days from the completion and approval of the above stated plan and shall include, but is not limited to:

(1) A Table of Contents.

(2) A brief summary of the objectives of the grant and how these objectives were accomplished.

(3) Any findings, conclusions, or recommendations for additional activities which result from the successful completion of the program for that grant year. A statement, if applicable, of future public and/or private support to maintain or further develop the local contingency plan.

(4) A list of subcontractors who participated, in whole or in part, in the grant program, including the names, addresses and a description of their work. Participating subcontractors must be selected in accordance with procedures outlined in the Grant Agreement.

(5) Final Financial Statement for the Program. This report shall provide information that enables the Administrator to determine the final specific use for all grant funds distributed and may include the final payment request. It shall also indicate all other sources of funds utilized by the program.

(6) Three copies of the completed and approved oil spill contingency plan element, which was completed, updated, or revised pursuant to the Grant Agreement. If portions of the local governments' area plan prepared in accordance with Section 25503 of the Health and Safety Code are cross referenced in the oil spill contingency plan element, the area plan must also be submitted as an addendum to the final report.

(h) A grant recipient shall certify to the Administrator every three (3) years that it has conducted a complete review of the oil spill element of the plan and has made necessary revisions. Whenever substantial changes are made to the oil spill contingency plan element, the grant recipient shall forward such changes to the Administrator within fourteen (14) calendar days of making such changes.

(i) Payment of Funds. Payment of grant funds shall be in accordance with Section 852.61.12 of this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (c), (d)(4), (e)–(g), (g)(4), (g)(6) and (i) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.61.12. Payment of Grant Funds.

(a) The grant recipient may submit payment requests made in arrears consistent with the time frames set forth in the Grant Agreement.

(b) The OSPR shall retain 10% of the total amount awarded or 10% of any payment request until after the oil spill contingency plan element has been approved pursuant to Section 852.62.3 of this subchapter, the final report has been submitted, and the Administrator has determined that the grant recipient has complied with all terms and conditions of the Grant Agreement.

(c) All payment requests, including the final payment request, shall be submitted to the OSPR within 18 months from the date the Grant Agreement is executed, unless the Administrator approves requests submitted after that period.

(d) The balance of any grant award which is not encumbered during the period set forth in the preceding subparagraph (c) shall be deemed forfeited by the grant recipient. In no event may grant monies be encumbered following three years from the date of the Grant Agreement.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsection (b) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.62.1. Format and Consistency Requirements for Proposed Oil Spill Contingency Plan Element.

(a) To the greatest extent possible, the oil spill contingency plan element contents shall be consistent with all of the following programs or plans:

(1) Area plans required pursuant to Chapter 6.95 of the Health and Safety Code commencing at Section 25500;

(2) The local government's coastal program as certified under Section 30500 of the Public Resources Code;

(3) Local Emergency Response plans required by the National Contingency Plan as revised pursuant to regulations implementing Section 4201(c) of OPA 90.

(b) Each local oil spill contingency plan element shall meet all applicable State and Federal Occupational Safety and Health Administration requirements.

(c) Each local oil spill contingency plan element shall follow the format of the Area Contingency Plans comnpleted by the United States Coast Guard, state agencies, and local government, as required by the OPA 90 (33 USC 2701, et seq.)

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code; and OPA 90 (33 USC 2701, et seq).

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (a)(1)–(c) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.62.2. Minimum Planning Requirements.

(a) The Emergency Notification and Coordination Section.

The Emergency Notification and Coordination Section shall contain information which is essential for emergency notification(s) and coordination of incident response to an oil spill in marine waters within or adjacent to the jurisdiction of the local government.

(1) Emergency Notification.

The purpose of the Emergency Notification provisions set forth in this section is to provide timely notice to appropriate agencies and emergency personnel at the state, federal and local level. Emergency Notification shall include the following:

(A) Predesignation of the local government's primary contact person, including title and primary and after–hours telephone number, who is charged with the responsibility and authority to initiate local oil spill response operations.

(B) A current list of telephone numbers and addresses of the federal, state and local organizations and agencies to be notified by the local government's primary contact person when an oil discharge is discovered, which shall include the Office of Emergency Services. The Office of Emergency Services is currently required to then notify public agencies which may be affected by a spill, including the OSPR.

(C) A current list of local emergency response personnel, by job classification or title, including primary and after–hours telephone numbers and addresses of personnel on call to receive notification of an oil discharge.

(D) The local emergency response personnel and local organizations and agencies identified in Subsections (a)(1)(B) and (a)(1)(C) must include, but are not limited to: law enforcement; fire fighting services; medical and public health and safety services; poison control centers; evacuation centers; and hospitals.

(E) Predesignation of a local response coordinator, and alternate(s), including title, and telephone number, who are charged with the responsibility and authority to direct and coordinate local response operations including: crowd and traffic control; emergency evacuation; beach closures; fire suppression; and mobilization of local equipment and personnel. During emergency response, this person will serve as the local government representative for the State On–Scene Coordinator. Communication may be coordinated through the State Liaison officer identified in the State's Incident Command System outlined in the Marine Oil Spill Contingency Plan.

(2) Coordination of Incident Response.

The purpose of the Coordination of Incident Response provisions set forth in this subsection is to clarify local governments' role and responsibilities during an oil spill response.

(A) The following language must be restated in this section of the local government oil spill contingency plan element in order to delineate how the local government's role will be coordinated in the State's Incident Command System:

"The Administrator, in consultation with other state agencies and the local government representative, has the lead state authority and responsibility for overseeing oil spill response and clean up activities in marine waters, identification of natural resources, protection priorities, and damage assessment after an oil spill.

In the event of an oil spill in marine waters, the OSPR shall conduct an initial on–scene assessment of the spill and review the measures being taken by the responsible party and determine the appropriate level of response.

The State On–Scene Coordinator, in consultation with the local government representative, and if applicable, through joint conference with the Federal On–Scene Coordinator, shall determine the nature of the local government support needed, and how local government resources identified in the local oil spill contingency plan element may be employed most effectively. If local government assistance is determined to be needed, the State On–Scene Coordinator, through the Unified Command, shall coordinate with the local government representative identified in the local oil spill contingency plan element in order to obtain such local assistance."

(B) Procedures to establish coordinated communications with federal, state, and other local government response personnel to include, but not be limited to the following:

1. Provisions for access to a reliable communications system for timely notification of an oil discharge, a back up system, and the capability for interconnection with the communications systems established under related oil spill contingency plans, particularly State and National plans.

(b) The Emergency Planning and Procedures Section.

The purpose of the Emergency Planning and Procedures Section is to provide information essential for an effective and timely emergency response. This shall include logistics for emergency response, pre–emergency planning, training, drills, and incident critique and follow–up.

(1) Logistics for Emergency Response.

This section will assist in the identification of staging areas and local resources which may be used during an oil spill response. To the greatest extent possible, local area maps should be provided, where applicable, for the following information:

(A) Identification and description of possible locations for an oil spill response operations center and a reliable communications system for directing the coordinated overall response operations by the Unified Command.

(B) Firefighting capabilities for oil fires for both shipboard and on–shore structures, levels of fire response capability, and willingness of local government to respond to oil fires.

(C) Potential staging area sites to be used by the Unified Command for use in deployment of response equipment along the coastline.

(D) Identify a person, by title, or an agency within the local government to coordinate and obtain lodging accommodations for emergency response personnel, upon request. In addition, provide a listing (or copies of a listing) of local accommodations.

(E) Identification and inventory of available emergency response supplies and equipment under the control of the local government, which may potentially be used during an oil spill response to protect or contribute to the protection of resources. The list should include oil–spill–specific equipment, such as booms and skimmers, as well as land–moving equipment, such as bulldozers and cranes. In addition, identify the contact agency(s), title of person(s) with authority to deploy such equipment, their telephone numbers, and location where the equipment and supplies are stored.

(F) Identification and information on all local airports, or the nearest airport, which may be used for incoming response personnel and/or during response operations. This information should include sufficient details in order to determine the possible role of the airport during an emergency response.

(G) Identification of potential temporary hazardous waste storage sites that may be used for temporary storage of oily wastes retrieved following a marine oil spill, and procedures for securing necessary permits or variances from appropriate state agency(s), including title of responsible person at each agency, and a 24–hour telephone number.

(H) Identification and description of the private or public property and roads to which access would be required in the event of a spill, for the areas where a spill is most likely to occur or have an impact on the shoreline. Additionally, this information should identify a mechanism by which the local government can gain access to ownership information for such properties and a contact phone number on a 24–hour basis.

(I) Identification of local facilities, marine facilities, and marinas including location, capacity, and hours of operation which may be significantly impacted during an oil spill. For purposes of this subsection "facil-

ity" means any public or private utility or plant that requires water intake from or discharge systems into marine waters, and if disrupted would significantly impact the public health and safety. This would include, but is not limited to, water treatment plants, power plants, and desalination plants. Additionally, this information should contain the name, title and telephone number of a local contact person, and/or person(s) who own, hold an ownership interest in, or operate the local facility, marine facility, or marina, as applicable.

(J) Identification of control structures in areas which are tidally influenced, including river mouths, creeks, bays, and wetlands, which may be used to ameliorate or modify tidal flows in order to minimize damages resulting from an oil spill.

(K) Identification of all locally significant areas, including river mouths, bays, recreational boating use areas, shipping lanes and harbor entrances, which may require closure or other emergency measures in the event of an oil spill.

(L) Identification of local government representatives having information concerning local volunteer response groups, animal rescue/recovery groups, local media contacts or public information.

(M) Identification of possible locations for volunteer operations center facilities for oil spill volunteers. These facilities should have adequate space for screening prospective volunteers, registration, training, assignment and deployment of qualified volunteers to an oiled wildlife care facility or field location.

(2) Pre–Emergency Planning.

The pre–emergency planning portion of the Emergency Planning and Procedures Section shall contain information and provision for pre–emergency planning of local emergency response with state and federal responding agencies, particularly the state OSPR, and coordination of pre–emergency planning for response among contiguous jurisdictions.

In order to meet the requirements set forth in this provision of the Emergency Planning and Procedures Section, pre–emergency planning information may be set forth in this section or cross referenced to other portions of the oil spill contingency plan element or the local governments' area plan established pursuant to Health and Safety Code Section 25503 for emergency response to a release or threatened release of a hazardous material. The following information shall for purposes of pre–emergency planning be included or otherwise cross referenced in this section:

(A) Provisions for establishing a definition of authorities, responsibilities and duties of all persons, or entities that are identified in the Incident Command System. The authorities, responsibilities and duties of each person/entity shall be consistent with the State's Incident Command system. Additionally, identify person(s) by title and telephone number, with authority to commit resources during an oil spill response, if such person(s) differ from those person(s) predesignated to participate in the Incident Command System.

(B) Provisions for pre–emergency planning and coordination among emergency responders within the jurisdiction of a city, county or local agency. Pre–emergency planning shall include coordination of emergency response and emergency assistance between contiguous jurisdictions, and/or other jurisdictions within the same Coast Guard Designated Area.

(C) Procedures to assure that full oil spill response resource capability, under the control of the grant recipient, is known and can be committed during an oil spill response upon the request of the State On–Scene Coordinator. Such resources shall include the supplies and equipment identified in Section 852.62.2(b)(1)(E) of this subchapter.

(3) Training Requirements

(A) At a minimum, the oil spill contingency plan element shall establish provisions to ensure training of fire, police and other emergency response personnel in oil spill response and cleanup equipment use and operations that is currently available to the local government, and ensure compliance with all other applicable state or federal training requirements;

(B) Provisions for documenting personnel training described in Subsection (A) above.

(4) Drills.

The Emergency Planning & Procedures Section shall include provisions for coordinating drill participation with the grant paricipant and the State, and shall include the title and phone number of a contact person for drill participation. The grant participant shall make every effort to participate in oil spill contingency plan drills.

(5) Incident Critique and Follow–up.

The Emergency Planning & Procedure Section shall describe provisions for the critique and follow–up of major incidents of a release or threatened release of oil into the marine waters of the state. The critique shall include an interagency meeting to evaluate the response, to improve future response, and to determine if any oil spill contingency plan element revisions are necessary.

(c) The Local Resource Information Section.

The Local Resource Information Section of the oil spill contingency plan element shall include local area information that could be used by the State in order to facilitate the response to an oil spill. Only readily available information which the local governments currently possess should be included. Mapping of information may be completed to the extent feasible and, where possible, should be prepared on U.S.G.S. "7.5 minute series topographic maps" (7.5 minute quads). This section may include, but is not limited to, the following information:

(1) Identification of Natural Resources and Local Conditions.

(A) A description of the important natural, economic and cultural resources, or those which the grant recipient considers significant, which may be potentially impacted by marine oil spills that are within or adjacent to the jurisdiction of the local government. This description should include available information that the local government currently possesses and may include narratives or a listing of information sources on any known environmentally sensitive areas within local government jurisdiction. OSPR is principally responsible for gathering this information and prioritizing natural resources. OSPR is particularly interested in gathering information pertaining to species habitat and distribution, spawning or nursery areas, migration corridors, breeding grounds and/or feeding grounds. Accordingly, grant funds may not be expended to research, collect and prioritize this information.

(B) Based on information that the grant recipient currently possesses, identification of structures located in marine waters including piers, breakwater, submerged obstacles, pipelines and platforms.

(C) Based on information that the grant recipient currently possesses, identification of those areas where, from the perspective of the grant recipient, oil spills are most likely to occur.

(2) Identification of Facilities and local Areas of Major Concern to the Local Government.

This subsection shall contain information on facilities, areas of commercial interest, and public and private recreational areas which could be impacted by a marine oil spill and are of major concern to the local government. For purposes of this subsection "facility" means any public or private utility or plant that requires water intake from, or discharge systems into, marine waters and which, if disrupted, would significantly impact the public health and safety. This could include, but is not limited to, water treatment plants, power plants, and desalination plants. The listing or identification of facilities should include the location of the facility and the location of water intakes and discharges that may need to be protected during an oil spill. Additionally, this subsection may include:

(A) A prioritization of those facilities, areas of commercial interest, and public and private recreational areas within the jurisdiction of the local governments, that are of major concern during an oil spill. This includes the following:

1. A prioritization of those facilities that may be impacted by an oil spill which, if impacted, pose a potential threat to the public health and safety.

2. A prioritization of areas of economic or commercial interest, and public/private recreational interest including, but not limited to, mariculture, commercial fisheries, commercials ports, recreational areas and tourist areas.

NOTE: Authority cited: Sections 8670.25.5, 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending section filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment of section and NOTE filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

§ 852.62.3. Submittal and Approval of Local Oil Spill Contingency Plan Elements.

(a) The oil spill contingency plan element completed, updated, or revised pursuant to the Grant Agreement, must be submitted within 180 calendar days after the execution of the Grant Agreement, or upon a schedule agreed to by the Administrator. Each submittal shall be made with an original and at least two copies. Extensions for submittal may be granted at the discretion of the Administrator.

(b) An element shall be approved if it adequately addresses the minimum planning requirements specified in Section 852.62.2 of this subchapter, or addresses all of the minimum planning requirements required to be addressed pursuant to the Grant Agreement. The Administrator shall have ninety (90) calendar days, from the date of submission, in which to review the element and make an approval determination.

(c) If upon review the element is not approved, the plan shall be returned to the grant recipient that prepared it, specifying the basis of disapproval and identifying the items which must be addressed before the element may be approved. The grant recipient shall have ninety (90) calendar days within which to resubmit the plan, and address all concerns. Failure to do so will result in disapproval of the project. Upon disapproval, the funds withheld pursuant to Section 852.61.12(b) of this subchapter shall be forfeited. Such forfeitures shall revert to the Fund.

(d) Upon approval of the element, the grant recipient shall submit a final report pursuant to Section 852.61.11(g) of this subchapter.

NOTE: Authority cited: Sections 8670.35, 8670.38, 8670.39 and 8670.40, Government Code. Reference: Section 8670.35, Government Code.

HISTORY

1. New section filed 2–22–93; operative 2–22–93 (Register 93, No. 9).
2. Change without regulatory effecting amending subsections (b)–(d) filed 9–23–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
3. Amendment filed 6–9–2003; operative 7–9–2003 (Register 2003, No. 24).

Chapter 6. Fund Administration

Subchapter 2. Oil Spill Prevention and Administration Fund Fee

§ 870.15. Definitions.

In addition to the definitions in Chapter 1, Section 790 of this Subdivision, the following definitions shall govern the construction of this subchapter. Where similar terms are defined, the following will supersede the definition in Chapter 1:

(a) "Board" means the State Board of Equalization.

(b) "Fee" means the fees imposed pursuant to Article 6 (commencing with Section 8670.38) of Chapter 7.4, Division 1, Title 2 of the Government Code and deposited in the Oil Spill Prevention and Administration Fund in the State Treasury.

(c) "Marine Waters", for this subchapter, means those waters subject to tidal influence, including the waterways used for waterborne commercial vessel traffic to the Port of Stockton and the Port of Sacramento. Other waterways upstream of a line running north and south through the point where Contra Costa, Sacramento and Solano Counties meet, are not "marine waters".

(d) "Petroleum products" means any petroleum–based liquid hydrocarbon at atmospheric temperature and pressure that is the product of the fractionation, distillation, or other refining or processing of crude oil and that is used as, useable as, or may be refined as, a fuel or fuel blendstock, including, but not limited to, gasoline, diesel fuel, aviation fuel, bunker fuel, and alcohol fuels containing petroleum products.

NOTE: Authority cited: Sections 8670.39, 8670.40 and 8670.41, Government Code. Reference: Sections 8670.40 and 8670.41, Government Code.

HISTORY

1. New chapter 5, subchapter 2 and section filed 3–19–93; operative 3–19–93 (Register 93, No. 12).
2. Change without regulatory effect renumbering former chapter 5 to chapter 6 and amending section filed 7–12–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 28).
3. Amendment of subsection (b) and amendment of NOTE filed 11–21–2002 as an emergency; operative 1–1–2003 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (b) and amendment of NOTE refiled 4–30–2003 as an emergency; operative 5–2–2003 (Register 2003, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–2–2003 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4–30–2003 order transmitted to OAL 5–15–2003 and filed 6–26–2003 (Register 2003, No. 26).

§ 870.17. Payment of Fees.

(a) Oil transported by tank vessel or pipeline

The Administrator shall impose a fee on the oil transported by tank vessel or pipeline. The fee shall not exceed 5 cents ($0.05) per barrel of crude oil or petroleum products.

(1) Oil/Petroleum products transported by tank vessel:

The fee shall be imposed upon every person owning crude oil at the time that the crude oil is received at a marine terminal from within or outside the state, and upon every person owning petroleum products at the time that those petroleum products are received at a marine terminal from outside the state. The fee shall be collected by the marine terminal operator from the owner of the crude oil or petroleum products based on each barrel of crude oil or petroleum products so received by means of a vessel operating in, through, or across the marine waters of the state.

(2) Oil transported by pipeline:

In addition, every operator of a pipeline shall pay the fee for each barrel of crude oil originating from a production facility in marine waters and transported in the state by means of a pipeline operating across, under or through the marine waters of the state.

(b) Nontank vessel fee

The Administrator shall impose a fee per nontank vessel, to be collected with each new or renewal application to obtain a certificate of financial responsibility. The fee shall be levied as follows:

(1) Operator(s) or owner(s) of nontank vessels with a carrying capacity of over 6,500 barrels, or over 7,500 barrels for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable USD $2,500 fee per vessel, or

(2) Operator(s) or owner(s) of nontank vessels that have a carrying capacity greater than 500 barrels of oil and less than or equal to 6,500 barrels of oil, or a carrying capacity greater than 500 barrels of oil and less than or equal to 7,500 barrels of oil for nontank vessels owned and operated by California or a federal agency, shall submit a nonrefundable USD $1,500 fee per vessel, or;

(3) Operator(s) or owner(s) of nontank vessels that have a carrying capacity of 500 barrels of oil or less shall submit a nonrefundable USD $500 fee per vessel.

(4) Do no deduct any processing fees from the per vessel fee.

NOTE: Authority cited: Sections 8670.39(b), 8670.40 and 8670.41, Government Code. Reference: Sections 8670.40(a) and (b) and 8670.41, Government Code.

HISTORY

1. New section filed 3–19–93; operative 3–19–93 (Register 93, No. 12).
2. Change without regulatory effect amending section filed 6–10–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 24).
3. Amendment of section heading and subsection (a), redesignation of former subsections (b) and (c) as subsections (a)(1)–(2), new subsections (b)–(b)(4) and amendment of NOTE filed 11–21–2002 as an emergency; operative 1–1–2003 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
4. Amendment of section heading and subsection (a), redesignation of former subsections (b) and (c) as subsections (a)(1)–(2), new subsections (b)–(b)(4) and amendment of NOTE refiled 4–30–2003 as an emergency; operative 5–2–2003

(Register 2003, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–2–2003 or emergency language will be repealed by operation of law on the following day.

5. Certificate of Compliance as to 4–30–2003 order, including new subsection (b)(2), repealer of subsection (b)(3) and subsection renumbering, transmitted to OAL 5–15–2003 and filed 6–26–2003 (Register 2003, No. 26).

§ 870.19. Determination of Fee on Oil Transported by Tank Vessel or Pipeline.

(a) The fee imposed on the oil transported by tank vessel or pipeline shall be set at 5 cents ($0.05) per barrel of crude oil or petroleum products on January 20 of each year. In no event will the fee exceed 5 cents per barrel.

(b) On or before January 20, the Administrator shall annually prepare a plan that projects revenues and expenses over three fiscal years, including the current year. Based on that plan, the Administrator shall set the fee so that the projected revenues, including any interest, are equivalent to expenses over the period covered by the plan. In setting the fee, the Administrator may allow for a surplus if the Administrator finds that revenues will be exhausted during the period covered by the plan or that a surplus is necessary to cover possible contingencies.

(1) Based upon the January 20 assessment, the Administrator may authorize the collection of a fee lower than 5 cents ($0.05) if the lower fee will result in the collection of sufficient monies during that state fiscal year to fund the purposes set forth in Section 870.21.

(2) The Administrator may suspend collection of the lower fee at any time. If the lower fee is suspended, the fee level shall return to 5 cents ($0.05) per barrel of crude oil or petroleum product and shall remain at the increased level for the balance of the fiscal year.

(c) Whenever the Administrator determines that the fee level shall be changed, the Administrator shall notify the Board in writing within 5 days of making the determination. The Board shall then notify feepayors of the new fee level within 30 days of receiving the determination from the Administrator. The new fee level shall then become effective 30 days after the feepayors have been notified by the Board.

(d) The data used to determine the fee level shall be provided by the Administrator to interested parties upon request.

NOTE: Authority cited: Section 8670.39(b) and 8670.40, Government Code. Reference: Section 8670.40(a), Government Code.

HISTORY

1. New section filed 3–19–93; operative 3–19–93 (Register 93, No. 12).
2. Amendment of section heading and subsections (a)–(b)(2) filed 11–21–2002 as an emergency; operative 1–1–2003 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
3. Amendment of section heading and subsections (a)–(b)(2) refiled 4–30–2003 as an emergency; operative 5–2–2003 (Register 2003, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–2–2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–30–2003 order transmitted to OAL 5–15–2003 and filed 6–26–2003 (Register 2003, No. 26).

§ 870.21. Fee Usages.

The fee on oil transported by tank vessel or pipeline shall be collected by the Board. All fees levied under this chapter shall be deposited in the Oil Spill Prevention and Administration Fund in the State Treasury. Money in this fund shall be used only for the following purposes:

(a) to implement oil spill prevention programs and to conduct research into prevention and control technology;

(b) to carry out studies which may lead to improved oil spill prevention and response;

(c) to finance environmental and economic studies relating to the effects of oil spills;

(d) to reimburse the member agencies of the State Interagency Oil Spill Committee for costs arising from implementation of Article 3.5 (commencing with Section 8574.1) of Chapter 7 and Chapter 7.4 (commencing with Section 8670.1) of Division 1, Title 2 of the Government Code, and Division 7.8 (commencing with Section 8750) of the Public Resources Code;

(e) to implement, install, and maintain emergency programs, equipment, and facilities to respond to, contain, and clean up oil spills and to ensure that those operations will be carried out as intended;

(f) to respond to an imminent threat of a spill in accordance with the provisions of Government Code Section 8670.62 pertaining to threatened discharges. The cumulative amount of any expenditure for this purpose shall not exceed one hundred thousand dollars ($100,000) in any fiscal year unless the Administrator receives the approval of the Director of Finance and notification is given to the Joint legislative Budget Committee.

(g) to reimburse the Board for costs incurred in the collection of fees pursuant to Chapter 7.4 (commencing with Section 8670.1) of Division 1, Title 2 of the Government Code and Part 24 (commencing with Section 46001) of Division 2 of the Revenue and Taxation Code;

(h) to reimburse the costs incurred by the California State Lands Commission in implementing the Oil Transfer and Transportation Emission and Risk Reduction Act of 2002 (Division 9 (commencing Section 8780) of the Public Resources Code);

(i) to reimburse the Oil Spill Technical Advisory Committee for costs associated with Article 8 (commencing with Section 8670.54) of Chapter 7.4, Division 1, Title 2 of the Government Code;

(j) to provide a reasonable reserve for contingencies.

NOTE: Authority cited: Sections 8670.39(b) and 8670.40, Government Code. Reference: Sections 8670.4, 8670.40 and 8670.56, Government Code.

HISTORY

1. New section filed 3–19–93; operative 3–19–93 (Register 93, No. 12).
2. Amendment of first paragraph, new subsection (g), subsection relettering and amendment of NOTE filed 11–21–2002 as an emergency; operative 1–1–2003 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 5–1–2003 or emergency language will be repealed by operation of law on the following day.
3. Amendment of first paragraph, new subsection (g), subsection relettering and amendment of NOTE refiled 4–30–2003 as an emergency; operative 5–2–2003 (Register 2003, No. 18). A Certificate of Compliance must be transmitted to OAL by 9–2–2003 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–30–2003 order, including repealer of subsection (d), new subsections (e) and (f) and subsection relettering, transmitted to OAL 5–15–2003 and filed 6–26–2003 (Register 2003, No. 26).

Chapter 7. Compliance

Subchapter 1. Administrative Compliance Actions and Hearing Procedures

Article 1. Administrative Compliance Actions and Civil Penalties

§ 873. Purpose and Scope.

This subchapter establishes policies and procedures for the Administrator to take administrative compliance actions pursuant to Government Code Sections 8670.67, 8670.67.5 and 8670.68.

NOTE: Authority cited: Sections 8670.68 and 11400.20, Government Code. Reference: Sections 8670.67, 8670.67.5, 8670.68 and 11400.20, Government Code.

HISTORY

1. Amendment of chapter 7 heading, new subchapter 1 (articles 1–2), article 1 (sections 873–873.8) and section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.1. Definitions.

In addition to definitions found in Government Code Section 8670.3 and Chapter 1 of this subdivision, the following definitions govern the construction of this subchapter.

(a) "Environment" means the total human surroundings, physical and biological, natural and artificial, and air, water, soil, plants, wildlife, and other ecological factors affecting the growth, development, and safety of people and other living organisms.

(b) "Notice to Comply" means a written alternative to issuing a Complaint for Class 1 violation, which alleges a violation that does not assess a penalty.

(c) "Respondent" means any person against whom a Notice to Comply or a Complaint is filed, pursuant to the provisions of this subchapter.

(d) "Threat", for purposes of this subchapter, means an act or failure to act, the result of which could, by itself or in combination with other acts, endanger the public health and safety or harm the environment.

(e) "Wildlife" means and includes all wild animals, birds, plants, fish, amphibians, and related ecological communities, including the habitat upon which the wildlife depends for its continued viability.

NOTE: Authority cited: Sections 8670.68 and 11400.20, Government Code. Reference: Section 711.2, Fish and Game Code; and Sections 8670.56.5, 8670.67 and 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.2. General Provisions.

(a) The Administrator may take administrative compliance actions for violations of Chapter 7.4 of the Government Code (commencing with Section 8670.1) or Division 7.8 of the Public Resources Code (commencing with Section 8750) and any regulations, permits, or orders, issued or promulgated pursuant to those provisions.

(b) Each calendar day or partial day that a violation occurs shall be considered a separate violation.

(c) Twenty–five (25%) percent of any penalty collected under this subchapter shall be paid to the Office of Oil Spill Prevention and Response. The Administrator may allocate the amount collected among those state, county, or local agencies participating and assisting in the prosecution of the action in accordance with the relative personnel costs and other costs incurred.

(d) Except as provided in Government Code Section 8670.67(c), administrative actions taken pursuant to this subchapter shall be separate and in addition to, and do not supersede or limit, any and all other administrative, civil or criminal actions or remedies.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Sections 8670.61, 8670.62, 8670.66, 8670.67, 8670.67.5, 8670.68, 8670.68.5 and 8670.69.4, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.3. Classification of Violations.

(a) Any violation of any provision of Chapter 7.4 of the Government Code (commencing with Section 8670.1) or Division 7.8 of the Public Resources Code (commencing with Section 8750) or any regulations, permits, or orders, issued or promulgated pursuant to those sections shall be assigned one of the following violation classifications:

(1) "Class 1 violation" means a violation that, singly or in combination with other acts, could not:

(A) cause an unauthorized discharge of oil; or

(B) substantially increase the risk of an unauthorized discharge of oil; or

(C) create a threat to public health and safety or the environment.

(2) "Class 2 violation" means a violation that in combination with other acts or over time, could reasonably or forseeably cause, or increase the risk of an unauthorized discharge of oil or pose a threat to public health and safety or the environment.

(3) "Class 3 violation" means a violation that has resulted in an unauthorized discharge of oil or posed a substantial threat to public health and safety or the environment.

(b) Cumulative Violations.

(1) If the respondent has committed three (3) Class 1 violations in any twelve–month period, or five (5) in any 24–month period, or seven (7) in any 36–month period, that series of violations may be considered a single Class 2 violation.

(2) If the respondent has committed three (3) Class 2 violations in any twelve–month period, or five (5) in any 24–month period, or seven (7) in any 36–month period, that series of violations may be considered a single Class 3 violation.

(3) If the respondent has committed two (2) or more Class 2 violations at the same time which, taken together, could directly result in a discharge of oil or pose a threat to the public health and safety or the environment, then each violation shall be considered a separate Class 2 violation and the total combination of violations may be considered a Class 3 violation.

(c) The administrative compliance actions taken for Class 1, Class 2 and Class 3 violations are as follows:

(1) Class 1 violation: A Notice to Comply or an administrative civil penalty which shall not exceed $10,000 for each violation.

(2) Class 2 violation: an administrative civil penalty which shall not exceed $25,000 for each violation.

(3) Class 3 violation: an administrative civil penalty which shall not exceed $100,000 for each violation.

NOTE: Authority cited: Sections 8670.7, 8670.67 and 8670.68, Government Code. Reference: Sections 8670.67 and 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.4. Notice to Comply.

(a) The Administrator may issue a Notice to Comply to any person as an alternative to a Complaint for a Class 1 violation, subject to subsection (b).

(b) A Notice to Comply shall clearly state the facts or failures to act that constitute the alleged violation. Where appropriate, a Notice to Comply may require a time in which to comply and include a proposed means by which compliance may be achieved. The Administrator may require a person to provide proof of compliance.

(c) Failure to comply with a Notice to Comply within the time allowed may be considered a violation of this subchapter.

(d) If a person who receives a Notice to Comply disagrees with one or more of the alleged violations cited in the notice, the person shall provide written objection(s) to the Administrator within 10 business days from the date of the receipt of the Notice to Comply. The Administrator shall review the written objections within 90 days of their receipt. Results of this review may include, but are not limited to, rescinding the Notice to Comply, scheduling an informal settlement conference, or issuing a Complaint. If, upon review, the Administrator issues a Complaint and assesses an administrative civil penalty on the basis of the disputed violation, a hearing may be requested, and shall be conducted, in the manner set forth in Article 2 of this subchapter.

(e) Notwithstanding subsection (a), the Administrator shall not issue a Notice to Comply for any knowing, willful, or intentional violations; for any violation that enables the violator to benefit economically from noncompliance, either by realizing reduced costs or by gaining a competitive advantage; or for any violation that is a chronic violation; or for any violation that is committed by a recalcitrant violator.

(f) In determining whether a violation is chronic or a violator is recalcitrant, for purposes of subsection (e), the Administrator shall consider whether there is evidence indicating that the violator has engaged in a pattern of neglect or disregard for the requirements of this subdivision.

(g) Pursuant to subsection (a), the respondent to a Notice to Comply shall:

(1) sign the Notice to Comply and return it to the Administrator within 10 business days or acknowledge the Notice to Comply in a writing, which contains all the information in the Notice to Comply and return it to the Administrator within 10 business days,

(2) within the time for compliance stated in the Notice to Comply, the recipient shall submit a statement to the Administrator detailing the steps by which compliance has been achieved. A false statement that compliance has been achieved is a violation of this subchapter pursuant to Sections 8670.65, 8670.66, or 8670.67 of the Government Code.

(h) Nothing in this subchapter shall be construed to restrict or limit the Administrator's ability to take any other action authorized by law.

NOTE: Authority cited: Sections 8670.7, 8670.67 and 8670.68, Government Code. Reference: Sections 8670.67 and 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.5. Administrative Compliance Actions: Government Code Section 8670.67.

(a) The Administrator may issue a Complaint and assess a civil penalty upon any person who intentionally or negligently:

(1) fails to follow the effective plan (as that term is defined in Title 14, California Code of Regulations Section 815.05), or the direction or orders of the Administrator, or the United States Coast Guard (USCG), in connection with an oil spill, except as provided in Government Code Section 8670.27.

[The next page is 200.61.]

(2) fails to notify the USCG that a vessel (as defined in Government Code Section 8670.20(a)) is disabled within one hour of a disability if, while disabled, the vessel causes a discharge of oil into marine waters.

(3) discharges or spills oil into, or which enters California marine waters unless the discharge is authorized by the United States, the State, or other agency with appropriate jurisdiction.

(4) fails to immediately begin cleanup, abatement, or removal of spilled oil in the manner prescribed by Section 8670.25 of the Government Code.

(5) fails to comply with the provisions of Chapter 7.4 of the Government Code (commencing with Section 8670.1) or Division 7.8 of the Public Resources Code (commencing with Section 8750) and any regulations, permits or orders issued or promulgated pursuant to those sections.

NOTE: Authority cited: Sections 8670.7, 8670.67 and 8670.68, Government Code. Reference: Sections 8670.20, 8670.67 and 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.6. Administrative Compliance Actions: Public Resources Code.

(a) Upon the request of the Executive Officer of the State Lands Commission (Executive Officer) the Administrator may issue an administrative civil Complaint and assess an administrative civil penalty upon any person who intentionally or negligently fails to comply with:

(1) Marine Terminals Inspection and Management regulations found in Title 2 California Code of Regulations Sections 2300 et seq.;

(2) Marine Terminal Personnel Training and Certification regulations found in Title 2 California Code of Regulations Sections 2540 et seq.;

(3) any other provision of Division 7.8 of the Public Resources Code (commencing with Section 8750) and any other regulations, regulatory amendments, permits or orders issued or promulgated pursuant to these Public Resources Code sections.

(b) The Administrator shall consult with the Executive Officer regarding costs, penalties, settlements, allocations, and other matters related to actions taken pursuant to subsection (a).

NOTE: Authority cited: Sections 8670.7 and 8670.67, Government Code. Reference: Sections 8752–8760 (inclusive), Public Resources Code; and Sections 8670.20, 8670.25, 8670.27, 8670.67, 8670.68 and 8670.69.4, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.7. Discharge of Oil; Administrative Civil Liability; Government Code Section 8670.67.5.

In addition to any penalty assessed pursuant to Section 873.3 of this subchapter:

(a) Without regard to intent or negligence, any person who causes or permits oil to be spilled or discharged shall be strictly liable for a civil penalty assessed for up to ten dollars ($10.00) per gallon for every gallon of spilled or discharged oil.

(b) Whenever the spill or discharge results from gross negligence or reckless misconduct, the Administrator shall assess a civil penalty at thirty dollars ($30.00) per gallon of spilled or discharged oil.

(c) Any civil penalty assessed pursuant to either subsection (a) or (b) shall be reduced for every gallon of spilled oil that is:

(1) recovered; and

(2) properly reprocessed, reused, and/or disposed of in accordance with applicable laws.

(d) The Administrator shall take into consideration the nature, circumstances, extent and gravity of the spill, including the spiller's efforts to prevent, abate or clean up a discharge, when determining the appropriate penalty amounts.

(e) The determination of the amount of oil recovered shall be conducted pursuant to the provisions of Title 14 California Code of Regulations, Sections 877, et seq.

NOTE: Authority cited: Sections 8670.7 and 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 873.8. Damages.

[RESERVED]

Article 2. Hearing Procedures

§ 874. Purpose and Scope.

These procedural rules shall govern all hearings held pursuant to this subchapter.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Section 8670.68, Government Code.

HISTORY

1. New article 2 (sections 874–874.6) and section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.1. Complaint.

The Administrator may issue a Complaint upon any person on whom administrative civil liability may be imposed pursuant to Section 8670.67 or 8670.67.5. The Complaint shall:

(a) allege the facts or failures to act which constitute the basis for liability and contain the amount of the proposed civil penalty;

(b) be served by personal service or certified mail;

(c) inform the party so served of the right to a hearing;

(d) include a reference to laws and regulations governing the administrative civil penalty adjudication process; and

(e) include a document to serve as respondent's "Notice of Defense."

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Section 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.2. Notice of Defense; Request for Hearing.

(a) Any person served with a Complaint may, within 10 business days after service, request a hearing by filing a Notice of Defense.

(b) A Notice of Defense is deemed to be filed if it is postmarked within 10 business days after service.

(c) A hearing requested by the respondent shall be conducted within 90 days after the Notice of Defense is received by the Administrator.

(d) If a Notice of Defense has not been filed within 10 business days after service of the Complaint, the Administrator shall issue an order setting liability in the amount proposed in the Complaint, or if the Administrator and the party have entered into a settlement agreement, the Administrator shall issue an order setting liability in the amount specified in the settlement agreement.

(e) If the party has not filed a Notice of Defense or if the Administrator and the party have entered into a settlement agreement, the Administrator's order shall:

(1) set the liability in the amount as specified in the Complaint or settlement; and

(2) shall not be subject to review by any court or agency.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Sections 1013(a) and 2015.5, Code of Civil Procedure; and Section 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.3. Hearing Procedures.

(a) Any hearing required under this subchapter shall be conducted by an independent hearing officer according to the procedures specified in Government Code Sections 8670.68 and 11507 to 11517, inclusive, and those statutes incorporated by reference in Section 874.4 of this Article. Where conflicts occur among the above-referenced statutes, the provisions set forth in Government Code 8670.68 shall control.

(b) The independent hearing officer shall take into consideration the nature, circumstances, extent and gravity of the violation, including those factors set forth below, when reviewing the proposed penalty.

(1) the degree of the respondent's negligent, grossly negligent, reckless, or intentional conduct;

(2) the actual or threatened harm to the public health and safety or the environment;

(3) the volume of oil discharged;

(4) the respondent's past and present efforts, including compliance history, to prevent, abate, or clean up a discharge or conditions posing a threat to the public health and safety, fish and wildlife, or the environment;

(5) the respondent's ability to pay the proposed civil penalty;

(6) prior actions brought against the respondent pursuant to this subchapter.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Section 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.4. Incorporation by Reference.

(a) Unless inconsistent or in conflict with the governing statutes or this subchapter, and to the extent that they govern administrative civil penalty adjudication procedures, the following statutes are incorporated by reference:

(1) Definitions: Government Code Sections 11405.10 through 11405.80.

(2) Governing Procedures: Government Code Sections 11415.10 through 11415.60.

(3) Alternative Dispute Resolution: Government Code Sections 11420.10 through 11420.30.

(4) Ex Parte Communications: Government Code Sections 11430.10 through 11430.80.

(5) Alternative Service of Documents (excluding Complaint): Government Code Section 11440.20.

(6) Hearings by Teleconference: Government Code Section 11440.30.

(7) Informal Hearing Procedures: Government Code Sections 11445.10 through 11445.60.

(8) Subpoenas: Government Code Sections 11450.05 through 11450.50.

(9) Enforcement and Sanctions: Government Code Sections 11455.10 through 11455.30.

NOTE: Authority cited: Sections 8670.68 and 11400.20, Government Code. Reference: Sections 8670.68, 11405.10–11405.80, 11415.10–11415.60, 11420.10–11420.30, 11430.10–11430.80, 11440.20, 11440.30, 11445.10–11445.60, 11450.05–11450.50 and 11455.10–11455.30, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.5. Order Setting Civil Penalty.

(a) After conducting any hearing required under this subchapter, the independent hearing officer shall issue a decision, including an order setting the amount of civil penalty to be imposed, within 30 days after the case is submitted.

(b) Orders setting civil liability issued pursuant to this section shall become effective and final upon issuance, and payment shall be made within 30 days of issuance.

(c) Copies of the orders shall be served by personal service or by certified mail upon the party served with the Complaint and upon other persons who appeared at the hearing and requested a copy.

(d) Any order for administrative civil penalties entered pursuant to this section shall be subject to interest at the legal rate (as defined in Code of Civil Procedure Section 685.010) from the time of service of the Complaint.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Section 8670.68, Government Code.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

§ 874.6. Review of Decision.

(a) Within 30 days after service of a copy of a decision issued by the independent hearing officer, a party to the action, or a person appearing at the hearing and served with a copy of the decision, may file a petition for writ of mandate for review of the decision with a court of appeal.

(1) The filing of a petition for writ of mandate shall not stay any corrective action required pursuant to the Act or the accrual of any penalties assessed pursuant to the Act and does not prohibit the court from granting any appropriate relief within its jurisdiction.

(2) Any person who fails to file the petition within the 30–day period may not challenge the reasonableness or validity of a decision or order of the independent hearing officer in any judicial proceedings brought to enforce the decision or order or for other remedies.

(b) Except as otherwise provided in this article, Section 1094.5 of the Code of Civil Procedure shall govern any proceedings conducted pursuant to this section.

(c) In all proceedings pursuant to this subchapter, the court shall uphold the decision of the independent hearing officer if the decision is based upon substantial evidence in the whole record.

NOTE: Authority cited: Section 8670.68, Government Code. Reference: Section 8670.68, Government Code; and Section 1094.5, Code of Civil Procedure.

HISTORY

1. New section filed 3–13–98; operative 4–12–98 (Register 98, No. 11).

Subchapter 2. Determining Amount of Petroleum Hydrocarbons Recovered

Article 1. General Provisions and Definitions

§ 877. Purpose and Scope.

The regulations in this subchapter set forth the methods for determining the amount of liquid petroleum hydrocarbons (oil) recovered. These methods will be used to determine the number of gallons of discharged liquid petroleum hydrocarbon that are recovered and properly disposed of in accordance with applicable law. The term "disposed of" shall include liquid petroleum hydrocarbon that is reprocessed, recycled, or otherwise utilized as an ingredient in the manufacture of petroleum products or other products.

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New chapter 7, subchapter 2, article 1 (sections 877–880) and section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 877.1. Exception.

(a) Unless otherwise agreed to, the amount of petroleum hydrocarbons recovered shall be determined pursuant to Sections 877.3, 878, 879 and 880. The Responsible Party and the Administrator may use an alternative method to the method described in these sections. This alternative method shall be agreed to at the time of the incident and shall be included in the Incident Action Plan or as an attachment thereto.

(b) Not withstanding Section 877.1(a), the Administrator and Responsible Party or potentially Responsible Party shall not be precluded from entering into a binding agreement whereby the parties stipulate to the amount of oil spilled and/or recovered. Such agreement shall be binding on the parties for purposes of a civil penalty action.

Stipulations may be entered into where the parties determine that it is in the interest of justice to do so to facilitate resolution of the response.

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 877.2. Definitions.

In addition to the definitions provided by Section 790 of Title 14, the following definitions shall govern this subchapter. These definitions shall supersede any duplication in Section 790, Title 14:

(a) "API" refers to the American Petroleum Institute. The American Petroleum Institute, in conjunction with the American Society for Testing and Materials (ASTM), American National Standards Institute

(ANSI), British Standards Institute (BSI) and the Institute of Petroleum (IP), has developed standardized methods and formulas to calculate measured quantities of petroleum fluids regardless of point of origin, destination or unit of measure used by custom or statute.

(b) "ASTM" refers to the American Society for Testing and Materials. It is a scientific and technical organization formed for the development of standards on characteristics and performance of materials, products systems and services.

(c) "EPA" refers to the United States Environmental Protection Agency.

(d) "EPA Method 8015A" is a procedure used to determine the concentration of various volatile organic compounds. EPA Method 8015A, Nonhalogenated Volatile Organics by Gas Chromatography, July 1992, is hereby incorporated by reference.

(e) "EPA Method 8270B" is a procedure used to determine the concentration of semi–volatile organic compounds. EPA Method 8270B, Semi–volatile Organic Compounds by Gas Chromatography/Mass Spectrometer (GC/MS): Capillary Column Technique, September 1994, is hereby incorporated by reference.

(f) "EPA Method 3550A" is a procedure used for extracting non–volatile and semi–volatile organic compounds from solids such as soils, sludges and wastes. EPA Method 3550A, Ultrasonic Extraction, September 1994, is hereby incorporated by reference.

(g) "EPA Method 3540B" is a procedure used for extracting non–volatile and semi–volatile organic compounds from solids such as soils, sludges and wastes. EPA Method 3540B, Soxhlet Extraction, September 1994, is hereby incorporated by reference.

(h) "Flame Ionization Detector (FID)" is a detector, used in combination with a Gas Chromatograph, to analyze for saturated hydrocarbons, alkanes, alkenes and unsaturated hydrocarbons.

(i) "Gas Chromatography (GC)" is an analytical technique used to determine the sample concentration of organic constituents including total petroleum hydrocarbons (TPH) in environmental media.

(j) "Gauge" refers to the act of manually measuring the height of liquid in a tank expressed in feet, inches and fractions of inches or other appropriate units.

(k) "Incident Action Plan" is a document that contains objectives reflecting the overall incident strategy and specific tactical actions and supporting information for the next operational period. The Plan may be oral or written.

(*l*) "Recover" or "Recovered" refers to the amount of oil either removed or taken out of the environment after a spill. This does not include material lost to natural evaporation, or dispersion, in situ burning, or the use of chemical dispersants.

(m) "Sorbents" refers to manmade substances or materials that preferentially absorb or adsorb petroleum hydrocarbons. Sorbents typically include but are not limited to booms and pads.

(n) "TPH" refers to total petroleum hydrocarbons. It is a term used to describe the amount of petroleum hydrocarbons which are contained in a solid sample or sediment as a number that may be converted to units of volume or mass.

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 877.3. Recovery of Liquid Petroleum Hydrocarbons.

(a) All material shall be collected and stored at locations that shall be identified and approved by the Unified Command as defined in Section 790(c)(3), Title 14, prior to use.

(b) A storage location conforming to approved methods for the storage of liquid petroleum hydrocarbons (LPH), which is a measured volume of recovered product or crude oil, shall be pre–identified and verified by the Unified Command (UC) as empty. If it is necessary to use a storage location that already contains LPH, water, or a combination of both, the type of product shall be determined and sampled according to API approved standards in advance and pre–gauged using API approved gauging methods. The petroleum hydrocarbon mixture shall be collected and separated. Gauge readings shall be taken until two (2) gauge readings are identical.

(c) The total volume of liquid petroleum hydrocarbons recovered shall be designated at V1.

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 878. Sampling Analysis and Calculation of Petroleum Hydrocarbons in Contaminated Sediment.

(a) All contaminated material shall be collected and stored at locations that shall be identified and approved by the Unified Command prior to use.

(b) The Unified Command, or their representatives, shall develop a statistically sound sampling and analysis plan, agreed upon by all parties, that shall be used in qualifying recovered petroleum hydrocarbons. At a minimum, the sampling plan shall include, but not be limited to, the number of samples to be collected, the sampling methodology to be used, and the methods for quantifying sediment and TPH, and moisture.

(c) Samples shall be collected in pre–cleaned glass containers. Samples shall not be collected in plastic containers.

(d) For the TPH extraction method, applicable EPA or ASTM methods, such as EPA Method 3550A, shall be used.

(e) For quantification of TPH, applicable EPA or ASTM methods, such as EPA Method 8015A by gas chromatography flame ionization detector or EPA Method 8270B shall be used.

(f) The following calculation shall be used to determine the total amount of petroleum hydrocarbons:

Vs = volume of petroleum hydrocarbons recovered in contaminated sediment

Ws = total weight of sediment

Cps = concentration of petroleum hydrocarbons in sediment (from TPH analysis)

Dp = density of petroleum hydrocarbon

Vs = (Ws) x (Cps) x (1/Dp)

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 879. Sorbents and Debris.

(a) All contaminated material shall be collected and stored at locations that shall be identified and approved by the Unified Command prior to use. Sorbents and Debris shall be segregated.

(b) The following methods may be used to determine the amount of recovered petroleum hydrocarbons:

(1) Alternative Number 1.

(A) The petroleum hydrocarbons and water shall be extracted using pressure or other extraction method. A water deluge may be used to effect this process, subsequent to approval by the Unified Command. The petroleum hydrocarbon mixture shall be collected and separated. The petroleum hydrocarbons shall be gauged using API approved gauging methods. Gauge readings shall be taken until two (2) gauge readings are identical.

(2) Alternative Number 2.

(A) The Unified Command, or their representatives, shall develop a statistically sound sampling and analysis plan, agreed upon by all parties, that shall be used in quantifying recovered petroleum hydrocarbons. At a minimum, the sampling plan shall include, but not be limited to, the number of samples to be collected, and the sampling methodology to be used and the methods for quantifying the sorbent, TPH and moisture.

(B) Samples shall be collected in pre–cleaned glass containers. Samples shall not be collected in plastic containers.

(C) For the TPH extraction method, applicable EPA or ASTM methods, such as EPA Method 3550A, shall be used.

(D) For quantification of TPH, applicable EPA or ASTM methods, such as EPA Method 8015A by gas chromatography flame ionization detector or EPA Method 8270B shall be used.

(E) The following calculation shall be used to determine the total amount of petroleum hydrocarbons:

Vpsb = volume of petroleum hydrocarbons recovered in sorbents

Cps = concentration of petroleum hydrocarbons reported in sorbent pads as TPH

Cpb = concentration of petroleum hydrocarbons reported in sorbent boom as TPH

Co = concentration of petroleum hydrocarbons reported in sorbent type other than booms or pads as TPH

Wp = total weight of sorbents pads

Wb = total weight of boom

Wo = total weight of other sorbent type

Dh = density of petroleum hydrocarbons

Vpsb = {[(Cps) x (SWp)]} + {[(Cpb) x (Wb) + (Co x Wo)]} x (1/Dh)

(c) Debris.

The following methods may be used to determine the amount of recovered petroleum hydrocarbons:

(1) Alternative Number 1.

(A) The oily debris shall be washed using water deluge, subsequent to approval by the Unified Command. The petroleum hydrocarbon and water mixture shall be collected and separated. The petroleum hydrocarbons shall be gauged using API approved gauging methods. Gauge readings shall be taken until two (2) gauge readings are identical.

(2) Alternative Number 2.

(A) The oily debris shall be collected and homogenized (by grinding or equivalent to effect total homogenization).

(B) The Unified Command, or their representatives, shall develop a statistically sound sampling and analysis plan, agreed upon by all parties, that shall be used in quantifying recovered petroleum hydrocarbons. At a minimum, the sampling plan shall include, but not be limited to, the number of samples to be collected, and the sampling methodology to be used and the methods for quantifying the oily debris, TPH and moisture.

(C) Samples shall be collected in pre–cleaned glass containers. Samples shall not be collected in plastic containers.

(D) For the TPH extraction method, applicable EPA or ASTM methods, such as EPA Method 3550A, shall be used.

(E) For quantification of TPH, applicable EPA or ASTM methods, such as EPA Method 8015A by gas chromatography flame ionization detector or EPA Method 8270B shall be used.

(F) The following calculation shall be used to determine the total amount of petroleum hydrocarbons:

Vpd = volume of petroleum hydrocarbons recovered in debris

Cpd = concentration of petroleum hydrocarbons reported as TPH

Wd = total weight of debris

Dh = density of petroleum hydrocarbon

Vpd = [(Cpd) x (Wd)] x (1/Dh)

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).

§ 879.5. [Reserved].

§ 880. Calculation for Total Recovery of Petroleum Hydrocarbons.

(a) The total recovery of petroleum hydrocarbons (Vr) shall be the sum of the total volume of petroleum hydrocarbons from contaminated sediment (Vs), sorbents (Vpsb), and debris (Vpd), and liquid petroleum hydrocarbons (V1) reported in gallons.

Vr = Vs + Vpsb + Vpd + V1

NOTE: Authority cited: Section 8670.67.5, Government Code. Reference: Section 8670.67.5, Government Code.

HISTORY

1. New section filed 7–23–97; operative 8–22–97 (Register 97, No. 30).
2. Change without regulatory effect amending formula filed 2–8–2007 pursuant to section 100, title 1, California Code of Regulations (Register 2007, No. 6).

Chapter 8. Response Technology

Subchapter 1. Licensing and Use of Oil Spill Cleanup Agents

Article 1. General Provisions

§ 884. Purpose and Scope.

This subchapter sets forth the requirements for the licensing and use of oil spill cleanup agents (OSCA). Licensing criteria are established based on the level of toxicity imposed by a given agent. The protocols for using an OSCA are based on the sensitivity of the habitat in which the agent may be used.

The regulations in this subchapter provide specific forms that must be completed by the applicant, and require that the OSCA license be renewed once every five years. Certain products will be considered exempt from the licensing process, but the applicant must petition the Administrator for an exemption to assure that exempted products will be nontoxic in the aquatic environment.

In addition to the regulations in this subchapter, the licensing process will be governed by the criteria and protocols in the "Guidance Document for the Exemption, License and Renewal of Oil Spill Cleanup Agents", dated 1/1/98 (Guidance Document), and herein incorporated by reference. The use criteria for dispersants will be governed by the requirements in this subchapter and the criteria in the "Quick Approval Process for Dispersant Use in Waters Off California", dated 4/14/97, and herein incorporated by reference.

NOTE: Authority cited: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New chapter 8, subchapter 1, article 1 (sections 884–884.5) and section heading filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. New section filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 884.5. Definitions and Abbreviations.

In addition to the definitions found in Government Code § 8670.3, and Chapter 1, of this subdivision, the following definitions shall govern the construction of this subchapter.

(a) "Aquatic toxicity" means that the survivorship of the test organisms in the treatment exposure is less than 90% of those in the control group. Testing to determine if an agent causes aquatic toxicity shall be done in accordance with the testing protocols in the Guidance Document.

(b) "Bioremediation agent" or "bioremediant" means an OSCA which contains oil–degrading bacteria that serve a seeding function, or nutrients that serve to enhance the growth of naturally occurring bacteria. These agents are deliberately introduced into an oil discharge to increase the rate of biodegradation in an effort to mitigate the effects of the discharge.

(c) "Collecting agent" means a type of OSCA, the function of which is to absorb, congeal, gel or emulsify oil. The end product of these actions is an agent–oil mass that remains afloat for later collection or burning. Collecting agents include; emulsion treating agents, herding agents, elasticity modifiers, and sorbents.

(d) "Dispersing agent" or "dispersant" means a type of OSCA, the function of which is to reduce the interfacial surface tension between oil and water. Dispersing agents are surfactant–based chemical compounds, and are composed of both water and oil compatible constituents which allow oil particles to more easily enter the water column.

(e) "EC50" mans Effects Concentration 50, and is the concentration at which 50% of the test organisms display an effect or response to the product being tested during the course of a specified and predetermined time period (e.g. 96 hours).

(f) "Guidance Document" means the Guidance Document for the Exemption, License and Renewal of Oil Spill Cleanup Agents, dated 1/1/98, which is incorporated by reference herein. This document contains the required exemption, license and renewal forms and the instructions for their completion and use.

(g) "LC50" means the median Lethal Concentration 50, and is the concentration at which 50% of the test organisms die during the course of a specified and predetermined time period (e.g. 96 hours).

(h) "Mechanical control device" means any physical device or structure utilized to confine and/or remove oil from the surface of the water or the shoreline.

(i) "Non–toxic" or "not toxic" means that the survivorship of the test organisms in the treatment exposure is 90% or greater than those in the control group. Testing to determine if an agent is non–toxic shall be done in accordance with the Exemption Petition section of the Guidance Document which requires a Standard LC50 bioassay on specified test species.

(j) "Oil Spill Cleanup Agent" (OSCA) means a chemical, or any other substance used for removing, dispersing or otherwise cleaning up oil or any residual products of petroleum in, or on, any of the waters of the state.

(k) "OSCA" means Oil Spill Cleanup Agent.

(*l*) "Sinking agent" means a type of OSCA, the primary function of which is to combine with oil to cause sinking of the agent–oil mass. Sinking agents may not be used in the waters of California.

(m) "Surface washing agent" means a type of OSCA, the function of which is to facilitate the removal of oil from shoreline substrates or other oiled surfaces. The primary effect of this type of OSCA is to act as a wetting agent to soften or lower the viscosity of the oil, thereby increasing the effectiveness of water in displacing the oil from the shoreline surfaces. A surface washing agent cannot act as a dispersant.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code; and 40 CFR Sections 300.115 and 300.175(b).

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section heading, repealer of former subsection (g), new subsections (a), (b), (e)–(g), (i) and (m), subsection relettering, amendment of newly designated subsections (c), (d), (g) and (*l*), and amendment of NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

Article 2. Licensing Oil Spill Cleanup Agents

§ 885.1. Applicability and Exemptions.

(a) Any OSCA applied in or on state waters must be licensed by the Administrator unless otherwise exempted, or being used in an expedited testing situation as specified in this Section.

(b) Exemptions to the license requirement:

(1) a manufacturer may request an exemption from the licensing requirements for the following agents and substances;

(A) substances such as sorbents and other cleanup devices that do not employ the use of active chemical cleanup agents; or

(B) substances that do not to cause aquatic toxicity when used for purposes of oil spill response.

(c) Expedited testing and use of an unlicensed OSCA:

(1) the Administrator or his/her designee may authorize the use of an unlicensed OSCA on an expedited basis in any waters of the state;

(2) the unlicensed OSCA must be used in accordance with the criteria established for the particular body of water to which it will be applied, as specified in Article 3 of this subchapter. In addition, such use must be done in consultation with applicable federal agencies and be consistent with the National Contingency Plan.

(3) expedited use of an unlicensed OSCA may be authorized if an application for licensing has been submitted but not yet approved or denied, and the following conditions are met:

(A) there is danger of impact or harmful effect from an oil spill to the waters of the state; and

(B) the Administrator determines that mechanical control devices or currently licensed OSCA's, used either singly or in combination, may not be as appropriate or as effective in the given situation as the unlicensed OSCA; and

(C) a preliminary review of the OSCA's license application indicates that the OSCA being tested will not be more hazardous to the aquatic environment than the oil on which it is being applied; and

(D) the test has been approved by the Administrator and the RRT, and will be supervised by the Administrator.

(4) an expedited test may be conducted for the following purposes;

(A) to determine the efficacy of an OSCA in a given situation or on a particular type of oil;

(B) to obtain information needed to meet the requirements set forth in Government Code §8670.12;

(C) to improve results when used with a currently licensed OSCA and/or a mechanical control device;

(D) to mitigate the effects of the oil spill when it is determined that the impact of the OSCA will be less than the impact of the oil.

(5) the OSCA may only be used once on an expedited basis during the licensing process;

(6) the results of the test shall be documented and made part of the OSCA license application materials.

NOTE: Authority: Sections 8670.13.1 and 8670.7, Government Code. Reference: Sections 8670.13.1, 8670.13.2 and 8670.7, Government Code.

HISTORY

1. New article 2 (sections 885.1–885.10) and section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section heading, section and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.2. Exemption, License and Renewal Applications and Fees.

(a) Exemption Petition, (form #1958, as found in the Guidance Document):

(1) a manufacturer must petition for an exemption to the licensing process for any product that might be used in response to an oil spill that could be considered exempt under section 885.1.

(A) the following materials will automatically be considered exempt, though the manufacturer must still submit an exemption request form in order to establish the product as available for use in California;

1. cellulose fibers, other than peat moss or products derived from peat moss,
2. vermiculite or zeolite,
3. polypropolene,
4. polyethylene,
5. polyurethane,
6. polyester.

(2) the request for exemption must be submitted using the Petition for Exemption, form #1958. This form shall be available from the Administrator upon request.

(3) a petition for exemption shall be accompanied by a filing fee, as follows:

(A) $100 for a petition for an inert agent such as those listed in subsection 885.2(a)(1)(A) above;

(B) $250 for a petition for any other type of agent.

(C) The fee shall be used to cover costs incurred by the Administrator in processing the application.

(D) The fee shall be counted toward the cost of the license application if the exemption request is denied.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the petition has been received;

(B) within 30 days of submittal, the applicant will be notified in writing if the petition is not complete, and will be informed of any additional information required. The petition will not be considered complete until all additional information has been submitted;

(C) the Administrator shall approve or deny the exemption request within 60 days of receiving a complete petition;

1. the exemption shall be approved if the manufacturer can demonstrate that the OSCA is not toxic and does not pose a hazard to the aquatic environment;

2. the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(b) License Application, (form #1959 as found in the Guidance Document):

(1) the applicant shall apply for a license for an OSCA using a License Application, form #1959. This form shall be available from the Administrator upon request.

(2) the license shall be valid for a period not to exceed 5 years, and must be renewed prior to the expiration date if the manufacturer wants to continue to have the agent considered available for use during an oil spill.

(3) each application for a license shall be accompanied by a filing fee of one thousand dollars ($1000). These fees shall be used to cover the costs incurred by the Administrator in processing the application.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the petition has been received;

(B) within 30 days of submittal, the applicant will be notified in writing if the petition is not complete, and will be informed of any additional information required. The petition will not be considered complete until all additional information has been submitted;

(C) the Administrator shall approve or deny the exemption request within 60 days of receiving a complete application;

1. the license shall be approved if the manufacturer can demonstrate the efficacy of the product as an oil spill cleanup agent, and if the product meets all the licensing requirements of this subchapter;

2. the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(c) License Term and Renewal, (form #1967 as found in the Guidance Document):

(1) The term of a license shall not exceed five years. There is no grace period for renewal. An OSCA may not be used after the expiration of the license.

(2) The manufacturer must apply for renewal of the license using the License Renewal Form #1967. The renewal forms shall be available from the Administrator upon request;

(3) Each application for renewal shall be accompanied by a filing fee of $100. This fee shall be used to cover costs incurred by the Administrator in processing the renewal.

(4) Review process:

(A) within 14 days of receipt, the Administrator will issue a letter of acknowledgment notifying the applicant that the renewal application has been received. If the renewal application is not complete, the letter of acknowledgment will include a list of any additional information that may be required. The application will not be considered complete until all additional information has been submitted;

(B) the Administrator shall approve or deny the request for renewal within 30 days of receiving a complete application;

(C) the license shall be renewed if:

1. the license has not previously been revoked for cause; and

2. the product formulations have not changed or, if changed, the modified formulation has been approved by the Administrator; and

3. the applicant submits a complete application and provides sufficient information to establish that the product meets current licensing criteria.

(D) the applicant shall be notified in writing of the Administrator's determination and the reasons for the decision.

(d) Appeals

(1) An applicant may appeal the Administrator's revocation of a license, or denial of an application for exemption, license or renewal;

(A) an appeal must be filed in writing within 15 working days of the date the notice of denial was mailed.

(B) the appeal must include the applicant's reason(s) for disputing the Administrator's decision. The applicant may include additional test data or other information regarding the OSCA that could be used by the Administrator to reconsider the initial decision.

(C) the Administrator will respond to an appeal within 30 days of receipt of the applicant's request for reconsideration.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section heading, section and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.3. Revoking a License.

(a) The Administrator may revoke a license for the following reasons:

(1) the OSCA does not perform as expected when applied to spilled oil;

(2) the formulation of the OSCA is changed;

(3) information becomes available that demonstrates that the OSCA is more toxic than previously determined, or has adverse effects in the aquatic environment not previously known or anticipated;

(4) information on the license or renewal applications is found to be incorrect, incomplete or inaccurate.

(b) Appeals

(1) A manufacturer may appeal the Administrator's revocation of a license using the process specified in §885.2 of this subchapter.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Repealer and new section and amendment of NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.4. Accuracy of Information and Notification of Changes in Formulation.

(a) The applicant is responsible for the accuracy, completeness and timely update of all the information submitted in connection with the application to license an OSCA, and all the information stated on the product container label. An update to the application shall be considered timely if it is submitted before the application process is completed, and approval/denial determined. If an update is submitted, the application process timelines will recommence with receipt of the updated material.

(b) If any of the information on an application is found to be incorrect or inaccurate, the application shall be denied, or the license revoked if already issued.

(c) Prior to any change in the formulation of an approved product, the applicant shall notify the Administrator in writing and shall obtain specific approval of the change before the OSCA may be used to remove, clean up or otherwise treat oil in California waters.

(1) The Administrator may require a new application if there is a significant change in the OSCA formulation. A significant change is one that would alter the allowable use or the recommended application parameters, as specified in Article 3 of this subchapter.

(2) Failure to provide notification of a change in formulation is cause for the Administrator to revoke the OSCA license.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).

2. Amendment of section and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.5. Testing Required for Licensing.

(a) Licensing an OSCA is subject to successful screening through:

(1) standardized efficacy tests;

(2) standardized toxicity tests;

(3) such other tests as deemed necessary by the Administrator in order to determine the efficacy, toxicity or appropriate use of the OSCA.

(b) Testing necessary to determine compliance with the efficacy and toxicity criteria shall, as applicable, be conducted consistent with the testing methods or procedures approved by the Administrator, and found in the Guidance Document.

(c) All tests shall be performed by the applicant or his/her designee. The Administrator or his/her authorized agent may verify or require verification of the results of any tests. Any verification costs incurred by the Administrator will be paid from the applicant's licensing fee.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.6. Efficacy and Toxicity Criteria.

Each OSCA to be considered for licensing by the Administrator shall comply with the following efficacy and toxicity criteria:

(a) the OSCA must have a flash point of 170 degrees Fahrenheit or greater;

(b) the hydrogen ion activity of a liquid OSCA that is water soluble, as applied to the water surface must be 6.5 to 8.5 pH units;

(c) the heavy metal and chlorinated hydrogen content must not be greater than the following concentration(s) in parts per million or milligrams per liter of product:

(1) Mercury – 0.005, Cadmium – 0.01, Lead – 0.05,

(2) total identifiable chlorinated hydrocarbon – 0.05.

(d) the OSCA must perform as indicated by the manufacturer when applied in the manner recommended by the manufacturer;

(e) bioremediation agents must degrade the oil through microbial action, and neither the bioremediant or its by–products may be more toxic in the aquatic environment than the oil on which applied;

(f) collecting agents must be nontoxic, and upon application to an oil spill, at least 90 percent of the oil–agent mass must remain afloat;

(g) dispersant efficacy must be established in accordance with the standardized efficacy tests required by this subchapter, and found in the Guidance Document. If more than 10 percent of the oil sinks upon application of the OSCA, the agent will be considered a sinking agent;

(h) no dispersant or surface washing agent shall be licensed if it has has an average level of toxicity greater than 10 mg/l as applied (EC50 less than 10 mg/l). The average level of toxicity of these agents shall be determined by the testing methods described in the Guidance Document.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section heading, section and and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.7. Issuing a License.

(a) A license shall be issued to the OSCA manufacturer (applicant) on a registered trademark–name basis when the following conditions are met:

(1) a completed application has been submitted to the Administrator along with the appropriate fee; and

(2) the applicant has conducted the standardized efficacy and toxicity tests, as well as any other relevant tests or requirements prescribed by the Administrator, and provided in this subchapter; and

(3) the results of the required tests have been submitted to the Administrator; and

(4) the applicant has submitted any additional information as requested by the Administrator to substantiate the test data; and

(5) the results of these required tests and any additional, substantiating data meet the efficacy and toxicity criteria established in this Article.

(b) If the Administrator's Industrial Hygienist determines that the OSCA constitutes a serious occupational hazard to health, the license application will either be;

(1) denied; or

(2) licensed for use with specified conditions that will adequately minimize or mitigate the occupational health hazard.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code; and Title 8, Section 5192, California Code of Regulations.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Amendment of section and NOTE filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.8. OSCA Labeling Requirement.

Each OSCA must have a plainly printed label attached to the container that states at least the following:

(a) the name, brand, and trademark, if any, under which the OSCA is sold;

(b) the name and address of the manufacturer, importer, or vendor;

(c) special handling, storage, or worker safety precautions;

(d) the product's flash point and freezing point, if applicable for the type of product;

(e) recommended application procedure(s), concentration(s), and conditions for use as regards to water salinity, water temperature, and the types and ages of oils on which it may be used;

(f) the shelf life, or expiration date of the product.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Repealer of former section 885.8, and renumbering of former section 885.9 to new section 885.8, including amendment of section and NOTE, filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.9. Legal Responsibility.

Obtaining a license for an OSCA does not waive any other legal responsibilities of the manufacturer or user of an OSCA.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Renumbering of former section 885.9 to new section 885.8, and renumbering of former section 885.10 to new section 885.9, including amendment of NOTE, filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 885.10. Legal Responsibility.

NOTE: Authority: Sections 8670.13.1 and 8670.13.2, Government Code. Reference: Section 8670.13.2, Government Code; Section 13169, Water Code; and California Code of Regulations, Section 2318.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Renumbering of former section 885.10 to new section 885.9 filed 7–28–98; operative 8–27–98 (Register 98, No 31).

Article 3. Use of Oil Spill Cleanup Agents

§ 886.1. Requirements for the Use of a Licensed OSCA.

(a) The use, or expedited testing of an OSCA in response to an oil spill shall be subject to the approval of the Administrator and the Regional Response Team (RRT), and done in compliance with the provisions of this subchapter. An OSCA may be used without obtaining the concurrence of the RRT if the OSCA has been listed in a preauthorization plan of the applicable Area Contingency Plan (ACP). Such listing shall have been done in accordance with the provisions of 40 CFR 300, Subpart J, as follows:

(1) the RRT representative from the Environmental Protection Agency (EPA) and the state of California, and the Department of Commerce (DOC) and Department of Interior (DOI) natural resources trustees shall review and either approve, disapprove, or approve with modification the preauthorization plans of the Area Committees;

(2) the preauthorization plan of the appropriate ACP must address the specific contexts in which the specified products should and should not be used;

(3) the OSCA must then be used in a situation the same as or similar to the context described in the ACP.

(b) The use of an OSCA shall be supervised by the Department of Fish and Game in accordance with the provisions of this subchapter, and any applicable direction or instruction from the Administrator. Decisions regarding use must be consistent with the statutory provisions governing the duties of the Administrator as outlined in Chapter 7.4 of the Government Code, or the Department's responsibilities pursuant to Fish and Game Code §5655.

(c) Use of an OSCA in a domestic water supply:

(1) dispersants, and OSCA's that are not inert, may only be applied to water that is the source of a domestic drinking supply after notification is made to the State Department of Health Services and the appropriate local health agency responsible for drinking water quality; and

(2) the OSCA shall be applied in accordance with the recommendations of the state and local health agencies.

(d) The local Regional Water Quality Control Board shall be notified before any OSCA is applied to a lake, a reservoir or any surface streams.

(e) In addition to the provisions of (a), (b), (c) and (d) above, the following restrictions and requirements apply to the bodies of water indicated:

(1) Lakes and reservoirs:

(A) Collecting agents:

1. collecting agents that are inert may be applied to lakes and reservoirs provided the floating oil–agent mixture is collected and disposed of properly.

2. collecting agents that are not inert may be applied in domestic water supplies but only in accordance with the provisions in subparagraph (c) of this section.

(B) Dispersing agents:

1. any application of a dispersant to a domestic water supply shall be in accordance with the provisions of subparagraph (c) of this section.

2. shall not be applied to the shoreline of a lake or reservoir;

3. aside from 1. and 2. above, dispersing agents may be applied to lakes and reservoirs only if wildlife resources and associated habitat, recreational beaches, marinas or shore facilities are threatened, and other control methods are judged to be inadequate or infeasible by the Department of Fish and Game.

(C) Sinking agents shall not be applied to lakes or reservoirs.

(D) Bioremediation agents may be applied in lakes and reservoirs and associated shorelines provided that the bioremediant, as applied, is not more harmful to the aquatic environment than the spilled oil.

(E) Surface washing agents:

1. surface washing agents that are inert may be applied to the shoreline of surface streams provided that the floating oil–agent mixture is collected and disposed of properly.

2. surface washing agents that are not inert may be applied to domestic water supplies but only in accordance with the provisions in subparagraph (c) of this section.

(2) Surface streams:

(A) Collecting agents;

1. collecting agents that are inert may be applied to surface streams provided the floating oil–agent mixture is collected and disposed of properly.

2. collecting agents that are not inert may be applied in domestic water supplies but only in accordance with the provisions in subparagraph (c) of this section.

(B) Dispersing agents shall not be applied to surface streams.

(C) Sinking agents shall not be applied to surface streams.

(D) Bioremediation agents may be applied to surface streams and associated shorelines provided that the bioremediant, as applied, is not more harmful to the aquatic environment than the spilled oil.

(E) Surface washing agents:

1. surface washing agents that are inert may be applied to the shoreline of surface streams provided that the floating oil–agent mixture is collected and disposed of properly.

2. surface washing agents that are not inert may be applied to domestic water supplies but only in accordance with the provisions in subparagraph (c) of this section.

(3) Bays and estuaries (from the mouth to the upstream boundary of the tidal prism);

(A) Collecting agents may be applied to bays and estuaries provided the floating oil–agent mixture is collected and disposed of properly;

(B) Dispersing agents:

1. shall not be applied to the shoreline of a bay or an estuary.

2. aside from 1. above, dispersing agents may only be applied in accordance with guidelines established in the "Quick Approval Process for Dispersant Use in Waters Off California" as developed by the California Department of Fish and Game and the National Oceanic and Atmospheric Administration, dated 4/14/97.

(C) Sinking agents shall not be applied to a bay or an estuary.

(D) Bioremediation agents may be applied to bays and estuaries and associated shorelines provided that the bioremediant, as applied, is not more harmful to the aquatic environment than the spilled oil.

(E) Surface washing agents may be applied to the shoreline of bays and estuaries provided that the floating oil–agent mixture is collected and disposed of properly.

(4) Ocean waters:

(A) Collecting agents may be applied in ocean waters only if the floating oil–agent mixture is collected and disposed of properly.

(B) Dispersing agents:

1. shall not be applied to shoreline areas, including areas exposed during tidal action;

2. aside from 1. above, dispersing agents may only be applied in accordance with guidelines established in the "Quick Approval Process for Dispersant Use in Waters Off California" as developed by the California Department of Fish and Game and the National Oceanic and Atmospheric Administration, dated 4/14/97.

(C) Sinking agents shall not be applied in ocean waters.

(D) Bioremediation agents may be applied to ocean waters and associated shorelines provided that the bioremediant, as applied, is not more harmful to the aquatic environment than the spilled oil.

(E) Surface washing agents may be applied to the shoreline of bays and estuaries provided that the floating oil–agent mixture is collected and disposed of properly.

(f) In addition to all other requirements of this section, an OSCA shall be used in accordance with the manufacturer's recommendations.

(g) Use of a licensed OSCA at variance with the provisions of this subchapter may be approved only by the Administrator or his/her designee.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code; and 40 CFR Section 300.115.

HISTORY

1. New article 3 (sections 886.1–886.6) and section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Repealer of former section 886.1 and renumbering of former section 886.2 to new section 886.1, including amendment of section and NOTE, filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 886.2. Use of an OSCA Prior to Licensing.

No OSCA shall be used prior to licensing unless exempt form the licensing requirements, or if used on an expedited testing basis. Expedited testing use shall be in accordance with the provisions of Article 2 of this subchapter.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Renumbering of former section 886.2 to new section 886.1, and renumbering of former section 886.3 to new section 886.2, including amendment of section and NOTE, filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 886.3. OSCA Endorsement.

Licensing or permission to use a particular type of OSCA shall not be considered an endorsement of any product by the Administrator or the Department of Fish and Game.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Sections 8670.13.1 and 8670.13.2, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Renumbering of former section 886.3 to new section 886.2, and renumbering of former section 886.6 to new section 886.3, including amendment of section and NOTE, filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 886.4. Penalties.

Any person who knowingly, intentionally or negligently violates any provision of this subchapter shall be subject to criminal, civil, and/or administrative civil actions as prescribed in Article 9, Government Code, beginning with Section 8670.57.

NOTE: Authority: Section 8670.13.1, Government Code. Reference: Article 9, beginning with Section 8670.57, Government Code.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Repealer and new section filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 886.5. Experimental Use of an OSCA.

NOTE: Authority: Sections 8670.13.1 and 8670.13.2, Government Code. Reference: Section 8670.13.2, Government Code; Section 13169, Water Code; and California Code of Regulations, Section 2335.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Repealer filed 7–28–98; operative 8–27–98 (Register 98, No 31).

§ 886.6. OSCA Endorsement.

NOTE: Authority: Sections 8670.13.1 and 8670.13.2, Government Code. Reference: Section 8670.13.2, Government Code; Section 13169, Water Code; and California Code of Regulations, Section 2336.

HISTORY

1. New section filed 12–31–96; operative 12–31–96 pursuant to Government Code section 11343.4(d). Submitted to OAL for printing only pursuant to Government Code section 8670.13.2 (Register 97, No. 1).
2. Renumbering of former section 886.6 to new section 886.3 filed 7–28–98; operative 8–27–98 (Register 98, No 31).

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Division 1.5. Department of Forestry and Fire Protection*

*Formerly Division 2, Chapter 2, Division of Forestry.

Chapter 1. Department of Forestry and Fire Protection—Conflict of Interest Code

NOTE: It having been found, pursuant to Government Code Section 11344, that the printing of the regulations constituting the Conflict of Interest Code is impractical and these regulations being of limited and particular application, these regulations are not published in full in the California Code of Regulations. The regulations are available to the public for review or purchase at cost at the following locations:

DEPARTMENT OF FORESTRY AND FIRE PROTECTION
1300 "U" STREET
SACRAMENTO, CA 95814

FAIR POLITICAL PRACTICES COMMISSION
1100 "K" STREET
SACRAMENTO, CA 95814

ARCHIVES
SECRETARY OF STATE
1020 "O" STREET
SACRAMENTO, CA 95814

The Conflict of Interest Code is designated as Chapter 1, Division 1.5 of Title 14 of the California Code of Regulations, and consists of sections numbered and titled as follows:

Chapter 1. Department of Forestry and Fire Protection—Conflict of Interest Code

Section
890. General Provisions
Appendix

NOTE: Authority cited: Sections 87300 and 87304, Government Code. Reference: Section 87300, et seq., Government Code.

HISTORY

1. New chapter 1 (articles 1–5; sections 800–804, not consecutive; Appendices A and B) filed 2–23–79; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 1–3–79 (Register 79, No. 9).
2. Repealer of chapter 1 (articles 1–5, sections 800–804 and Appendices A and B) and new chapter 1 (section 800 and Appendix) filed 4–8–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 15).
3. Change without regulatory effect renumbering section 800 to section 890 filed 8–9–93; operative 8–9–93 (Register 93, No. 33).
4. Amendment filed 12–7–93; operative 1–6–93. Submitted to OAL for printing only. Approved by Fair Political Practices Commission 9–21–93 (Register 93, No. 50).
5. Amendment of section and Appendix, including the incorporation of the conflict of interest code for the State Fire Marshal (former title 19, sections 2200–2208) into the conflict of interest code for the Department of Forestry and Fire Protection, filed 2–7–2001; operative 3–9–2001. Approved by Fair Political Practices Commission 12–1–2000 (Register 2001, No. 6).
6. Amendment of Appendix filed 1–17–2008; operative 2–16–2008. Approved by Fair Political Practices Commission 12–20–2007 (Register 2008, No. 3).

Chapter 1.5. Timber Harvesting Plans

Article 1. General

NOTE: Authority cited: section 11152, Government code. Reference: sections 4511–4517; 4551; 4581–4592, Public Resources Code.

HISTORY

1. New Chapter 1.5 (Sections 891.1–897.1, not consecutive) filed 3–4–75 as an emergency; designated effective 3–5–75 (Register 75, No. 10).
2. Repealer of Chapter 1.5 (Sections 891.1–897.1, not consecutive and Appendix A) and new Chapter 1.5 (Sections 890–898) filed 7–2–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 27).
3. Repealer of Chapter 1.5 (Sections 890–898, not consecutive) filed 8–25–75 as an emergency; designated effective 9–1–75 (Register 75, No. 35).
4. Certificate of Compliance filed 10–9–75 (Register 75, No. 41).
5. Reprinting of NOTE and History inadvertently omitted during printing process (Register 80, No. 24).
6. Editorial correction (Register 80, No. 31).

Chapter 3.5. General Forest Policies for California

NOTE: Authority cited: Section 740, Public Resources Code. Reference: Sections 740 and 742, Public Resources Code.

HISTORY

1. New Chapter 3.5 (Article 1, Section 846) filed 6–17–80; effective thirtieth day thereafter (Register 80, No. 25).
2. Repealer of Chapter 3.5 (Section 846) filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

Chapter 4. Forest Practices*

*Formerly Subchapters 1, 2, 3, and 4.1 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

CROSS REFERENCE TABLE NO. 1

Substantial reorganization of Chapter 4 occurred in Register 78, No. 20. The effective date of the revisions is July 6, 1978. For details concerning the information contained in certain sections prior to reorganization, refer to the following table.

When reference is made to a section of the Public Resources Code, the definition formerly contained within the text of regulations has been removed and can no longer be found in Division 1.5, Title 14, California Administrative Code. All sections not listed retain the numbers effective prior to July 6, 1978.

Former Section		*Refer to Section Number*
912.1.	Basal Area Per Acre	4528(a)PRC
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912.4.	Countable Tree	4528(b) PRC
912.5.	Cutover Land	4522.5 PRC
912.6.	Diameter or d.b.h	895.1
912.7.	Erosion Hazard Rating	912, 912.5
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912.13.	Lopping	912
912.14.	Public Road	895.1
912.15.	Registered Professional Forester	895.1
912.16.	Seed Tree	912
912.17.	Site Classification	4528(d) PRC
912.18.	Skidding or Yarding	895.1
912.19.	Slash	4525.7 PRC
912.20.	Snag	895.1
912.21.	Southern Area of the Coast Forest District	907.1
912.22.	Special Treatment Areas	895.1
912.23.	Stocking Standards	912.7
912.24.	Stream	895.1
912.24.1.	Stream and Lake Protection Zone	912
912.25.	Stream and Lake Transition Line	895.1
912.26.	Tight-Lining	895.1
912.27.	Timberland	4526 PRC
912.28.	Timber Operations	4527 PRC
912.29.	Timber Operator	4526.5 PRC
912.30.	Timber Owner	4527.5 PRC
912.31.	Tractor Roads and Skid Trails	912
912.32.	Waterbreak	912
912.33.	Wet Meadows and Other Wet Areas	912
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932.3.	Countable Tree	4528(b) PRC
932.4.	Diameter or d.b.h	895.1
932.6.	Fire Protection Zone	932
932.7.	Fuelbreak	4528(e) PRC
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Former Section		*Refer to Section Number*
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932.17.	Slash	4525.7 PRC
932.18.	Snag	895.1
932.19.	Special Treatment Areas	895.1
932.20.	Stocking Standard	932.7
932.21.	Stream	895.1
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932.23.	Stream or Lake Transition Line	895.1
932.24.	Tight–Lining	895.1
932.25.	Timber Harvesting Plan	4582PRC
932.26.	Timberland	4526 PRC
932.27.	Timber Operations	4527 PRC
932.28.	Timber Operator	4526.5 PRC
932.29.	Timber Owner	4527.5 PRC
932.30.	Tractor Roads and Skid Trails	932
932.31.	Waterbreak	932
952.1.	Basal Area Per Acre	4528(a) PRC
952.2.	Commercial Species	952
952.3.	Commercial Timberland	952
952.4.	Countable Tree	4528(b) PRC
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CROSS REFERENCE TABLE NO. 2

Substantial reorganization of Chapter 9 occurred in Register 78, No. 31. The effective date of the revisions is September 2, 1978. For details concerning the information contained in certain sections prior to reorganization, refer to the following table.

Former Section	*New Section*
1400	none
1401	1400.5
1402	1400.5
1403	1400.5
1404	1400.5
1405	1400.5
1406	1400.5
1407	1400.5
1420	1401
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TABLE FOR AUTHORITY AND REFERENCE*

All sections cited herein are in the Public Resources Code unless specifically noted otherwise.

*NOTE: This table is accurate to Register 79, No. 9 (3–3–79).

CHAPTER 4

Subchapter 1

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895	4551	
895.1	4551	

Subchapter 2

Section	*Authorities*	*References*
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897	4551	4512, 4513
898	4551, 4582(h)	4583
898.1	4582	4555, 4582.7 4582.75
898.2	4582	4555, 4582.7 4582.75
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*Regulations adopted by Board of Forestry.

Article 1. Abbreviations and Definitions

§ 895. Abbreviations Applicable Throughout Chapter.

The following abbreviations are applicable throughout this chapter:

B & M	Baseline and Meridian reference lines running in true EW and NS directions used in U.S. General Land Survey
CAA	Confidential Archaeological Addendum
CAL	Confidential Archaeological Letter
CAL FIRE	California Department of Forestry and Fire Protection
CCR	California Code of Regulations
CDF	California Department of Forestry and Fire Protection
CEQA	California Environmental Quality Act (Public Resources Code Section 21000 et seq.)
cm	Centimeter(s)
d.b.h.	The average diameter of a tree measured outside bark, at breast height, a point 4.5 feet (1.37m) above the average ground level
def.	Definition
DFG	California Department of Fish and Game
E	true cardinal direction East
EIR	Environmental Impact Report as defined in Public Resources Code Section 21061
F&GC	Fish and Game Code
FPA	Z'berg–Nejedly Forest Practice Act of 1973 and amendments thereto (Public Resources Code Section 4511 et seq.)
ft.	foot or feet
Gov. C.	Government Code
H	Humboldt (used in combination with B & M)
ha.	hectare(s)
HCP	Habitat Conservation Plan
in.	inch or inches
LTO	Licensed Timber Operator
m	Meter or metres
MD	Mount Diablo (used in combination with B & M)
MTHP	Modified Timber Harvest Plan
N	true cardinal direction North
NAHC	Native American Heritage Commission
NMFS	National Marine Fisheries Service
NTMP	means Nonindustrial Timber Management Plan
PRC	Public Resources Code
PTEIR	means Program Timberland Environmental Impact Report.
PTHP	means Program Timber Harvesting Plan
R	Range: *a row of townships, six miles in width, between* two successive meridian lines of the U.S. General Land Survey
ref.	Refer, reference
RMP	Road Management Plan
RPF	Registered Professional Forester
RWQCB	Regional Water Quality Control Board
S	true cardinal direction South
SB	San Bernardino (used in combination with B & M)
Sec.	Section
T	Township: *a tier of ranges, six miles in length between* two successive standard parallels as used in the U.S. General Land Survey
THP	Timber Harvesting Plan
TPZ	Timberland preserve zone (Ref. Government Code Section 51100(g).)
TRPA	Tahoe Regional Planning Agency
USGS	United States Geological Survey
W	true cardinal direction West.
WHR	California Wildlife Habitat Relationships System
WLPZ	Watercourse and Lake Protection Zone

NOTE: Authority cited: Sections 4551, 4551.5 and 21082, Public Resources Code. Reference: Sections 4511, 4512, 4513, 4521.3, 4522, 4522.5, 4523–4525, 4525.3, 4525.5, 4525.7, 4526, 4526.5, 4527, 4527.5, 4528, 4551, 4551.5, 4552, 4582 and 21080.5, Public Resources Code.

HISTORY

1. New subchapter 1 (sections 895 and 895.1) filed 1–20–78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 3).
2. Redesignation from chapter 2 (sections 895–1112, not consecutive) to chapter 4 (sections 895–1112, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
3. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
4. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
5. New provision on "WLPZ" filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
6. Amendment of section adding "NTMP" filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
7. Amendment adding definitions of "LTO," "MTHP" and NAHC" filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
8. Amendment adding definitions of "PTEIR" and "PTHP" and amendment of NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
9. Amendment adding definitions "CAA," "CAL," and "USGS" filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
10. Amendment adding definition of "RWQCB" filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
11. Editorial correction of HISTORY 10 (Register 2000, No. 22).
12. Amendment adding definitions of "CDF," "DFG," "HCP" and "NMFS" filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
13. New abbreviation for "Interim Watershed Mitigation Addendum" filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
14. Change without regulatory effect repealing abbreviation for "Interim Watershed Mitigation Addendum" filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).
15. New abbreviation for "California Wildlife Habitat Relationships System" filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
16. New abbreviation for "Tahoe Regional Planning Agency" filed 6–21–2005 as an emergency; operative 6–21–2005 (Register 2005, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–19–2005 or emergency language will be repealed by operation of law on the following day.
17. New abbreviation for "Tahoe Regional Planning Agency" refiled 10–13–2005 as an emergency; operative 10–13–2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–10–2006 or emergency language will be repealed by operation of law on the following day.
18. New abbreviation for "Tahoe Regional Planning Agency" refiled 2–10–2006 as an emergency; operative 2–10–2006 (Register 2006, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–12–2006 or emergency language will be repealed by operation of law on the following day.
19. Reinstatement of section as it existed prior to 2–10–2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 24).
20. New abbreviation for "Tahoe Regional Planning Agency" refiled 6–16–2006 as an emergency; operative 6–16–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–16–2006 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 6–16–2006 order transmitted to OAL 9–7–2006 and filed 10–11–2006 (Register 2006, No. 41).
22. New abbreviation for "California Department of Forestry and Fire Protection" filed 7–9–2007 as an emergency; operative 7–9–2007 (Register 2007, No. 28). A Certificate of Compliance must be transmitted to OAL by 1–7–2008 or emergency language will be repealed by operation of law on the following day.
23. New abbreviation for "Road Management Plan" filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 895.1. Definitions.

The definitions contained in the Z'berg–Nejedly Forest Practice Act of 1973 as amended (commencing with section 4511 of the Public Resources Code) shall apply to this chapter, as well as the following definitions, unless the context clearly requires otherwise.

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Abandonment" means leaving a logging road reasonably impassable to standard production four wheel drive highway vehicles, and leaving a logging road and landings, in a condition which provides for long–term functioning of erosion controls with little or no continuing maintenance.	
"Act" means the Z'berg–Nejedly Forest Practice Act of 1973 as currently amended. *(Commencing with section 4511 of the Public Resources Code.)*	4511
"Active nest" means a bird nest site at which breeding efforts have recently occurred as determined by the Department of Fish and Game, as specified below:	
For the Great blue heron, Great egret, recently means within the last two years.	
For the Golden eagle, Osprey, Goshawk, recently means within the last three years.	
For the Bald eagle and Peregrine falcon, recently means within the last five years.	
Nests that have not been used within this time period are considered abandoned.	
"Adequate Site Occupancy" means the range of stocking levels which provide a balance between the largest number of trees per acre capable of maximum individual tree growth on future crop trees and maximum overall stand growth. This balance is achieved when stocking levels are within Zones 2 and 3 of the Langsaeter curve, as shown in "The Practice of Silviculture", by David Smith (1962).	
"Alternative prescription" means a written analysis of preharvest and postharvest timber stand conditions and a description of the silvicultural practices and systems to be used in lieu of the standard methods.	
"Approved and legally permitted structure" means, for the purposes of 14 CCR 1038(d), only structures that are designed for human occupancy and garages, barns, stables, and structures used to enclose fuel tanks.	
"Archaeological Coverage Map" means the map or maps required as part of a Confidential Archaeological Addendum or a Confidential Archaeological Letter pursuant to 14 CCR §§ 929.1 [949.1, 969.1](c)(9) and 1052(a)(10). The map(s) shall contain a north arrow, a scale, and accurately display the project boundary, the site survey area showing survey intensity(ies), and specific location of all archaeological and historical sites identified within the site survey area. The map(s) must be on a 1:1 scale copy of a USGS 7.5′ quadrangle(s), or digitally generated topographical equivalent. Additional maps at other scales may be required to more accurately display required information or increase clarity.	
Average Severe Fire Weather Conditions [*Effective until 1–1–2006.*]: Atmospheric and fuel conditions where fuel moisture content (dry weight basis) of 1–hour timelag fuels is three percent, 10–hour fuels is four percent and 100–hour fuels is five percent, and live surface fuels is 70 percent. Mid–flame wind speed is seven miles per hour or greater, when measured in a closed forest canopy (40 percent canopy cover or greater).	
"Average slope" means the arithmetic average of a sample of slopes taken systematically over the area to which the average is to be applied.	
"Bankfull stage" means the stage that occurs when discharge fills the entire channel cross section without significant inundation of the adjacent floodplain, and has a recurrence interval of 1.5 to 2.0 years.	
"Basal area per acre"	4528(a)
"Beneficial Functions of Riparian Zone" means the specific role of the riparian zone to provide protection for water temperature control, streambed and flow modification by large woody debris, filtration of organic and inorganic material, upslope stability, bank and channel stabilization and vegetative structure diversity for fish and wildlife habitat.	
"Beneficial Use" means those uses of water as defined by section 13050(f) of the Water Code and as described in the applicable Water Quality Control Plan.	
"Berm" means a curb or dike constructed to control water and prevent roadway runoff waters from discharging onto roadside slopes and/or to provide material for subsequent road maintenance.	
"Board"	4521.3
"Broadcast burning" means the use of fire throughout a site preparation area to prepare it for regeneration. It does not include burning of organic matter which is piled during mechanical site preparation or for hazard reduction.	
"Brood Material" as used in these rules refers to any cut or downed portion of a tree's stem greater than three inches with intact undeteriorated bark.	
"Buffer zone" means the area of protection surrounding a nest tree in which timber operation must be conducted in accordance with the provisions set forth in these regulations. A buffer zone does not constitute a special treatment area.	
"Cable roads" means the path followed by logs being yarded by a cable system.	
"Cable yarding" means that system of skidding (transporting) logs by means of cable (wire rope) to the yarding machine (yarder) or a landing while the yarder remains stationary.	
"Canopy" means the more or less continuous layer of branches and foliage formed collectively by the crowns of adjacent trees and other woody species.	
"Channel zone" means that area that includes a watercourse's channel at bankfull stage and a watercourse's floodplain, encompassing the area between the watercourse transition lines.	
For the Coast Forest District:	
"Coastal Commission Special Treatment Area" means an identifiable and geographically bounded forest area designated within the Coastal Zone that constitutes a significant wildlife and/or plant habitat area, area of special scenic significance, and any land where timber operations could adversely affect public recreation areas or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in a coastal ecosystem.[1] *(Reference: Section 31118.5, Public Resources Code.)*	
For the Southern Forest District:	
"Coastal Commission Special Treatment Area" means an identifiable and geographically bounded forest area designated within the Coastal Zone that constitutes a significant wildlife and/or plant habitat area, area of special scenic significance, and any land where timber operations could adversely affect public recreation areas or the biological productivity of any wetland, estuary, or stream especially valuable because of its role in the coastal ecosystem. Special treatment areas were adopted by the Coastal Commission on July 5, 1977. Maps or designations of "Coastal Commission Special Treatment Areas" are on file in the Department offices within the Southern Forest District.[2] *(Reference: Section 31118.5, Public Resources Code.)*	
"Codominants" means trees with crowns forming the general level of the forest canopy and receiving full light from above, but comparatively little light from the sides. Codominants usually have medium–sized crowns, but are crowded on the sides.	
For the Coast Forest District:	
"Commercial Species" means those species found in group A and those in group B that are found on lands where the species in Group A are now growing naturally or have grown naturally in the recorded past.	
Group A —coast redwood (*Sequoia sempervirens*)	
—Douglas fir (*Pseudotsuga menziesii*)	
—grand fir (*Abies grandis*)	
—western hemlock (*Tsuga heterophylla*)	
—western redcedar (*Thuja plicata*)	
—bishop pine (*Pinus muricata*)	
—Monterey pine (*Pinus radiata*)	
—Sitka spruce (*Picea sitchensis*)	
—incense cedar (*Libocedrus decurrens*)	
—Port Orford cedar (*Chamaecyparis lawsoniana*)	
—California red fir (*Abies magnifica*)	
—white fir (*Abies concolor*)	
—Jeffrey pine (*Pinus jeffreyi*)	
—ponderosa pine (*Pinus ponderosa*)	
—sugar pine (*Pinus lambertiana*)	
—western white pine (*Pinus monticola*)	

Defined word or phrase	PRC Sec. Containing Ref. Def.
Group B —tanoak (*Lithocarpus densiflorus*) —red alder (*Alnus rubra*) —white alder (*Alnus rhombilfolia*) —eucalyptus (*Eucalyptus species*) —Pacific madrone (*Arbutus menziesii*) —golden chinkapin (*Castanopsis chrysophylla*) —pepperwood (*Umbellulria californica*) —Oregon white oak (*Quercus Garryana*) —California black oak (*Quercus kelloggii*)	
For the Northern Forest District:	
"Commercial species" means those species found in group A and those in group B that are found on lands where the species in group A are now growing naturally or have grown naturally in the recorded past.	
Group A — sugar pine (*Pinus lambertiana*) — ponderosa pine (*Pinus ponderosa*) — Jeffrey pine (*Pinus jeffreyi*) — western white pine (*Pinus monticola*) — lodgepole pine (*Pinus contorta*) — coast redwood (*Sequoia sempervirens*) — white fir (*Abies concolor*) — California red fir (*Abies magnifica*) — noble fir (*Abies procera*) — Douglas-fir (*Pseudotsuga menziesii*) — incense-cedar (*Libocedrus decurrens*) — Port Orford cedar (*Chamaecyparis lawsoniana*)	
Group B — Knobcone pine (*Pinus attenuata*) — Digger pine (*Pinus sabiniana*) — California black oak (*Quercus kelloggii*) — Oregon white oak (*Quercus garryana*) — tanoak (*Lithocarpus densiflorus*) — mountain hemlock (*Tsuga mertensiana*) — Brewer spruce (*Picea breweriana*) — Englemann spruce (*Picea englemanii*) — Sierra redwood (*Sequoiadendron giganteum*) — golden chinkapin (*Castanopsis chrysophylla*) — foxtail pine (*Pinus balfouriana*) — white alder (*Alnus rhombifolia*) — Monterey pine (*Pinus radiata*) — Pacific madrone (*Arbutus menziesii*) — California laurel (*Umbellularia Californica*) — Western juniper (*Juniperus occidentalis*)	
For the Southern Forest District:	
"Commercial species" means those species found in group A and those in group B that are found on lands where the species in group A are now growing naturally or have grown naturally in the recorded past.	
Group A —Coulter pine (*Pinus coulteri*) —Jeffrey pine (*Pinus jeffreyi*) —ponderosa pine (*Pinus ponderosa*) —sugar pine (*Pinus lambertiana*) —lodgepole pine (*Pinus contorta*) —Monterey pine (*Pinus radiata*) —western white pine (*Pinus monticola*) —Douglas-fir (*Pseudotsuga menziesii*) —California red fir (*Abies magnifica*) —white fir (*Abies concolor*) —incense cedar (*Libocedrus decurrens*) —coast redwood (*Sequoia sempervirens*) —Sierra redwood (*Sequoiadendron giganteum*) —mountain hemlock (*Tsuga mertensiana*)	
Group B —white alder (*Alnus rhombifolia*) —cottonwood (*Populus fremontii*) —eucalyptus (*Eucalyptus sp.*) —Pacific madrone (*Arbutus menziesii*) —California black oak (*Quercus kelloggii*) —tanoak (*Lithocarpus densiflorus*)	
"Committee"	4522
"Community Fuelbreak Area" means a shaded fuelbreak approved by a public fire agency as part of a fire prevention plan for fire protection, ignition management, prefire management or other fire defense improvements. Within a shaded fuelbreak, vegetation is managed to reduce the potential for wildfire damage and provides a direct benefit to defensible space as defined in 14 CCR 1271. Community fuelbreak areas include defensible space areas within 200 feet of approved and legally permitted structures, as defined in 14 CCR 895.1, and those areas comprising systems of fuelbreaks that are designed or approved by a public fire agency as part of a fire prevention plan.	
"Compatible use" means uses which do not significantly detract from the use of the property for, or inhibit, growing and harvesting timber, and shall include those specified in Government Code 51104(h) unless in specific instances such use would be contrary to this definition.	
"Concentration" means an accumulation of slash, limbs, tops, slabs or other logging debris that exceeds 30 inches (76.2 cm) in height above the ground and covers more than 100 square feet (9.29 m^2) of surface area except that individual logs not associated with other logging debris which exceed these dimensions shall not be considered a concentration of slash or logging debris.	
"Confidential Archaeological Addendum" means the archaeological and historical resources survey and impact assessment report prepared for a proposed timber operation. The addendum is confidential to the extent permitted pursuant to Government Code §§ 6254(r) and 6254.10. It shall not be included in any document provided to the public. It shall contain all information required by 14 CCR §§ 929.1, 929.2, 929.3, 929.7, 949.1, 949.2, 949.3, 949.7, 969.1, 969.2, 969.3, 969.7.	
"Confidential Archaeological Letter" means the archaeological and historical resources survey and impact assessment prepared for an Emergency Notice covering three acres or more in size. It is included with the submittal of the Emergency Notice to the Director and contains all information required by 14 CCR § 929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, as required pursuant to 14 CCR §§ 929.1 [949.1, 969.1](g) and 929.5 [949.5, 969.5]. The information may be presented in either a letter or report format. It is confidential to the extent permitted pursuant to Government Code §§ 6254(r) and 6254.10 and shall not be included in any document provided to the public.	
"Countable tree"	4528(b)
"Critical period" means the time of year when the special timber operations practices set forth in these regulations are required to minimize nesting disturbance to a species of special concern.	
"Crop of trees," within the meaning of PRC 4526, means any number of trees which can be harvested commercially.	
"Cumulative impacts" means those impacts as defined in 14 CCR 15355.	
"Current archaeological records check" means a review of the State's archaeological and historical resource files conducted at the appropriate Information Center of the California Historical Resource Information System for the area which could be affected by timber operations. The Office of Historical Preservation, which is within the Department of Parks and Recreation, has the address for the regional Information Center a person must contact. The records check must have been conducted within five years prior to the date a THP, NTMP, or Emergency Notice of 3 acres or more is submitted to the Director.	
"Cutover land"	4522.5
"Cutting method" means silvicultural method within the Southern Subdistrict of the Coast Forest District.	
"Damaging effects" means demolition, destruction, relocation, or significant alteration of an archaeological or historical site or resource before the significance of the site is determined.	
"Danger tree" means any tree located on or adjacent to a utility right-of- way or facility that could damage utility facilities should it fall where (1) the tree leans toward the right-of-way, or (2) the tree is defective because of any cause, such as: heart or root rot, shallow roots, excavation, bad crotch, dead or with dead top, deformity, cracks or splits, or any other reason that could result in the tree or main lateral of the tree falling. See chapter VII, Hazardous Tree Identification, Powerline Fire Prevention Field Guide-1977, A joint Publication of the California Department of Forestry, U.S. Forest Service, and U.S. Bureau of Land Management.	
"Decadent and Deformed Trees of Value to Wildlife": Trees, either conifers or hardwoods, that are not countable per PRC § 4528 but which exhibit characteristics of substantial value to wildlife including but not limited to such features as broken tops, dead tops, forked tops, nests, mistletoe clumps, substantial decay and cavities.	
"Department" means the Department of Forestry.	
"Diameter" when measuring standing live trees, means the average diameter of a tree measured outside the bark, at breast eight, a point 4.5 feet (1.37m) above the average ground level.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Director" means the Director of Forestry.	
"District"	4523
"Ditch drain" means a drainage structure or facility which will move water from an inside road ditch to an outside area.	
"Domestic water use" means the use of water in homes, resorts, motels, organization camps, developed campgrounds, including the incidental watering of domestic stock for family sustenance or enjoyment and the irrigation of not more than one half acre in lawn, ornamental shrubbery, or gardens at any single establishment. The use of water at a developed campground or resort for human consumption, cooking or sanitary purposes is a domestic use.	
"Dominants" means trees with well–developed crowns extending above the general level of the forest canopy and receiving full light from above and partly from the sides.	
"Drainage facilities" means facilities constructed to control water, including, but not limited to, fords, inside ditches, waterbreaks, outsloping and rolling dips.	
"Drainage structure" means a structure installed to control, divert or to cross over water, including, but not limited to, culverts, bridges and ditch drains.	
"Dunning's classification" although initially devised exclusively for pine, here is intended to apply to all commercial coniferous species and means a system of tree classification based on maturity of trees, age, position of tree crown in stand, shape of top, diameter, density of foliage and risk or susceptibility of tree to insect and other mortality where trees are classed as follows:	
Class 1. Tree immature, 60 to 150 years of age, crown dominant or extending above general level of the crown cover, top pointed, d.b.h. up to 30 inches (76.2 cm), foliage dense and risk good.	
Class 2. Tree immature, 60 to 150 years of age, crown codominant or equal to general level of the crown cover, top pointed, d.b.h. up to 24 inches (61.0 cm), foliage dense and risk good.	
Class 3. Tree mature, 150 to 300 years of age, crown dominant or extending above general level of the crown cover, top rounded, d.b.h. 18 inches (45.7 cm) to 40 inches (101.6 cm), foliage moderately dense and risk fair to good.	
Class 4. Tree mature, 150 to 300 years of age, crown codominant or equal to general level of the crown cover, top rounded and risk poor to fair.	
Class 5. Tree overmature, over 300 years of age, crown dominant or extending above the general level of the crown cover, top flat, foliage thin, and risk poor.	
Class 6. Tree immature, 60 to 150 years of age, crown intermediate to or suppressed by the general level of the crown cover, top pointed, d.b.h. 12 inches (30.5 cm) to 15 inches (38.1 cm), foliage moderately dense and risk fair to good.	
Class 7. Tree mature or overmature, over 150 years of age, crown intermediate or suppressed by the general level of the crown cover, top flat, d.b.h. rarely over 18 inches (45.7 cm), foliage sparse and risk poor. (*Reference: Section 4531, Public Resources Code.*)	
"Dying Trees" means trees which exhibit one or more of the following: fifty percent or more of the foliage–bearing crown is dead or fading in color from a normal green to yellow, sorrel, or brown, excluding normal autumn coloration changes; successful bark beetle attacks with indications of dead cambium and brood development distributed around the circumference of the bole; seventy–five percent or more of the circumference of the lower bole is girdled by wildlife; or trees designated by an RPF as likely to die within one year.	
"Effects" means effects and impacts as defined in 14 CCR 15358.	
"Emergency" means 1) those conditions that will cause waste or loss of timber resources to the timber owner that may be minimized by immediate harvesting of infected, infested or damaged timber or salvaging down timber; 2) those conditions that obstruct or reduce effective emergency response operations; or 3) those conditions that will cause appreciable financial loss to the timber owner that may be minimized by immediate harvesting of timber.	
"End–Hauling" means the removal and transportation of excavated material to prevent sidecast.	
"Energy dissipator" means a device or material used to reduce the energy of flowing water.	
"Equipment exclusion zone (EEZ)" means the area, as explained in the THP, where heavy equipment associated with timber operations is totally excluded for the protection of water quality, the beneficial uses of water, and/or other forest resources.	
"Equipment limitation" is the term used when the use of timber harvesting equipment is to be limited for the protection of water quality, the beneficial uses of water, and/or other forest resources.	
"Equipment limitation zone (ELZ)" means the area, as explained in the THP, where heavy equipment associated with timber operations is limited for the protection of water quality, the beneficial uses of water, and/or other forest resources.	
"Erosion controls" means drainage facilities, soil stabilization treatments, road and landing abandonment, removal and treatment of watercourse crossings, and any other features or actions to reduce surface erosion, gullying, channel erosion, and mass erosion.	
For the Coast Forest District	
"Erosion Hazard Rating" means the rating derived from the procedure specified in 14 CCR 912.5 designed to evaluate the susceptibility of the soil within a given location to erosion.	
For the Southern Forest District:	
"Erosion Hazard Rating" Means the rating derived from the procedure specified in 14 CCR 952.5 designed to evaluate the susceptibility of the soil within a given location to erosion. (*Reference: Section 4562, Public Resources Code.*)	
"Erosion potential" see 14 CCR 952.5. (*Reference: Section 4562, Public Resources Code.*)	
"Estimated erosion potential" means the product of the soil and slope values derived from the table in 14 CCR 932.5 or as such product may be modified in accordance with the instructions contained in that section. *(Reference: Section 4562, Public Resources Code.)*	
"Excess material" means material that is not used or needed as a functional part of the road or a landing.	
"Executive Officer" means the Executive Officer of the State Board of Forestry authorized by PRC 739.	
"Extended dry periods" means those periods during the winter period when saturated soil conditions do not exist.	
"Feasible" means capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, legal, social and technical factors. With regard to economic feasibility, the issue shall be whether the plan as revised could be conducted on a commercial basis within 3 years of the submission of the plan and not solely on the basis of whether extra cost is required to carry out the alternatives.	
"Fifty–year flood flow" means that magnitude of peak flow which one would expect to be equaled or exceeded, on the average, once ever 50 years. This flow shall be estimated by empirical relationships between precipitation and watershed characteristics and runoff and then may be modified by direct channel cross section measurements and local experience.	
"Fill" means material that is placed in low areas and built up to form the roadbed or landing surface.	
Fort the Coast Forest District:	
"Fire Protection Zone" means that portion of the logging area within 100 feet (30.48 m) as measured along the surface of the ground, from the edge of the traveled surface of all public roads and railroads; and within 200 feet (60.96 m) as measured along the surface of the ground, from permanently located structures currently maintained for human habitation.	
For the Northern Forest District:	
"Fire protection zone" means that portion of the logging area within 100 feet (30.48 m), as measured along the surface of the ground, from the edge of the traveled surface of all public roads and railroads, and 50 feet (15.24 m) as measured along the surface of the ground from the traveled surface of all private roads, and within 100 feet (30.48 m), as measured along the surface of the ground, from permanently located structures currently maintained for human habitation. *(Reference: Section 4561.6, Public Resources Code.)*	

Defined word or phrase	PRC Sec. Containing Ref. Def.
For the Southern Forest District:	
"Fire Protection Zone" means that portion of the logging area within 100 feet (30.48 m), as measured along the surface of the ground, from the edge of the traveled surface of all public roads and railroads; and within 200 feet (60.96 m), as measured along the surface of the ground from permanently located structures currently maintained for human habitation.	
"Fuelbreak"	4528(e)
"Functional Nesting Habitat" means habitat with a dominant and codominant tree canopy closure of at least 40% and a total canopy (including dominant, codominant, and intermediates) of at least 60%. Usually the stand is distinctly multi-layered with an average stem diameter in dominant, codominant conifers, and hardwoods > 11″ D.B.H. The stand usually consists of multi-specied trees (including hardwoods) of mixed sizes. All nests, snags, down logs, and decadent trees shall also be considered as part of the habitat. Nesting substrates are provided by broken tops, cavities, or platforms such as those created by a hawk or squirrel nest, mistletoe broom, or accumulated debris. Owls are known to occasionally nest in less than optimal habitat. Nesting areas may also be associated with topographical relief and aspect which alter microclimates.	
"Functional Roosting Habitat" during the territorial season consists of stands where average stem diameter is > 11″ D.B.H. among dominant and codominant trees. Hardwood and conifers provide an average of at least 40% canopy closure but the stand can have a high degree of variability. Stand size and configuration must be sufficient to provide multiple perch sites which are suitable for protection from various environmental conditions including wind, heat, and precipitation.	
"Functional Foraging Habitat" is dependent on the presence and availability of prey on the forest floors or in the canopy; presence of accessible perching limbs; and adjacency to stands with canopy closures > 40%. Average stem diameter is usually 6″ D.B.H. for hardwoods and > 11″ D.B.H. for conifers among dominant, codominant, and the total overhead canopy closure, including intermediate trees, is at least 40%. Where overall canopy closure is > 80%, forage habitat is limited to areas with ample flight space below limbs and among stems. Habitat between 40 and 25% must be verified by local information.	
"Functional Wildlife Habitat" means vegetative structure and composition which function to provide essential characteristics for wildlife feeding, reproduction, cover and movement between habitats. The habitat components must be in sufficient quantities and arrangement to support the diverse assemblage of wildlife species that are normally found on or use forestlands within that area. Within this definition the following terms mean: Function(al): Refers to ecological relationships between both the habitat components and needs of the species which allows for all of the normal life cycle including, migration corridors, genetic pathways, food availability, temperature protection, moisture retention, nutrient cycling, denning, spawning, nesting, and other functions necessary to complete a life cycle. Composition: Refers to the types, abundance, distribution, and ecological relationships of species of terrestrial and aquatic vegetation within the forest stand including, dominance, richness, trophic levels and other population and community features at levels which affect the long-term survival of individual forest species. Structure: Refers to the physical arrangement of and relationships between living and non-living terrestrial and aquatic components within the forest stand including, age, size, height and spacing of live vegetation in the forest in addition to seeps, spawning gravels, pools, springs, snags, logs, den trees, meadows, canopy coverage, levels of canopies and other physical features necessary to allow species to function.	
"Good cause is shown" as used in PRC 4590 means when: the plan submitter presents facts which describe the factors beyond the control of the plan submitter and his or her agents, such as market conditions, weather, technical difficulties or natural disaster, that have prevented feasible completion of the timber operation within the effective period of the plan.	
"Hard frozen conditions" means those frozen soil conditions where loaded or unloaded vehicles can travel without sinking into the road surfaces to a depth of more than six inches over a distance of more than 25 feet.	
"Harm" means an act where it actually kills or injures a federally listed wildlife species. Such acts may include a significant habitat modification or degradation which actually kills or injures wildlife by significantly impairing essential behavior patterns, including breeding, feeding or sheltering.	
"Harass" means an intentional or negligent act or omission which creates the likelihood of injury to a federally listed wildlife species by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding or sheltering.	
"Harvesting method" means the process used to cut and remove timber. It may have as its silvicultural objective either stand regeneration or intermediate treatments.	
"Historic Road" means an existing road, including associated landings and watercourse crossings, that is not part of the permanent road network and that has not been maintained or proactively abandoned.	
"Inner Gorge" means a geomorphic feature formed by coalescing scars originating from landsliding and erosional processes caused by active stream erosion. The feature is identified as that area beginning immediately adjacent to the stream channel below the first break in slope.	
"Intermediate treatments" means harvests conducted to modify or guide the development of an existing stand of trees, but not to replace (regenerate) the stand with a new one. The treatments involve the removal of trees to allow expansion of the crowns and root systems.	
"Intermediates" means trees with crowns below the general level of the forest canopy and receiving little light from either above or the sides. Intermediates have minimally-developed crowns and are crowded on the sides.	
"Ladder Fuels" means vegetative fuels that can spread a fire vertically between or within a fuel type.	
"Lake" is a permanent natural body of water of any size, or an artificially impounded body of water having a surface area of at least one acre, isolated from the sea, and having an area of open water of sufficient depth and permanency to prevent complete coverage by rooted aquatic plants.	
"Lake Tahoe Region" means those portions of Placer and El Dorado Counties lying within the authority of the Tahoe Regional Planning Agency.	
"Landing" means that area where forest products are concentrated prior to loading for transportation to market.	
"Late succession forest stands" means stands of dominant and predominant trees that meet the criteria of WHR class 5M, 5D, or 6 with an open, moderate or dense canopy closure classification, often with multiple canopy layers, and are at least 20 acres in size. Functional characteristics of late succession forests include large decadent trees, snags, and large down logs.	
"Layout" means a prepared bed into which a tree is felled. A layout is generally constructed by tractor and is intended to reduce the breakage that occurs during the felling of trees.	
"License"	4524
"Listed Species" means a plant or animal species which is listed as rare, threatened or endangered under federal or state law, or a sensitive species by the Board.	
"Live and healthy" as used in PRC 4528(b)(2) means a tree that is a potential crop tree.	
"Log culvert" means a drainage structure consisting of logs or logs and fill material placed in a drainage in such a manner as to allow for the passage of water. Also commonly referred to as a "Humboldt crossing."	
"Logging area" means that area on which timber operations are being conducted as shown on the map accompanying the Timber Harvesting Plan, and within 100 feet as measured on the surface of the ground, from the edge of the traveled surface of appurtenant roads owned or controlled by the timberland owner, timber operator or timber owner, and being used during the harvesting of the particular area. The traveled surface of such appurtenant roads is also part of the logging area.	
"Logging road" means a road other than a public road used by trucks going to and from landings to transport logs and other forest products.	
"Logging Road Surface Drainage Network" means the system of drainage facilities and structures associated with logging roads, which are used to control, divert, or cross over water.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Long–term significant adverse effect on fish, wildlife, or listed species known to be primarily associated with late succession forest stands" means an effect that creates an identifiable trend or set of conditions which provide a substantial level of scientific evidence that a population of one or more species of fish, wildlife, or listed species primarily associated with late succession forest stands will become extirpated from a significant portion of its current range in the Forest District within the planning horizon.	
"Long Term Sustained Yield" means the average annual growth sustainable by the inventory predicted at the end of a 100 year planning period.	
For the Coast Forest District:	
"Lopping" means severing and spreading of slash so that no part of it remains more than 30 inches (76.2 cm) above the ground.	
For the Northern Forest District:	
"Lopping" means severing and spreading of slash so that no part of it remains more than 30 inches (76.2 cm) above the ground. *(Reference: Section 4551.5, Public Resources Code.)*	
For the Southern Forest District:	
"Lopping" means severing limbs from the exposed sides of the unutilized portions of trees so that portions of the severed limbs are in contact with the ground. *(Reference: Section 4551.5, Public Resources Code.)*	
"Lopping For Fire Hazard Reduction" means severing and spreading slash so that no part of it generally remains more than 30 inches above the ground except where a specific rule provides another standard.	
"Mainline road" [*Effective until 1–1–2006.*]: Roads on non federal lands that are used as the primary route for the transportation of forest products that are fed by arterial (secondary) haul roads.	
"Mainline road" [*Effective 1–1–2006.*] means roads on non federal lands that are used as the primary route for the transportation of forest products that are fed by arterial (secondary) haul roads.	
"Manmade watercourse" means a watercourse which is constructed and maintained to facilitate man's use of water and includes, but is not limited to ditches and canals used for domestic, hydropower, irrigation, and other beneficial uses (manmade watercourses as defined do not include roadside drainage ditches).	
"Marking" means a painted horizontal band or other distinguishing designation which is visible from two sides of a tree, and a stump designation, if required in the THP, which is visible after felling operations.	
For the Northern Forest District:	
"Meadows and wet areas" means those areas which are moist on the surface throughout most of the year and/or support aquatic vegetation, grasses and forbs as their principal vegetative cover. *(Reference: Section 4562.7, Public Resources Code.)*	
For the Southern Forest District:	
"Meadows and Wet Areas" means those areas which are moist on the surface throughout most of the year and/or support aquatic vegetation, grasses and forbs as their principal vegetative cover.	
"Mechanical site preparation" means all site preparation activities undertaken by motorized heavy equipment to prepare an area for regeneration.	
"Minor deviations" means any change, minor in scope, in a plan which can reasonably be presumed not to make a significant change in the conduct of timber operations and which can reasonably be expected not to significantly adversely affect timberland productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment.	
"Native Americans" means the Native American Heritage Commission and those local Native American tribal groups and individuals to be notified or consulted pursuant to the Forest Practice Rules as defined in the Native American Contact List.	
"Native American Contact List" means the list that identifies those Native Americans that must be notified or consulted pursuant to the Forest Practice Rules. The Department shall maintain this list utilizing information and advice provided by the Native American Heritage Commission (NAHC). The list shall identify the appropriate contacts to be notified or consulted during preparation or review of Timber Harvesting Plans. The list shall be organized by counties or portions of counties and shall include all local federally recognized tribal governments. It shall also include other California Native American organizations or individuals that the Department places on the list based upon demonstrated knowledge concerning the location of archaeological or cultural resources within California. The NAHC shall also be included as a required contact for each county on the list to enable the NAHC to complete a check of their Sacred Lands File which is authorized by PRC §§ 5097.94(a) and 5097.95. The list shall be posted on the Department's internet site to make it readily available to RPFs and others needing the list to comply with these rules. The list shall also be available by mail through written request to the Department's Region offices. At least twice annually, the Department shall update the list to provide the most current information. Each update will reflect a new revision date, so users of the list may identify which version of the list they were using.	
"Native American Archaeological or Cultural Site" means any archaeological or other cultural resource that is associated with Native Americans. These sites must be identifiable by a specific physical location containing specific physical attributes. Native American archaeological or cultural sites include but are not limited to: village sites, camp sites, petroglyphs, prehistoric trails, quarries, milling stations, cemeteries, ceremonial sites or traditional cultural sites and properties.	
"Nest site" means the geographic area and surrounding habitat that includes the nest tree(s), perch tree(s), screening tree(s), and replacement tree(s) of a bird species of special concern.	
"Nest tree" means the tree, snag, or other structure that contains the nest of a species of special concern.	
"Occupied nest" means a nest currently being used by one or more adult birds with eggs or young present.	
"Overhanging bank" means a condition in which the upper portion of a cut slope projects (hangs) over the lower portion of a cut slope.	
"Overstory" means that portion of the trees, in a forest of more than one story, forming the upper canopy layers.	
"Owl habitat" means Type A, B, or C owl habitat or those areas with functional foraging habitat, functional nesting habitat, and functional roosting habitat which support the owl's biological needs for breeding, sheltering, and feeding. An area of habitat could have characteristics which support all of the functional needs for nesting, roosting, and foraging or combination of those functions. Because owls are known to occasionally inhabit less than optimal forest structure, local information can be used to justify the modification of functional habitat definitions.	
"Past projects" means previously approved, on–going, or completed projects which may add to or lessen impact(s) created by the THP under consideration. These generally include, but may not be limited to, projects completed within the last ten years.	
"Perch tree" means a tree or snag identified and designated by the RPF or supervised designee in consultation with the Department of Fish and Game as utilized periodically by a species of special concern for nesting, territorial defense, or as an approach to its nest or feeding area.	
"Permanent road" means a road which is planned and constructed to be part of a permanent all–season transportation facility. These roads have a surface which is suitable for hauling of forest products throughout the entire winter period and have drainage structures, if any, at watercourse crossings which will accommodate the fifty–year flood flow. Normally they are maintained during the winter period.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Permanent Road Network" means the permanent, seasonal, and temporary roads that provide the infrastructure necessary for timber operations and forest management.	
"Permanent watercourse crossing" means a watercourse crossing that will be constructed to accommodate the estimated fifty-year flood flow and will remain in place when timber operations have been completed.	
"Person"	4525
"Plan" means: (a) Timber Harvesting Plan (THP) as described in PRC 4582. (b) Nonindustrial Timber Management Plan (NTMP) as described in PRC 4593.2(e). (c) Program Timber Harvesting Plan (PTHP) as described in 14 CCR 1092 and 1092.1.	4582
"To plan" means examination of feasible alternatives, field review of alternatives, and reflection of this examination and field review in choice of road or landing locations, and other factors, together with associated mitigation measures in the harvest plan.	
"Planning Watershed" means the contiguous land base and associated watershed system that forms a fourth order or other watershed typically 10,000 acres or less in size. Planning watersheds are used in planning forest management and assessing impacts. The Director has prepared and distributed maps identifying planning watersheds plan submitters must use. Where a watershed exceeds 10,000 acres, the Director may approve subdividing it. Plan submitters may propose and use different planning watersheds, with the director's approval. Examples include but are not limited to the following: when 10,000 acres or less is not a logical planning unit, such as on the Eastside Sierra Pine type, as long as the size in excess of 10,000 acres is the smallest that is practical. Third order basins flowing directly into the ocean shall also be considered an appropriate planning watershed.	
"Predominant" trees are those whose crowns are above the general level of the canopy and are significantly older than the surrounding stand.	
"Prescribed maintenance period" means the period, beginning with filing of the work completion report provided the report is approved during which erosion controls which are required and constructed as part of a timber operation must be maintained in a functional condition. The period shall not exceed three years from the filing of the work completion report provided that the report is subsequently approved by the director.	
"Professional Archaeologist" means a person who holds at least a Bachelor of Arts or Science degree in Anthropology or Archaeology from a college or university and has completed at least three years of professional experience in research, writing, or project supervision in archaeological investigation or cultural resource management and protection programs.	
Program Timberland Environmental Impact Report (PTEIR), means a Program Environmental Impact Report in compliance with CEQA for ongoing management of timberlands, including timber operatrions and related land management practices which require permits from public agencies. Subsequent PTHPs shall be tied to a PTEIR.	
Program Timber Harvesting Plan (PTHP), means a Timber Harvesting Plan prepared by an RPF which relies upon a PTEIR for CEQA compliance and meets the standards of PRC Section 4581. PTHPs must be within the scope of the PTEIR, the rules of the board and other applicable state laws.	
"Project" means an activity which has the potential to cause a physical change in the environment, directly or ultimately, and that is 1) undertaken by a public agency, or 2) undertaken with public agency support, or 3) requires the applicant to obtain a lease, permit, license or entitlement from one or more public agencies. This includes Timber Harvesting Plans.	
"Public fire agency" means California Department of Forestry and Fire Protection, United States Forest Service, Bureau of Land Management, and other federal fire protection agencies, counties providing fire protection pursuant to PRC 4129, or city, county, or local fire agencies.	
"Public road" means a road open to the general public which is (a) in the State or County road system, or (b) a road on which a public agency has a deeded, unlimited easement.	
"Quality of water" means the level of water quality as specified by the applicable Water Quality Control Plan, including its water quality objectives, policies and prohibitions.	
"Range of the Northern Spotted Owl" means the following counties: Marin, Napa, Del Norte, Mendocino, Colusa, Shasta (north of Highway 299, west of Interstate 5), Tehema (west of Interstate 5), Sonoma, Humboldt, Lake, Trinity, Siskiyou, Glenn (west of Interstate 5), Modoc (west of Highway 139).	
"Reasonably Foreseeable Probable future projects" means projects with activities that may add to or lessen impact(s) of the proposed THP including but not limited to: (1) if the project is a THP on land which is controlled by the THP submitter, the THP is currently expected to commence within but not limited to, 5 years or, (2) if the project is a THP on land which is not under the control of the THP submitter the THP has been submitted or on-the-ground work including THP preparation has materially commenced, or (3) if the project is not a THP, and a permit is required from a public agency, and the project is under environmental review by the public agency, or (4) if the project is one which is under taken by a public agency, the agency has made a public announcement of the intent to carry out the project.	
"Reconstructed roads" means those existing roads that are to be restored or improved to make them useable for hauling forest products.	
"Reconstructed" does not include routine or annual maintenance or rehabilitation that does not require substantial change in the original prism of the road.	
"Reconstruction of existing tractor roads" means restoring or improving the surface of pre-existing tractor roads or skid trails in a manner that requires substantial cutting or filling of soil or rock.	
"Regeneration method" means the process used to secure replacement of a forest stand. Section 895.1, Table 1, entitled "Relationship of Standard Silvicultural Treatments to Objectives and Stand Conditions" shows the general relationships of regeneration methods and intermediate treatments to even-aged and uneven-aged management.	
"Registered Professional Forester" means a person who holds a valid license as a professional forester pursuant to article 3, chapter 2, division 1 of the Public Resources Code.	
"Replacement Tree" means a tree or snag within the nest site of a species of special concern identified and designated by the RPF or supervised designee in consultation with the Department of Fish and Game as being suitable as a replacement for a nest or perch tree should the existing tree become unusable.	
"Reproduction" means young trees of commercial species that are less than 4 inches (10.2 cm) d.b.h., i.e., seedlings and saplings.	
"Resource conservation standards"	4525.3
"Rigging" means the cable (wire rope), blocks, and hook equipment used in cable yarding systems.	
"Riparian" means the banks and other adjacent terrestrial environs of lakes, watercourses, estuaries, and wet areas, where transported surface and subsurface freshwaters provide soil moisture to support mesic vegetation.	
"Rip-rap" means rock or other suitable material placed to prevent or reduce erosion.	
"Road failure" means damage to the roadbed not permitting vehicular passage for hauling of forest products, but does not mean cut bank or fill sloughing incidental to road settling.	
"Road Management Plan" means a document submitted as part of a plan that describes the long-term management of a road system in one or more planning watersheds on timberlands. A RMP identifies, evaluates, and proposes approaches to avoid or mitigate significant environmental effects that could result from the construction, reconstruction, use, maintenance, abandonment, and management of roads related to forest resource management activities on timberlands.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Road Management Unit" means the part or parts of timberland ownership(s) that are analyzed together as part of an RMP and may include areas of one or more timberland ownerships. A Road Management Unit shall be limited to one Forest District unless otherwise approved by the Director. The landowner has the option of including within the Road Management Unit the entire ownership(s) and any areas outside the ownership that the Director agrees are part of a logical Road Management Unit based upon regulatory and ecological factors.	
"Rolling dip" means a drainage facility that is constructed to remain effective while allowing passage of motor vehicles at reduced road speed.	
"Rules"	4525.5
"Sampling area" means the area delineated on a map accompanying a report of stocking showing the area sampled by one of the procedures specified in 14 CCR 10172.	
"Saturated soil conditions" means that site conditions are sufficiently wet that timber operations displace soils in yarding or mechanical site preparation areas or displace road and landing surface materials in amounts sufficient to cause a turbidity increase in drainage facilities that discharge into Class I, II, III, or IV waters, or in downstream Class I, II, III, or IV waters that is visible or would violate applicable water quality requirements. In yarding and site preparation areas, this condition may be evidenced by: a) reduced traction by equipment as indicated by spinning or churning of wheels or tracks in excess of normal performance, b) inadequate traction without blading wet soil, c) soil displacement in amounts that cause visible increase in turbidity of the downstream waters in a receiving Class I, II, III, or IV waters, or in amounts sufficient to cause a turbidity increase in drainage facilities that discharge into Class I, II, III, or IV waters, or d) creation of ruts greater than would be normal following a light rainfall. On logging roads and landing surfaces, this condition may be evidenced by a) reduced traction by equipment as indicated by spinning or churning of wheels or tracks in excess of normal performance, b) inadequate traction without blading wet soil, c) soil displacement in amounts that cause visible increase in turbidity of the downstream waters in receiving Class I, II, III, or IV waters, or in amounts sufficient to cause a turbidity increase in drainage facilities that discharge into Class I, II, III, or IV waters, d) pumping of road surface materials by traffic, or e) creation of ruts greater than would be created by traffic following normal road watering, which transports surface material to a drainage facility that discharges directly into a watercourse. Soils or road and landing surfaces that are hard frozen are excluded from this definition.	
"Scattered parcel" means a timberland ownership within a planning watershed is less that 10% of the area of the watershed and does not adjoin a planning watershed where the timberland ownership is greater than 20% of the watershed.	
"Screening trees" means those trees or snags identified and designated by the RPF or supervised designee in consultation with the Department of Fish and Game as necessary to protect nest trees of species of special concern from the impacts of human activities and natural elements.	
"Seasonal road" means a road which is planned and constructed as part of a permanent transportation facility where: (1) commercial hauling may be discontinued during the winter period, or (2) the landowner desired continuation of access for fire control, forest management activities, Christmas tree growing, or for occasional or incidental use for harvesting of minor forest products, or similar activities. These roads have a surface adequate for hauling of forest products in the non–winter periods, and in the extended dry periods or hard frozen conditions occurring during the winter period; and have drainage structures, if any, at watercourse crossings which will accommodate the fifty–year flood flow. Some maintenance usually is required.	
"Seed Tree" a thrifty vigorous tree of commercial species of seed bearing age, with full crown, and free from damage caused by timber operations and hazard abatement which would impair seed productivity.	
"Sensitive Species" means those species designated by the Board of Forestry pursuant to 14 CCR 898.2(d). These species are the Bald eagle, Golden eagle, Great blue heron, Great egret, Northern goshawk, Osprey, Peregrine falcon, California condor, Great gray owl, Northern Spotted Owl, and Marbled Murrelet.	
"Sidecast" means excess earthen material pushed or dumped to or over the side roads or landings.	
"Significant adverse impact on the environment" means a substantial, or potentially substantial, adverse change in any of the physical conditions within the area affected by the project including land, air, water, minerals, flora, fauna, ambient noise, and objects of historic or aesthetic significance. An economic or social change by itself shall not be considered a significant effect on the environment. A social or economic change related to a physical change may be considered in determining whether the physical change is significant.	
"Significant archaeological or historical site" means a specific location which may contain artifacts, or objects and where evidence clearly demonstrates a high probability that the site meets one or more of the following criteria: (a) Contains information needed to answer important scientific research questions. (b) Has a special and particular quality such as the oldest of its type or best available example of its type. (c) Is directly associated with a scientifically recognized important prehistoric or historic event or person. (d) Involves important research questions that historical research has shown can be answered only with archaeological methods. (e) Has significant cultural or religious importance to Native Americans as defined in 14 CCR § 895.1.	
"Silviculture" is the theory and practice of controlling the establishment, composition and growth of forests.	
"Silvicultural system" is the planned program of forest stand treatments during the life of a stand. It consists of a number of integrated steps conducted in logical sequence leading to maintaining a forest stand of distinctive form for the level of management intensity desired.	
"Silvicultural methods" in Public Resources Code section 4852(d) is referred to as "silvicultural systems" for purposes of these regulations.	
"Site classification"	4528(d)
"Site preparation" means any activity involving mechanical disturbance of soils or burning of vegetation which is performed during or after completion of timber harvesting and is associated with preparation of any portion of a logging area for artificial or natural regeneration.	
"Site preparation addendum" means an addendum to the THP which describes proposed site preparation areas, site preparation practices, and related measures.	
"Site preparation area" means any portion of a logging area in which site preparation is conducted.	
"Site survey area" means: the area where a field survey is conducted for archaeological and historical sites which includes the entire logging area except appurtenant roads and those portions of the 100 foot strip along such roads unless there are timber operations to remove commercial wood products that could affect an archaeological or historical site.	
"Skidding" (see "yarding" in this section).	
"Slash"	4525.7
"Slide areas" are areas indicated by the following characteristics: 1. Shallow–seated Landslide. An area where surface material (unconsolidated rock colluvium, and soil) has moved downslope along a relatively steep, shallow failure surface. The failure surface is generally greater than 65% in steepness and less than 5 feet in depth. It is usually characterized by: (1) a scarp at the top; (2) a concave scar below the scarp, where surface material has been removed; and sometimes (3) a convex area at the bottom where slide material is deposited. Vegetation is usually disturbed (tilted trees), anomalous (younger, even–aged stand), or absent (bare soil). Minor bank slumps are excluded from this definition. 2. Deep–seated Landslide. An area where landslide material has moved downslope either as a relatively cohesive mass (rotational slides and translational block slides) or as an irregular, hummocky mass (earthflow). The failure surface is generally deeper than five feet and is usually well–exposed at the head scarp. Complex failures with rotational movement at the head and translational movement or earthflows downslope are common. Vegetation on rotational and translational slides is relatively undisturbed, although trees and shrubs may be pistol–butted or tilted. Deep–seated landsides may have intermediate tension cracks, scraps, and shallow slides superimposed throughout the slide mass.	

Defined word or phrase	PRC Sec. Containing Ref. Def.
Deep–seated landslide risk is usually associated with cohesive soils.	
"Small Group" means groups of trees in areas up to 2 1/2 acres.	
"Snag" means a standing dead tree or standing section thereof, regardless of species.	
"Southern Subdistrict" of the Coast Forest District is comprised of the timberlands in the Counties of Santa Cruz, Santa Clara, San Mateo, San Francisco and Marin situated within the boundaries of the Coast Forest District.	
"Special Treatment Areas" are specific locations which contain one or more of the following significant resource features which may be at risk during timber operations.	
a. Within 200 feet of the watercourse transition line of federal or state designated wild and scenic rivers;	
b. Within 200 feet of national, state, regional, county or municipal park boundaries;	
c. Key habitat areas of federal or state designated threatened, rare or endangered species;	
d. Coastal Commission special treatment areas;	
e. Within 200 feet of state designated scenic highways or within scenic corridors established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 and Section 154 of Chapter 1 of Division 1 of the Streets and Highways Code.	
"Species" means a native species or subspecies of animal or plant in California.	
"Specific Forest" means the area delineated under a timber management plan.	
"Spotted Owl Resource Plan" means a plan that demonstrates an approach to preventing a taking of the northern spotted owl while conducting timber harvest operations. A Spotted Owl Resource Plan necessarily involves more than one timber harvest plan area.	
"Stable operating surface" means that throughout the period of use, the operating surface of a logging road or landing does not either (1) generate waterborne sediment in amounts sufficient to cause a turbidity increase in downstream Class I, II, III, or IV waters, or in amounts sufficient to cause a turbidity increase in drainage facilities that discharge into Class I, II, III, or IV waters or, that is visible or would violate applicable water quality requirements; or (2) channel water for more than 50 feet that is discharged into Class I, II, III, or IV waters.	
"Stand Vigor" is a measure of stand health. A measure of good stand vigor is an exhibition of characteristics which include large live crowns or leaf surface area, high needle retention, pointed tops, crown dominance relative to other trees in the same age or size class, and disease–free.	
"Stocking"	4528(c)
For the Coast Forest District:	
"Stocking Standards" mean the resource conservation standards established in 14 CCR 912.7 defining minimum acceptable stocking of an area with commercial tree species *(Ref. 14 CCR 912)* after the harvesting of timber therefrom.	
For the Northern Forest District:	
"Stocking standards" mean the resource conservation standards established in 14 CCR 932.7 defining minimum acceptable stocking of an area with commercial tree species (Ref. 14 CCR 932) after harvesting timber therefrom. *(Reference: Section 4561, Public Resources Code.)*	
For the Southern Forest District:	
"Stocking standards" mean the resource conservation standards established in 14 CCR 952.7 defining minimum acceptable stocking of an area with commercial tree species (Ref. 14 CCR 952) after harvesting timber therefrom. *(Reference: Section 4561, Public Resources Code.)*	
"Stream"	4528(f)
For the Coast Forest District:	
"Stream and Lake Protection Zone" means a strip of soil and vegetation along both sides of a stream or around the circumference of a lake defined as follows: 100 feet (30.48 m) as measured along the surface of the ground from the stream and lake transition line of any stream or lake which supports and is used by trout or anadromous fish at any time of the year, and downstream therefrom; and within 50 feet (15.24 m) as measured along the surface of the ground from the stream or lake transition line of any other streams or lakes as defined in "Stream" (14 CCR 895.1) or "Lake" in this section except that the above definition may be modified as it pertains to a particular plan when the forester (RPF) and the Director agree, after on–the–ground inspection, if requested by either party, to either increase or decrease the above distances not to exceed 50%, based on soil, slope, or climatic factors necessary to protect soil, water, or fish and wildlife resources. Such changes will be designated on the plan.	
For the Northern Forest District:	
"Stream and Lake Protection Zone" means a strip of soil and vegetation along both sides of a stream or around the circumference of a lake defined as follows:	
(a) 150 feet (45.72 m), as measured along the surface of the ground, from the stream or lake transition line of any stream or lake in areas with an extremely high Estimated Erosion Potential.	
(b) 100 feet (30.48 m), as measured along the surface of the ground, from the stream or lake transition line of any stream or lake in areas with high Estimated Erosion Potential.	
(c) 50 feet (15.24 m), as measured along the surface of the ground, from the stream or lake transition line of any stream or lake in areas with a moderate or low Estimated Erosion Potential.	
The forester (RPF) and the Director may agree, after on–the–ground inspection, if requested by either party, to either increase or decrease the above distances not to exceed 50% on soil, slope, or climatic factors necessary to protect soil, water, or fish and wildlife resources. Such changes will be designated in the plan. *(Reference: Section 4562.7, Public Resources Code.)*	
For the Southern District:	
"Stream and Lake Protection Zone" means a required strip of land on each side of perennial streams, lakes and those portions of intermittent streams which support trout at any time of the year, and downstream therefrom; to protect existing water quality and fish and wildlife habitat. The width of the zone shall be determined by on–the–ground investigation. The investigation shall consider:	
(a) Soil type and permeability,	
(b) The type or types, stabilizing effect, and amount of vegetative cover,	
(c) The slope of the land within the zone and its effectiveness in preventing sediment from reaching streams or lakes.	
The zone will be 100 feet (30.48 m) from the stream transition line of a perennial stream or lake provided however that said distance may be 50 feet (15.24 m) where the Erosion Potential is low or medium (moderate).	
The forester (RPF) and the Director may agree, after on–the–ground inspection, if requested by either party, to either increase or decrease the above distances not to exceed 50%, based on soil, slope, or climatic factors necessary to protect soil, water, or fish and wildlife resources. Such changes will be designated on the plan. *(Reference: Section 4562.7, Public Resources Code.)*	
"Substantial adverse change" means demolition, destruction, relocation, or alteration such that the significance of an archaeological or historical site would be impaired.	
"Substantial deviation" means changes that are not "minor deviations" as defined in 895.1 and are presumed to be substantial deviations because they could significantly affect the conduct of timber operations and potentially could have a significant adverse affect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation and aesthetic enjoyment. Such actions include, but are not limited to:	
(1) Change in location of timber harvesting operations or enlargement of the area to be cut.	
(2) Change in the silvicultural method and cutting system on any portion of the plan area.	
(3) Change in type or location of logging (yarding) system or basic type of equipment.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
(4) Change in location, nature or increase in length of proposed logging roads incorporating one or more of the following criteria:	
(A) Any road in the Watercourse and Lake Protection Zone or where sidecast will extend into the Watercourse and Lake Protection Zone.	
(B) Any road located in an extreme Erosion Hazard Rating area in the Coast Forest District, extreme Estimated Erosion Potential area in the Northern Forest District, or a high Erosion Potential area in the Southern Forest District.	
(C) Any road where the average side slope exceeds 50%.	
(D) Any road where unstable areas, active soil movement, or slide areas must be traversed.	
(E) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original plan.	
(F) Any road extension of more than 600 feet (182.9 m).	
(5) Any use of existing roads not shown in the original plan when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow for vehicle passage.	
(6) Use of any roads not shown in the plan which would affect the key habitat of rare or endangered species or other critical wildlife habitat.	
(7) Enlargement of landings where such enlargement was not justified in the original plan.	
(8) Any change of operation in, or designation of, the Watercourse and Lake Protection Zone.	
(9) Any downgrading of stream classification.	
(10) A change to winter operation where summer operations was previously specified.	
"Substantially damaged timberlands" means areas of timberland where wildfire, insects, disease, wind, flood, or other blight caused by an act of God occurs after January 1, 1976 and the damage reduced stocking below the requirements of PRC 4561 or other higher minimum stocking requirements that may be applicable under Articles 3 and 11 of Subchapter 4, Article 3 of Subchapter 5, and Articles 3 and 11 of Subchapter 6.	
"Supervised Designee" means a person who need not be an RPF, acting as an assistant under the supervision of an RPF pursuant to Article 3, Chapter 2, Division 1 of the Public Resources Code. For the purposes of this definition, "supervision" means the RPF must perform regular and timely quality control, work review and inspection, both in the office and in the field, and be able to take, or effectively recommend, corrective actions where necessary; the frequency of review, inspection and guidance shall take into consideration the experience of the non–RPF and technical complexity of the job, but shall be sufficiently frequent to ensure the accomplishment of work to professional standards.	
"Suppressed" trees are those which have their crowns in the lower layers of the canopy. They receive virtually no direct sunlight, and they are generally growing very slowly.	
"Surface cover" means the cover of litter, downed woody material (including slash, living vegetation in contact with the ground, and loose rocks (excluding rock outcrops)) that resist erosion by raindrop impact and surface flow.	
"Surface Fuel" means loose surface litter on the soil surface normally consisting of fallen leaves or needles, twigs, bark, cones and small branches that have not yet decayed enough to lose their identity.	
"Sustained Yield" means the yield of commercial wood that an area of commercial timberland can produce continuously at a given intensity of management consistent with required environmental protection and which is professionally planned to achieve over time a balance between growth and removal.	
"Take" means to harass harm, pursue, hunt, shoot, wound, kill, trap, capture, collect or to attempt to engage in any such conduct with regard to a federally listed species.	
"Temporary road" means a road that is to be used only during the timber operation. These roads have a surface adequate for seasonal logging use and have drainage structures, if any, adequate to carry the anticipated flow of water during the period of use.	
"THP" means Timber Harvesting Plan as described in PRC 4582.	
"Tight–lining" means to move rigging from one tailblock location to another and tightening the main line to pull the cable to the new position.	
"Timberland"	4526
"Timber falling limitation" is the term used when special falling techniques and falling practices are required for the protection of water quality and beneficial uses, and/or other forest resources.	
"Timber operations"	4527
"Timber operator"	4526.5
"Tractor operations" means any activity which is associated with timber operations and is performed by tractors or skidders.	
"Tractor roads" means constructed trails or established paths used by tractors or other vehicles for skidding logs. Also known as "skid trails".	
"Tractor yarding" means the system of skidding (transporting) logs by a self–propelled vehicle, generally by dragging the logs with a grapple or chokers.	
"Type A owl habitat" means timber stands that have as a minimum the following characteristics for live–tree structure.	
1. Canopy layers: The stand has two distinct tiers or is multi–layered with dominant conifers greater than 120 feet tall (trees greater than 90 feet tall on poor sites, less than site III, and for some montane tree species). Conifers or hardwoods dominate the canopy layers less than 120 feet tall.	
2. Canopy closure: The canopy closure of conifers greater than 120 feet tall (or greater than 90 feet tall on poor sites, less than Site III, and for some montane tree species) averages greater than 40 percent and not less than 20 percent. The total canopy closure for all trees, conifers or hardwoods, is greater than 60 percent.	
3. Large trees: The density of conifers greater than 35 inches d.b.h. averages more than nine stems per acre and not less than six stems per acre and includes a component of trees with sparse, broken, or dead tops.	
4. Medium trees: The density of conifers or hardwoods 18 to 35 inches d.b.h. averages more than 15 stems per acre and not less than 8 stems per acre.	
5. Small trees: The density of conifers or hardwoods less than 18 inches d.b.h. averages more than 50 stems per acre and not less than 20 stems per acre.	
"Type B owl habitat" means timber stands that have as a minimum the following characteristics for live–tree structure.	
1. Canopy layers: Moderately to strongly two–tiered or multi–layered with dominant conifers greater than 100 feet tall (greater than 70 feet tall on poor sites, less than site III, and for some montane tree species). Conifers or hardwoods dominate the canopy layers less than 100 feet tall.	
2. Canopy closure: The canopy closure of conifers greater than 100 feet tall (or greater than 70 feet tall on poor sites, less than site III, and for some montane tree species) averages greater than 40 percent and not less than 20 percent. The total closure for all trees, conifers or hardwoods, is greater than 60 percent.	
3. Large trees: The density of conifers greater than 35 inches d.b.h. averages more than six stems per acre and not less than two stems per acre.	
4. Medium trees: The density of conifers or hardwoods 18 to 35 inches d.b.h. averages more than 25 stems per acre and not less than 20 stems per acre.	
5. Small trees: The density of conifers or hardwoods less than 18 inches d.b.h. averages more than 50 stems per acre and not less than 20 stems per acre.	
"Type C owl habitat" means timber stands that have as a minimum the following characteristics for live–tree structure.	
1. Canopy layers: Uniform to moderately layered with dominant conifers or hardwoods 50 to 100 feet although low numbers of emergent trees greater than 100 feet tall may be present.	
2. Canopy closure: The canopy closure of conifers or hardwoods 50 to 100 feet tall averages greater than 40 percent and not less than 20 percent. The total canopy closure for all trees, conifers or hardwoods, is greater than 60 percent.	
3. Large trees: The density of conifers greater than 35 inches d.b.h. averages less than six stems per acre and may be absent.	
4. Medium trees: The density of conifers or hardwoods 18 to 35 inches d.b.h. averages more than 15 stems per acre, but may be absent.	

Defined word or phrase	PRC Sec. Containing Ref. Def.
5. Small trees: The density of conifers or hardwoods less than 18 inches d.b.h. averages more than 160 stems per acre and not less than 50 stems per acre. The average d.b.h. for all trees in the stand, including small, medium, and large trees is greater than 10 inches.	
"Understory"—Generally, trees and woody species growing under an overstory.	
"Unevenaged Management" means management of a specific forest, with the goal of establishing a well stocked stand of various age classes and permits the periodic harvest of individual or small groups of trees to realize the yield and continually establish a new crop.	
"Unique area" means special treatment areas defined in the 14 CCR 895.1, 912, 932, and 952.	
"Unstable areas" are characterized by slide areas or unstable soils or by some or all of the following: hummocky topography consisting of rolling bumpy ground, frequent benches, and depressions; short irregular surface drainages begin and end on the slope; tension cracks and head wall scarps indicating slumping are visible; slopes are irregular and may be slightly concave in upper halt and convex in lower half as a result of previous slope failure; there may be evidence of impaired ground water movement resulting in local zones the surface by sag ponds with standing water, springs, or patches of wet ground. Some or all of the following may be present: hydrophytic (wet site) vegetation prevalent; leaning, jackstrawed or split trees are common; piltol–butted trees with excessive sweep may occur in areas of hummock topography (note: leaning and pistol butted trees should be used as indicators of slope failure only in the presence of other indicators).	
"Unstable soils" may be indicated by the following characteristics:	
1. Unconsolidated, non–cohesive soils (coarser textured than Loam, as defined in Appendix I.A.1a of Board of Forestry Technical Rule Addendum No. 1 dated December 15, 1981) and colluvial debris including sands and gravels, rock fragments, or weathered granitics. Such soil are usually associated with a risk of shallow–seated landslides on slopes of 65% or more, having non–cohesive soils less than 5 feet deep in an area where precipitation exceeds 4 inches in 24 hours in a 5–year recurrence interval.	
2. Soils that increase and decrease in volume as moisture content changes. During dry weather, these materials become hard and rock–like exhibiting a network of polygonal shrinkage cracks and a blocky structure resulting from desiccation. Some cracks may be greater than 5 feet in depth. These materials when wet are very sticky, dingy, shiny, and easily molded.	
"Various age classes" means a stand with at least three distinct layers of tree crowns.	
"Vegetation protection" is the term used when special measures are required to prevent damage to vegetation for the protection of water quality, the beneficial uses of water, and/or other forest resources.	
"Waterbreak" means a ditch, dike, or dip, or a combination thereof, constructed diagonally across logging roads, tractor roads and firebreaks so that water flow is effectively diverted therefrom. Waterbreaks are synonymous with waterbars.	
"Watercourse" means any well–defined channel with distinguishable bed and bank showing evidence of having contained flowing water indicated by deposit of rock, sand, gravel, or soil, including but not limited to, streams as defined in PRC 4528(f). Watercourse also includes manmade watercourses.	
"Watercourse bank" means the portion of the chanel cross–section that confines the normal high water flow	
"Watercourse and Lake Protection Zone (WLPZ)" means a strip of land, along both sides of a watercourse or around the circumference of a lake or spring, where additional practices may be required for protection of the quality and beneficial uses of water, fish and riparian wildlife habitat, other forest resources, and for controlling erosion.	
"Watercourse or Lake Transition Line"	
(a) for a watercourse with an unconfined channel (a channel with a valley to width ratio at bankfull stage of 4 or greater) means that line defined by the landward margin of the most active portion of the channel zone area readily identified in the field by riverine hardwood and conifer trees at least twenty–five (25) years in age at breast height.	
(b) for a watercourse with a confined channel means that line that is the outer boundary of a watercourse's 20–year return interval flood event floodplain. This outer boundary corresponds to an elevation equivalent to twice the maximum depth of the adjacent riffle at bankfull stage. The bankfull stage elevation shall be determined by field indicators and may be verified by drainage area/bankfull discharge relationships.	
(c) for a lake, it is that line closest to the lake where riparian vegetation is permanently established.	
[The following definitions in italics are effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]	
"Watersheds with Coho Salmon" means any planning watershed(s) where coho salmon (Oncorhynchus kisutch) have been documented by the Department of Fish and Game to be present during or after 1990. In Watersheds with Coho Salmon, the following definitions apply:	
"Connected Headwall Swale" means a geomorphic feature consisting of a concave depression, with convergent slopes typically of 65 percent or greater, that is connected to a watercourse or lake by way of a continuous linear depression. A linear depression interrupted by a landslide deposit is considered to be continuous.	
"Hydrologic Disconnection" means the removal of direct routes of drainage or overland flow of road runoff to a watercourse or lake by directing drainage or overland flow onto stable portions of the forest floor to dissipate energy, facilitate percolation, and resist or prevent erosion or channelization.	
"Inside Ditch Hydraulic Capacity" means the ability of an inboard ditch to contain flow from a runoff event without overflowing to the road surface or substantially downcutting the inboard ditch.	
"Road Decommissioning" means the temporary or permanent abandonment of a road prism and associated landings resulting in maintenance–free drainage and erosion control. This includes removal or stabilization of drainage structures and fills, as well as unstable road and landing fills, hydrologic disconnection of the road prism, stabilization of exposed excavated areas or material, and application of measures to prevent and control erosion.	
"Road Maintenance" means activities used to maintain and repair roads involving minor manipulation of the road prism to produce a stable operating surface and to ensure road drainage facilities, structures, cutbanks and fillslopes are kept in a condition to protect the road, minimize erosion, and to prevent sediment discharge into a watercourse or lake. Examples of road maintenance include shaping and/or rocking a road surface; installation and maintenance of rolling and critical dips; restoring functional capacity of inboard ditches, cross drains, or culverts; and repairing water bars.	
"Road Prism" means all parts of a road including cut banks, ditches, road surfaces, road shoulders, and road fills.	
"Scour" means the process of erosion by flowing water.	
"Sediment Filter Strip" means a structure or vegetation that substantially prevents concentration, transport, and delivery of sediment to a watercourse or lake by reducing velocity and filtering water through features such as gradual slopes treated with vegetation, gentle slopes, woody debris and mulch or settling basins.	
"Stable Operating Surface" means a road or landing surface that can support vehicular traffic and that routes water off of the road surface or into drainage facilities without concentrating flow in ruts (tire tracks), pumping of the road bed, or ponding flow in depressions. A stable operating surface shall include a structurally sound road base appropriate for the intended use. The number, placement, and design of drainage facilities or drainage structures on a stable operating surface prevents the transport of fine–grained materials from the road or landing surface into watercourses in quantities deleterious to the beneficial uses of water.	
"Watercourse Sideslope" means the hillslope immediately adjacent to a watercourse or lake measured from the watercourse or lake transition line to a point 100 feet upslope.	

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Watercourse Sideslope Class" means the steepness of the watercourse sideslope categorized into one of three classes: <30 percent, 30 percent — 50 percent, > 50 percent). Where watercourse sideslope configurations are variable, a weighted average of the percent slope shall be used to determine the watercourse sideslope class. The weighted average shall be calculated based on distances of 200 feet or less along the watercourse.	
"Watersheds with threatened or impaired values" means any planning watershed where populations of anadromous salmonids that are listed as threatened, endangered, or candidate under the State or Federal Endangered Species Acts with their implementing regulations, are currently present or can be restored.	
"Wet Meadows and other wet areas" mean those natural areas except cutover timberland which are moist on the surface throughout most of the year and support aquatic vegetation, grasses and forbs as their principal vegetative cover.	
"While giving consideration" means the selection of those feasible silvicultural systems, operating methods and procedures which substantially lessen significant adverse impact on the environment and which best achieve long-term, maximum sustained production of forest products, while protecting soil, air, fish and wildlife, and water resources from unreasonable degradation, and which evaluate and make allowance for values relating to range and forage resources, recreation and aesthetics, and regional economic vitality and employment.	
"Winter period" means the period between November 15 to April 1, except for purposes of installing drainage facilities and structures, waterbreaks and rolling dips, in which case the period shall be October 15 to May 1. *[Effective until 1-1-2000]. Text version effective through 12-31-99 retained for reference.*	
"Winter period" means the period between November 15 to April 1, except as noted under special County Rules at 14 CCR, Article 13 § 925.1, 926.18, 927.1, and 965.5. *[Effective 1-1-2000]*	
"Woody debris" means woody material four inches and greater in diameter and no less than two feet long left on the ground as the result of timber operations.	
"Yarding" means the movement of forest products from the point of felling to a landing.	

[1]All Coastal Commission Special Treatment Areas were adopted by the Coastal Commission on July 5, 1977, and they include several specially identified areas, buffer zones adjacent to designated highways within Coastal Scenic View Corridors, and buffer zones adjacent to publicly owned preserves and recreation areas. Maps or designations of Coastal Commission Special Treatment Areas are on file in department offices in the Coast Forest District. Coastal Commission Special Treatment Areas have been designated according to the following criteria:

A. Scenic View Corridors

B. Sites of significant scenic value

C. Wetlands, lagoons, streams, estuaries, and marine environments

D. Significant animal and plant habitat areas

E. Recreation areas

The Coastal Commission has also set forth in its designations special management objectives considered essential by the Coastal Commission for the protection of public values within the Coastal Zone.

The following is a listing of the Coastal Commission Special Treatment Areas. In parentheses following the name of each area are capital letters indicating the specific criteria as listed above. The letters referencing the criteria are listed in order of priority of the significance of the various criteria applicable to the area.

(a) Del Norte County. Elk Creek Valley (C), Sitka Spruce Grove (D,A), False Klamath Cove (B,A), Klamath River (B,A,C).

(b) Humboldt County. Freshwater Lagoon (B,C,E), Stone Lagoon (A,B,C,E), Big Lagoon (A,C,B), Big Lagoon Bog (B,C,E), Agate Beach Bluff (B,A), Mattole River (B,C). The King Range National Conservation Area forestlands that parallel the beach: All private inholdings that are within view of the beach trail that are in the recreational zoned western slopes.

(c) Mendocino County. Usal Creek (A,C), Rockport Beach (B), Hardy Creek Knoll (B), Westport (B), Ten Mile River (B,C), Noyo River (A,B,C), Caspar and Doyle Creeks (A), Big River (A,B,C,E), Albion River (A,B,C,D), Navarro River

(B,C,A), Navarro to Irish Beach Terrace (A,B), Elk Creek (C,B), Gualala River (B,C).

(d) Sonoma County. Gualala River (B,C), Sea Ranch Area (A), Stewarts Point Area (A), Horseshoe Cove Area (C,B,E), Stockoff Creek and Kolmer Gulch (B,C,D), Fort Ross (A,B), Mill Gulch (A,B), Timber Gulch (A,B), Russian Gulch (A), Sawmill Gulch (A), Sheephouse Creek (A,C,D), Duncan Mills Marsh (A,C,D), South Side of the Russian River (A,B,C,D,E), Willow Creek Headwaters (C,D), Jenner Gulch (C,D), Slaughterhouse Gulch (A,D), Furlong Gulch (A,D), Scotty Creek (C,D), Rough Creek (C,D).

(e) San Mateo County. San Pedro Valley (A), South Montara Mountain (A,B), Butano Panorama (B,E), Ano Nuevo Uplands (A,B,E).

(f) Santa Cruz County. Ano Nuevo Uplands (A,B,E), Waddell Creek (A,B,C,E), Bonny Doon Botanic Area (B,D), Molino Creek (A,B).

(g) Buffer Zones within Coastal Scenic View Corridors in Del Norte, Humboldt and Mendocino Counties.

(1) Del Norte County. Highway 101 from Crescent City to Smith River town along the west side of the highway.

(2) Humboldt County.

(A) Highway 101 from the Moonstone-Westhaven Exit to Big Lagoon Bridge along both sides of the highway.

(B) Old Highway 101 from Trinidad north to Patrick's Point State Park entrance along both sides of the road.

(3) Mendocino County. Highway 1 from Ten Mile River to Sonoma County line along both sides of the highway.

(h) Buffer Zones adjacent to all publicly owned preserves and recreation areas, including national, state, regional, county, and municipal parks.

[2] Coastal Commission Special Treatment Areas have been designated according to the following criteria:

A. Scenic View Corridors

B. Sites of Significant Scenic Value

C. Wetlands, Lagoons, Streams, Estuaries, and Marine Environments

D. Significant Animal and Plant Habitat Areas

E. Recreation Areas

The Coastal Commission has also set forth in its designations special management objectives considered essential by the Coastal Commission for the protection of public values within the Coastal Zone.

The following is a listing of the Coastal Commission Special Treatment Areas. In parentheses following the name of each area are capital letters indicating the specific criteria as listed above. The letters referencing the criteria are listed in order of priority of the significance of the various criteria applicable to the area.

(a) Monterey County. Del Monte Forest (A,B,D,E), Pt. Lobos Uplands (A,B,D), Malpaso Creek (B), Doud Creek (B), False Sur (B), Little Sur (A,B,C,E), Molera Uplands (A,B,C,E), Big Sur Valley (A,B,C,E), Sycamore Canyon (A), Post Creek (A,B,C,E), Grimes Canyon (A), Toree Canyon (B), Partington Canyon (B,E) McWay Canyon (B), Anderson Canyon (A,B), Burns Creek (A), Hot Springs Canyon (B,E), Lucia Area Canyonmouths (B,E), Mill Creek (B,E).

(b) San Luis Obispo County. Cambria Monterey Pines (A,B)

(c) Publicly Owned Preserves and Recreation Areas. Coastal Commission Special Treatment Areas include those forested areas within the Coastal Zone within 200 feet (60.96 m) of all publicly owned preserved and recreation areas including national, state, regional, county, and municipal parks.

Table 1. RELATIONSHIP OF STANDARD SILVICULTURAL TREATMENTS TO OBJECTIVES AND STAND CONDITIONS
(Refer to "Regeneration Method")

		Regeneration Method	GENERAL CHARACTERISTICS OF EACH METHOD AND INTERMEDIATE TREATMENTS
Even-aged Management	Clearcutting	Patch	Stand is of harvestable size and savable understory is absent. Cutting unit boundaries are dictated by stand boundaries or other considerations where stand boundaries are not identifiable. All trees in unit are cut. Unit is normally regenerated artificially.
		Strip	Stand is harvestable and savable understory is absent. Most appropriate for large, even-aged stands of true fir. Strips are long and normally not over 1 1/2 times the average height of the stand in width, in contouring shapes. All trees are cut. Unit is normally naturally regenerated.
	Shelterwood	Preparatory Step	Overstory is well stocked and is of harvestable size, savable understory is absent. Regeneration not immediately scheduled. Stand needs to have wind firmness and seed producing ability improved before seed cut is made.
		Seed Step	Salvable understory is not present or unsatisfactory. Sufficient suitable seed trees must be left after harvest to provide shade for new seedlings. All trees other than shelter trees are cut. Unit usually regenerated naturally.
		Removal Step	Timber stands normally consist of an adequately stocked savable understory with sheltering overstory. All overstory trees are cut. Some additional regeneration may follow the timber operation.
	Seed Tree	Seed Tree Step	Overstory is harvestable and savable understory is absent. Suitable seed trees are left after harvest. Aside from scattered seed trees, cutover areas may be similar to clearcut in appearance. Unit is naturally regenerated.
		Seed Tree Removal Step	Timber stands consist of an adequately stocked savable understory with an overstory of scattered seed trees.
Uneven-aged Management	Selection		Stands are uneven-aged or converted to uneven-aged condition. Some trees in all size classes are generally cut. Regeneration is usually obtained naturally. Shade tolerant trees are usually harvested individually and intolerant trees in small groups. Best suitable to economic conditions which make possible frequent entry into stand for small volumes, ground cover and vegetation conditions that will tolerate repeated logging, to maintain control of the site, and when natural regeneration is likely. An intensive road system is normally necessary.

Intermediate Treatments

	Commercial Thinning	It is the adjustment of stocking prior to harvest at rotation age. The overstory consists of young growth-type trees. Understory may or may not be present.
	Sanitation-salvage	To be used in the cutting and removal of only those trees that are dead, dying or deteriorating because of damage from fire, wind, insects, disease, flood, or other injurious agents, and to prevent the spread of insects or diseases.
	Special	These methods are used to achieve land management objectives not necessarily associated with regeneration or stand tending.

The amendments to 14 CCR § 895.1 adopted on March 15, 2000 and April 4, 2000, which became effective July 1, 2000, shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4561, 4561.5, 4561.6, 4562, 4562.5, 4562.7 and 4591.1, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551, 4551.5, 4561, 4561.6, 4562, 4562.5, 4562.7, 4583.2, 4591.1, 21001(f), 21080.5, 21083.2 and 21084.1, Public Resources Code; CEQA Guidelines Appendix K (printed following Section 15387 of Title 14 Cal. Code of Regulations), and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New section filed 3-21-83; designated effective 7-1-83 (Register 83, No. 13).
2. Amendment by adding new definition subsections "Owl habitat," "Range of the Northern Spotted Owl," "Take," "Harm," "Harass," "Type A owl habitat," "Type B owl habitat," and "Type C owl habitat," filed 7-23-90 as an emergency; operative 7-23-90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11-20-90 or emergency language will be repealed by operation of law on the following day.
3. Repeal of new definition subsections and reinstatement of section as it existed prior to 7-23-90 emergency addition of definition subsections, "Owl habitat," "Range of the Northern Spotted Owl," "Take," "Harm," "Harass," "Type A owl habitat," "Type B habitat," and "Type C owl habitat," by operation of Government Code section 11346.1(f) (Register 91, No. 4).

4. New definition subsections "Functional nesting habitat," "Functional roosting habitat," "Functional foraging habitat," "Owl habitat," "Range of the Northern Spotted Owl," "Spotted owl resource plan," "Take," "Harm," "Harass," "Type A owl habitat," "Type B owl habitat," "Type C owl habitat," filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
5. Amendment deleting "slide prone areas" filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
6. Repeal of new definition subsections and reinstatement of section as it existed before addition of definition subsections, "Owl habitat," "Range of the Northern Spotted Owl," "Take," "Harm," "Harass," "Type A owl habitat," "Type B owl habitat," and "Type C owl habitat" by emergency filed 11–21–90, by operation of Government Code section 11346.1(f) (Register 91, No. 16).
7. Amendment by adding new definition subsections "Functional nesting habitat," "Functional roosting habitat," "Functional foraging habitat," "Owl habitat," "Range of the Northern Spotted Owl," "Spotted owl resource plan," "Take," "Harm," "Harass," "Type A owl habitat," "Type B owl habitat," "Type C owl habitat," filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23– 91 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 3–25–91 order including amendments transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
9. Amendment of definition "Species of Special Concern" filed 6–27–91 as an emergency; operative 6–27–91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL by 10–24–91 or emergency language will be repealed by operation of law on the following day.
10. Amendment of section adding definitions "unevenaged management," "sustained yield," "small group," "specific forest," "unique area," and "various age classes" filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
11. Amendment of section adding definitions "Lopping for Fire Hazard Reduction" and "Brood Material" filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
12. Amendment adding definition for "Listed Species" filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
13. Amendment of "Species of Special Concern" to "Sensitive Species" filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
14. Adoption of "Compatible use," "Cumulative impacts," "Effects," "Projects," "Past projects," and "Reasonably Foreseeable Probable future projects," and amendment of "Feasible," "While giving consideration," and NOTE filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
15. Adoption of "Canopy," "Overstory," "Riparian," "Surface cover," "Understory," and "Watercourse Bank," and amendment of "Beneficial Use" and "Watercourse and Lake Protection Zone" filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
16. Amendment to "Sensitive Species" filed 11–1–91 as an emergency; operative 11–1–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 3–2–92 or emergency language will be repealed by operation of law on the following day.
17. Adoption of "Ancient Forest," "Planning Watershed," "Functional Wildlife Habitat," "Maximum Sustained Production of High Quality Timber Products," "Percent Weighted Average Basal Area Removed," and "Old Growth Forest" filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 3–4–92 or emergency language will be repealed by operation of law on the following day.
18. Adoption of "Significant archaeological or historical site" and amendment of "Special Treatment Areas" filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
19. Certificate of Compliance as to "Planning Watershed" and "Functional Wildlife Habitat" in 11–25–91 order, including amendment of these definitions, transmitted to OAL 2–20–92 and filed 4–2–92; operative 5–4–92 (Register 92, No. 26).
20. Amendment of "Sensitive Species" filed 5–19–92; operative 6–18–92 (Register 92, No. 26).
21. Addition of "Species" filed 8–31–92; operative 9–30–92 (Register 92, No. 36).
22. Adoption of "Stand of Pacific Yew" filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
23. Adoption of "Late succession forest stands" and "Long–term significant adverse effect on fish, {etc.}" filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
24. Adoption of "Adequate Site Occupancy," "Codominants," "Dominants," "Intermediate Treatments," "Intermediates," "Lake," "Long Term Sustained Yield," "Marking," "Predominant," "Seed Tree," "Stand Vigor" and "Suppressed," and amendment of "Logging Area" and "Small Group" filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
25. "Stand of Pacific Yew" repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
26. Amendment of "Adequate site occupancy" filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
27. New definitions "Diseased trees" and "Dying trees" filed 8–31–94; operative 1–1–95 (Register 94, No. 35).
28. Editorial correction of HISTORY NOTE 18 (Register 95, No. 14).
29. New definitions "Domestic water use," "Equipment exclusion zone (EEZ)," "Equipment limitation zone (ELZ)", amendment of "Logging area" and new definition "Reconstruction of existing tractor roads" filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
30. Amendment of "Saturated oil conditions" filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
31. Editorial correction restoring alphabetical order to definitions (Register 96, No. 45).
32. Relocation of all definitions from section 1036 to section 895.1; amendment of "Planning Watershed"; relocation of all definitions from former section 912 to section 895.1; relocation of "Southern Subdistrict" from section 907.1 to section 895.1; relocation of all definitions from former section 932 to section 895.1; relocation of all definitions from former section 952 to section 895.1; and amendment of NOTE filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
33. Editorial correction removing duplicative NOTE (Register 96, No. 48).
34. Amendment adding definitions of "Confidential Archaeological Addendum," "Current archaeological records check," "Damaging effects," "Native Americans," "Professional Archaeologist," "Site survey area" and "Substantial adverse change"; amendment of "Significant archaeological or historical site" and amendment of NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
35. Amendment adding definitions of "Program Timberland Environmental Impact Report" and "Program Timber Harvesting Plan" filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
36. Change without regulatory effect adding definition "Approved and legally permitted structure" filed 9–26–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
37. Amendment adding definitions of "Community Fuelbreak Area" and "Public fire agency" filed 11–19–97; operative 1–1–98 (Register 97, No. 47).
38. Amendment of "Saturated Soil Conditions" and "Winter Period" filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
39. New definition "Scattered parcel" filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
40. New definition "Woody debris" filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
41. New definitions "Archaeological Coverage Map" and "Confidential Archaeological Letter," amendment of definition of "Confidential Archaeological Addendum" and adoption of Confidential Archaeological Addendum Form and amendment of NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
42. New definition "Supervised Designee," amendment of "Perch tree," "Replacement tree," and "Screening trees," and amendment of NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
43. Amendment of definition of "Winter period" filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17).
44. Editorial correction correcting definitions "Community fuelbreak area," "Danger tree," "Drainage facilities," "Slide area" and "Wet meadows and other wet areas"; restoring inadvertently omitted definitions "Erosion controls" and "Prescribed maintenance period"; and implementing repeal and deletion of definitions "Ancient forest," "Maximum sustained production of high quality timber products," "Old growth forest" and "Percent weighted average basal area removed" (Register 99, No. 26).
45. Amendment adding definitions of "Bankfull stage," "Beneficial Functions of Riparian Zone," "Channel zone," "Inner gorge" and "Watersheds with threatened or impaired values," amending definitions of "Saturated soil conditions" and "Watercourse or Lake Transition Line" and adding last paragraph filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
46. Amendment of last subsection filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
47. Amendment of definition of "Plan" filed 12–1–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
48. Amendment of definitions of "Inner Gorge," "Saturated soil conditions," "Stable operating surface," and "Watercourse or Lake Transition Line" and amendment of last paragraph filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
49. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
50. New definition for "Limiting Factors for Anadromous Salmonids," and "Watercourse Order" filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
51. New definition "Decadent and Deformed Trees of Value to Wildlife" filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
52. Amendment of definitions "Archaeological Coverage Map," "Confidential Archaeological Addendum," "Confidential Archaeological Letter," "Native

Americans" and "Significant Archaeological or Historical Site," new definitions "Native American Contact List" and "Native American Archaeological or Cultural Site" and repealer of "Confidential Archaeological Addendum for Timber Operations on Non-Federal Lands in California" filed 11-25-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

53. Change without regulatory effect repealing definitions for "Limiting Factors for Anadromous Salmonids" and "Watercourse Order" filed 11-18-2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).
54. Amendment of last paragraph filed 12-1-2003; operative 1-1-2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
55. New definitions "Average Severe Fire Weather Conditions" and "Mainline road" filed 6-25-2004 as an emergency; operative 6-25-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2004 or emergency language will be repealed by operation of law on the following day.
56. New definitions "Average Severe Fire Weather Conditions" and "Mainline road" refiled 10-12-2004 as an emergency; operative 10-26-2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-23-2004 or emergency language will be repealed by operation of law on the following day.
57. Editorial correction of definition of "Late succession forest stands" (Register 2005, No. 5).
58. New definitions "Average Severe Fire Weather Conditions" and "Mainline road" refiled 2-22-2005 as an emergency; operative 2-24-2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-24-2005 or emergency language will be repealed by operation of law on the following day.
59. New definition of "Lake Tahoe Region" filed 6-21-2005 as an emergency; operative 6-21-2005 (Register 2005, No. 25). A Certificate of Compliance must be transmitted to OAL by 10-19-2005 or emergency language will be repealed by operation of law on the following day.
60. Certificate of Compliance as to 2-22-2005 order transmitted to OAL 6-23-2005 and filed 8-5-2005. Amendments to emergency language effective 1-1-2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31).
61. New definition of "Lake Tahoe Region" refiled 10-13-2005 as an emergency; operative 10-13-2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2-10-2006 or emergency language will be repealed by operation of law on the following day.
62. New definition of "Lake Tahoe Region" refiled 2-10-2006 as an emergency; operative 2-10-2006 (Register 2006, No. 6). A Certificate of Compliance must be transmitted to OAL by 6-12-2006 or emergency language will be repealed by operation of law on the following day.
63. Reinstatement of section as it existed prior to 2-10-2006 emergency amendment by operation of Government Code section 11346.1(f) (Register 2006, No. 24).
64. New definition of "Lake Tahoe Region" refiled 6-16-2006 as an emergency; operative 6-16-2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10-16-2006 or emergency language will be repealed by operation of law on the following day.
65. Amendment of last paragraph filed 9-20-2006; operative 10-20-2006 (Register 2006, No. 38).
66. Certificate of Compliance as to 6-16-2006 order transmitted to OAL 9-7-2006 and filed 10-11-2006. Further amendments to emergency language effective 1-1-2007 pursuant to Public Resources Code section 4554.5(a) (Register 2006, No. 41).
67. Amendment of definition of "Emergency" filed 7-9-2007 as an emergency; operative 7-9-2007 (Register 2007, No. 28). A Certificate of Compliance must be transmitted to OAL by 1-7-2008 or emergency language will be repealed by operation of law on the following day.
68. Amendment of last paragraph filed 10-24-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
69. New definitions for "Historic Road," "Logging Road Surface Drainage Network," "Permanent Road Network," "Road Management Plan" and "Road Management Unit" filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).
70. Repealer of definition for "Average Severe Fire Weather Conditions," new definition for "Ladder Fuels," amendment of definition for "Mainline Road" and new definition for "Surface Fuel" filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).
71. New definition for "Watersheds with Coho Salmon" and new definitions for "Connected Headwall Swale," "Hydrologic Disconnection," "Inside Ditch Hydraulic Capacity," "Road Decommissioning," "Road Maintenance," "Road Prism," "Scour," "Sediment Filter Strip," "Stable Operating Surface," "Watercourse Sideslope" and "Watercourse Sideslope Class" specifically applicable to Watersheds with Coho Salmon filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

Subchapter 2. Application of Forest Practice Rules*

*Regulations adopted by Board of Forestry.

Article 1. Introduction

§ 896. General.

(a) The purpose of the Forest Practice Rules is to implement the provisions of the Z'berg-Nejedly Forest Practice Act of 1973 in a manner consistent with other laws, including but not limited to, the Timberland Productivity Act of 1982, the California Environmental Quality Act (CEQA) of 1970, the Porter Cologne Water Quality Act, and the California Endangered Species Act. The provisions of these rules shall be followed by Registered Professional Foresters (RPF's) in preparing Timber Harvesting Plans, and by the Director in reviewing such plans to achieve the policies of the Act as described in Sections 4512, 4513, 21000, 21001, and 21002 of the Public Resources Code (PRC), and Sections 51101, 51102 and 51115.1 of the Government Code.

It is the Board's intent that no THP shall be approved which fails to adopt feasible mitigation measures or alternatives from the range of measures set out or provided for in these rules which would substantially lessen or avoid significant adverse impacts which the activity may have on the environment. The THP process substitutes for the EIR process under CEQA because the timber harvesting regulatory program has been certified pursuant to PRC Section 21080.5. In recognition of that certification and PRC Section 4582.75, these rules are intended to provide the exclusive criteria for reviewing THPs. If the Director believes that there are significant adverse environmental impacts not covered in existing rules, matters should be referred to the Board as otherwise specified in these rules.

(b) The provisions of this subchapter shall be applied in all forest districts.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512, 4513, 4582.75 and 21080.5, Public Resources Code; Sections 51101 and 51102, Government Code; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New subchapter 2 (sections 896-903.2) filed 1-20-78 as an emergency; effective upon filing. Certificate of Compliance included (Register 78, No. 3).
2. New NOTE filed 5-19-78 as procedural and organizational; designated effective 7-6-78 (Register 78, No. 20).
3. Amendment of subsection (a) and NOTE filed 8-26-91; operative 8-26-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).

§ 897. Implementation of Act Intent.

(a) RPFs who prepare plans shall consider the range of feasible silvicultural systems, operating methods and procedures provided in these rules in seeking to avoid or substantially lessen significant adverse effects on the environment from timber harvesting. RPFs shall use these rules for guidance as to which are the most appropriate feasible silvicultural systems, operating methods and procedures which will carry out the intent of the Act.

While giving consideration to measures proposed to reduce or avoid significant adverse impacts of THPs on lands zoned TPZ, the RPF and Director shall include the following legal consideration regarding feasibility:

The Timberland Productivity Act restricts use of lands zoned Timberland Production Zone to growing and harvesting timber and compatible uses and establishes a presumption that timber harvesting is expected to and will occur on such lands.

(b) In determining whether a THP conforms to the intent of the Act, the Director shall be guided by the following principles:

[The next page is 221.]

(1) The goal of forest management on a specific ownership shall be the production or maintenance of forests which are healthy and naturally diverse, with a mixture of trees and understory plants, in which trees are grown primarily for the production of high quality timber products and which meet the following objectives:

(A) Achieve a balance between growth and harvest over time consistent with the harvesting methods within the rules of the Board.

(B) Maintain functional wildlife habitat in sufficient condition for continued use by the existing wildlife community within the planning watershed.

(C) Retain or recruit late and diverse seral stage habitat components for wildlife concentrated in the watercourse and lake zones and as appropriate to provide for functional connectivity between habitats.

(D) Maintain growing stock, genetic diversity, and soil productivity.

(2) Individual THPs shall be considered in the context of the larger forest and planning watershed in which they are located, so that biological diversity and watershed integrity are maintained within larger planning units and adverse cumulative impacts, including impacts on the quality and beneficial uses of water are reduced.

(3) While the responsibility for implementation of the Act and rules belongs to the Director and the Department, RPFs who prepare plans have the responsibility to provide the Director with information about the plan and resource areas and the nature and purpose of the operations proposed which is sufficiently clear and detailed to permit the Director to exercise the discretion and make the determinations required by the Act and rules. The information in proposed plans shall also be sufficiently clear and detailed to permit adequate and effective review by responsible agencies and input by the public to assure that significant adverse individual and cumulative impacts are avoided or reduced to insignificance.

(c) The Director shall use the standards provided in these rules when reviewing plans to determine if they conform to the rules and regulations of the Board and the provisions of the Act. In specific circumstances provided in these rules, the Director shall disapprove plans because they conflict with the intent of the Act as interpreted by the Board.

(d) Due to the variety of individual circumstances of timber harvesting in California and the subsequent inability to adopt site-specific standards and regulations, these rules use judgmental terms in describing the standards that will apply in certain situations. By necessity, the RPF shall exercise professional judgment in applying these judgmental terms and in determining which of a range of feasible (see definition 14 CCR 895.1) silvicultural systems, operating methods and procedures contained in the rules shall be proposed in the plan to substantially lessen significant adverse impacts on the environment from timber harvesting. The Director also shall exercise professional judgment in applying these judgmental terms in determining whether a particular plan complies with the rules adopted by the Board and, accordingly, whether he or she should approve or disapprove a plan. The Director shall use these rules to identify the nature of and the limits to the professional judgment to be exercised by him or her administering these rules.

(e) Based upon site-specific conditions where, in the judgment of the RPF, the application of rules pertaining to how a timber operation will be conducted will not achieve the intent of the Act and rules, and where the RPF can describe a practice(s) which will meet or exceed the intent of the Act and rules, the RPF may prescribe an alternative practice(s) in lieu of those in the rules. The practice(s) shall:

(1) be explained and justified by clear and convincing evidence in the plan;

(2) be written so they provide clear instructions and enforceable standards for the timber operator;

(3) provide a result(s) at least equal to that of the rule(s) to be supplanted; and

(4) provide that, where appropriate for the alternative practice, the plan submitter is responsible for retaining an RPF to aid in interpreting the THP to the timber operator and timberland owner on a continuing basis to help assure compliance with the alternative.

(f) No alternative practice(s) as described in this section may be prescribed by an RPF or approved by the Director under this section in lieu of the following rules:

(1) the rules contained in Subchapter 2 (Application of Forest Practice Rules); Article 2 (Definitions, Ratings, and Standards) and Article 11 (Coastal Commission Special Treatment Areas) of Subchapter 4 (Coast Forest District Rules); Article 2 (Definitions, Ratings, and Standards) of Subchapter 5 (Northern Forest District Rules); Article 2 (Definitions, Ratings, and Standards) and Article 11 (Coastal Commission Special Treatment Areas) of Subchapter 6 (Southern Forest District Rules); and Subchapter 7 (Administration) of Chapter 4, Division 1.5 of the California Code of Regulations; or

(2) any rule pertaining to the width of the special treatment area adjacent to a wild and scenic river declared pursuant to PRC 5093.50, et seq.; or

(3) any rules or parts of rules that incorporate practices or standards specified in the Forest Practice Act.

(g) No alternative practices as described in this section can be used in counties which have had rules adopted under section 4516.5 of the Public Resources Code unless it is specifically adopted for the county.

(h) The Director shall not accept for inclusion in a THP any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR 1037.3 have submitted written comments which lead the Director to the conclusion that the proposed alternative will not meet the intent of the Act and rules, and the agencies participated in the review of the plan, including any on-the-ground inspection.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 4582.75, Public Resources Code; Sections 51101, 51102 and 51115.1, Government Code; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New NOTE filed 2-21-79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Amendment filed 8-9-83; designated effective 10-1-83 (Register 83, No. 37).
3. New subsection (d) filed 12-4-85; effective thirtieth day thereafter (Register 85, No. 49).
4. Amendment of subsection (a) and NOTE filed 8-26-91; operative 8-26-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
5. New subsections (b)(1)-(3) and subsection relettering filed 11-25-91 as an emergency; operative 11-25-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-24-92 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 3-25-92 by operation of Government Code section 11346.1(f) (Register 92, No. 26).
7. New subsections (b)-(b)(3) and subsection relettering filed 4-2-92; operative 5-2-92 (Register 92, No. 26).
8. Editorial correction restoring inadvertently omitted subsections (c)-(h), amending HISTORY 6 and adding HISTORY 7 (Register 94, No. 29).
9. Amendment of subsections (a) and (d) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
10. Amendment of subsections (b)(3), (e)(1)-(3), (f)(1) and (h) filed 12-2-99; operative 1-1-2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).

§ 897.1.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. New section filed 2-17-94 as an emergency; operative 2-17-94 (Register 94, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-17-94 or emergency language will be repealed by operation of law on the following day.
2. Repealer filed 11-7-96; operative 1-1-97 (Register 96, No. 45).

Article 2. Preparation and Review of Timber Harvesting Plans

§ 898. Feasibility Alternatives.

After considering the rules of the Board and any mitigation measures proposed in the plan, the RPF shall indicate whether the operation would have any significant adverse impact on the environment. On TPZ lands, the harvesting per se of trees shall not be presumed to have a significant adverse impact on the environment. If the RPF indicates that significant adverse impacts will occur, the RPF shall explain in the plan why any alternatives or additional mitigation measures that would significantly reduce the impact are not feasible.

Cumulative impacts shall be assessed based upon the methodology described in Board Technical Rule Addendum Number 2, Forest Practice Cumulative Impacts Assessment Process and shall be guided by standards of practicality and reasonableness. The RPF's and plan submitter's duties under this section shall be limited to closely related past, present and reasonably foreseeable probable future projects within the same ownership and to matters of public record. The Director shall supplement the information provided by the RPF and the plan submitter when necessary to insure that all relevant information is considered.

When assessing cumulative impacts of a proposed project on any portion of a waterbody that is located within or downstream of the proposed timber operation and that is listed as water quality limited under Section 303(d) of the Federal Clean Water Act, the RPF shall assess the degree to which the proposed operations would result in impacts that may combine with existing listed stressors to impair a waterbody's beneficial uses, thereby causing a significant adverse effect on the environment. The plan preparer shall provide feasible mitigation measures to reduce any such impacts from the plan to a level of insignificance, and may provide measures, insofar as feasible, to help attain water quality standards in the listed portion of the waterbody.

The Director's evaluation of such impacts and mitigation measures will be done in consultation with the appropriate RWQCB.

(a) The amendments to 14 CCR § 898 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 4582.75, Public Resources Code; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New NOTE filed 5–19–8 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
2. Amendment filed 2–21–79; effective thirtieth day thereafter (Register 79, No. 9).
3. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
4. Amendment filed 3–2–79 as an emergency; designated effective 3–23–79. Certificate of Compliance included, (Register 79, No. 9).
5. Repealer and new section filed 7–3–86; effective thirtieth day (Register 86, No. 27).
6. Amendment filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
7. Amendment of first paragraph filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Amendment adding last three paragraphs filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
9. Amendment of subsection (a) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
10. Amendment of subsection (a) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
11. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
12. Amendment of subsection (a) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
13. Amendment of subsection (a) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
14. Amendment of subsection (a) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 898.1. Review of Plan by Director.

The Director shall review plans to determine if they are in conformance with the provisions of PRC 4582.75 which requires that rules adopted by the Board shall be the only criteria employed by the Director in reviewing plans pursuant to PRC 4582.7.

(a) In reviewing plans, the Director shall apply all applicable rules promulgated by the Board.

(b) When in doubt as to the feasible alternative which best carries out the intent of the Act, the Director shall seek the advice of other state agencies charged with protecting the public interest in forest–related resources.

(c) In reviewing plans, the Director shall disapprove all plans which:

(1) Do not incorporate feasible silvicultural systems, operating methods and procedures that will substantially lessen significant adverse impacts on the environment.

(2) Would not meet the requirements of individual rules which provide a range of feasible alternatives through which to carry out the intent of the Act.

(3) Meet the special conditions for disapproval set by the Board in 14 CCR 898.2.

(d) If the Director, before the public comment period has ended, finds that a plan cannot be approved without a change in the conduct of timber operations, the Director shall, consistent with the rules and procedures adopted by the Board, communicate with the preparer of the plan, explain any probable causes for disapproval and suggest possible mitigation measures. The preparer of the plan shall then have the opportunity to respond to the Director and provide appropriate mitigation measures prior to the end of the public comment period. Any substantial deviations (as described in 895.1), except as covered in 1040, in the conduct of a timber

operation, or the inclusion of significant new information, made between the close of public comment and the date of the Director's decision will require returning the plan to the review team and reopening the public comment period for ten working days. Public members who participated in the review of the plan will be notified of the significant changes in the conduct of the timber operation and/or the significant new information and the reopening of the comment period.

(e) If the Director disapproves a plan, the Director shall, consistent with the rules and procedures adopted by the Board, provide to the preparer of the plan written reasons for disapproval.

(f) If the Director finds no feasible, less damaging alternatives that conform with the rules, the Director shall approve such plan unless approval threatens to cause immediate, significant, and long-term harm to the natural resources of the state. In the event of such a threat, the Director shall withhold decision on the plan and shall follow procedures developed by the Board pursuant to PRC 4555.

(g) If the Director determines that (1) all feasible mitigation measures or alternatives which are available to substantially reduce or avoid any significant adverse impacts of a THP have been selected; (2) significant adverse impacts remain; (3) the plan otherwise complies with the rules of the Board; and (4) an emergency situation does not exist under PRC Section 4555, the Director shall not approve the plan unless the Director also determines that the benefits of the THP outweigh any significant, unavoidable adverse impacts. If the Director makes such a determination and approves the THP, the Notice of Conformance shall include an explanation of the basis for finding that the conditions 1–3 herein are met and for determining that the THP's benefits outweigh any unavoidable significant adverse impacts.

In making such a determination for THPs on lands zoned TPZ the Director shall give consideration to the Legislature's objectives in enacting the Timberland Productivity Act of 1982 ("TPA") and the objectives of the FPA including sustained forest productivity. The TPA-associated benefits to be weighed against any significant unavoidable adverse impacts shall include, but not be limited to:

(1) ensuring consistency with the restriction of the use of TPZ lands to growing and harvesting timber and compatible uses;

(2) making cumulative progress toward (a) realizing the productive potential of the forest resources of the state and (b) providing a favorable climate for long-term investment in forest resources, thereby discouraging the premature and unnecessary conversion of timberland to urban and other uses; and

(3) ensuring consistency with the Legislature's declaration that timber operations may reasonably be expected to and will occur on lands zoned TPZ.

(h) In determining whether the public benefits of the THP outweigh any unavoidable significant adverse impacts pursuant to (g) above, the Director may request information as needed to evaluate potential job loss, negative economic impacts on the community, business closings, loss of property by owners, probable conversion to other uses, estate taxes and other factors as appropriate.

NOTE: Authority cited: Section 4582, Public Resources Code. Reference: Sections 4555, 4582.7 and 4582.75, Public Resources Code; Sections 51101, 51102 and 51115.1, Government Code; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. Amendment of subsections (a) and (c) filed 3–9–78 as an emergency; effective upon filing (Register 78, No. 10).
2. Certificate of Compliance filed 5–10–78 (Register 78, No. 19).
3. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
4. Amendment of subsection (c)(1) filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
5. Repealer of subsection (f) filed 2–19–88 as an emergency; operative 2–19–88 (Register 88, No. 9). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–20–88.
6. Editorial correction of Register year in HISTORY 5. (Register 91, No. 41).
7. Reinstatement of subsection (f) as it existed prior to emergency repeal filed 2–19–88 by operation of Government Code section 11346.1(f) effective 6–20–88 (Register 91, No. 41).
8. New subsections (g)–(g)(3) and NOTE filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
9. New subsection (h) filed 11–25–91 as an emergency; operative 11–25–91. (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 3–24–92 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 11–25–91 order transmitted to OAL 2–20–92 and filed 4–2–92; operative 5–4–92 (Register 92, No. 26).
11. Editorial correction of subsection (h) (Register 92, No. 26).
12. Amendment of subsection (d) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
13. Amendment of subsection (d) and NOTE filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).

§ 898.2. Special Conditions Requiring Disapproval of Plans.

The Director shall disapprove a plan as not conforming to the rules of the Board if any one of the following conditions exist:

(a) Boundaries of the area to be harvested are not clearly delineated in the plan.

(b) Public acquisition of the parcel for purposes which would be impaired by timber harvesting, is legislatively authorized, funded and imminent.

(c) There is evidence that the information contained in the plan is incorrect, incomplete or misleading in a material way, or is insufficient to evaluate significant environmental effects. The sufficiency of the information provided in a THP to evaluate significant environmental effects shall be judged in light of what is reasonable and necessary.

(d) Implementation of the plan as proposed would result in either a "taking" of finding of jeopardy of wildlife species listed as rare, threatened, or endangered, by the Fish and Game Commission, the National Marine Fisheries Service, or Fish and Wildlife Service, or would cause significant, long-term damage to listed species. The Director is not required to disapprove a plan which would result in a "taking" if the "taking" is incidental and is authorized by a wildlife agency acting within its authority under state or federal endangered species acts.

(e) Implementation of the plan would irreparably damage plant species listed as rare or endangered by the Department of Fish and Game and when the timber owner fails to comply with F&GC 1913.

(f) Implementation of the plan as proposed would result in the taking of an individual Northern Spotted Owl prohibited by the Federal Endangered Species Act.

(g) Implementation of the plan as proposed would not achieve maximum sustained production of high-quality timber products as provided for by the rules of the Board, and by the intent of the Act.

(h) Implementation of the plan as proposed would cause a violation of any requirement of an applicable water quality control plan adopted or approved by the State Water Resources Control Board.

NOTE: Authority cited: Sections 4551, 4555 and 4582, Public Resources Code. Reference: Sections 2053, 2080.1, 2090–2097, 2830 and 2835, Fish and Game Code; Sections 4555, 4582.7 and 4582.75, Public Resources Code; Section 51115.1, Government Code; the federal Endangered Species Act of 1973, 16 U.S.C. Section 1531 et seq.; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. New subsection (h) filed 7–27–79 as an emergency; effective upon filing (Register 79, No. 30).
3. Certificate of Compliance filed 10–18–79 (Register 79, No. 42).
4. Amendment filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).
5. New subsection (f) and amendment of NOTE filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
6. Repeal of subsection (f) and reinstatement of section as it existed prior to 7–23–90 emergency adoption of subsection (f) by operation of Government Code section 11346.1(f) (Register 91, No. 4).
7. New subsection (f) filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
8. Repeal of subsection (f) and reinstatement of section as it existed prior to emergency adoption of subsection (f) filed 11–21–91 by operation of Government Code section 11346.1(f) (Register 91, No. 16).
9. New subsection (f) filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.

10. Certificate of Compliance as to 3–25–91 order transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
11. Amendment of subsection (d) filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
12. Amendment of subsection (c) and NOTE filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
13. New subsection (g) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
14. Amendment of subsection (g) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
15. Amendment of subsection (d) and NOTE filed 5–21–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 21).
16. Amendment of subsection (d) and new subsections (h) and (i) filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
17. Amendment of subsection (i) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
18. Repealer of subsection (i) and amendment of NOTE filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).

Article 3. PRC 4555, Rule Review Procedures

§ 900. Intent.

Regulations set forth in this article are adopted pursuant to Legislative direction set forth in PRC 4552 and 4555 and to provide a hearing procedure as mandated in PRC 4555.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4552 and 4555, Public Resources Code.

HISTORY

1. New NOTE filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
2. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 901. Timber Harvesting Plan Decision Delay.

The Director shall delay making a decision to approve or disapprove a plan which has been filed only if he or she finds that it could result in immediate, significant and long–term harm to the natural resources of the state. In relation to ascertaining harm to the natural resources of the state, the words immediate, significant and long–term shall be construed to mean:

(a) "immediate"—a period of time from the present to some future date that shall not be later than the end of the third timber harvest season following commencement of timber operations under a proposed plan.

(b) "significant"—harm or damage which is substantial and threatens the use of forest–related benefits (i.e., other beneficial uses of the air, water, soil, fish or wildlife resources).

(c) "long–term"—harm or damage that is of such a nature and of lasting duration which cannot be corrected within 3 timber harvest seasons following commencement of timber operations under a proposed plan.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 902. Director's Notice to Board.

If the Director determines that a substantial question concerning the intent of the Act is not currently provided for by the rules of the Board, and that approval of a plan which has been filed could result in immediate, significant and long–term harm to the natural resources of the State, the Director shall within 5 days after making such determination, notify the Board and the person who submitted the plan in writing of his or her determination. Written notice to the Board shall:

(a) State that the Director is seeking an emergency determination by the Board pursuant to PRC 4555.

(b) Outline the substantial question concerning intent of the Act that is not currently provided for by the rules.

(c) Identify any particular rule or rules which may be in question with respect to the intent of the Act.

(d) Identify any other provisions of law which apply to the Director's decision to delay.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 902.1. Board Action.

Within 30 days after receipt of written notice from the Director that he or she had delayed making a decision to approve or disapprove a plan pursuant to PRC 4555, and 14 CAC 901, the Board will hold a public hearing on the issue raised by the Director in said notice. Thereafter the Board may adopt emergency regulations in the manner provided by the Administrative Procedure Act (commencing with Gov. C. 11420) and shall conform to specifications enumerated in 14 CAC 902.2, 902.3, 903 and 903.1.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 902.2. Notice Content.

The Notice of Public Hearing on issues raised pursuant to provisions of PRC 4555 shall contain substantially the same information as provided to the Board pursuant to 14 CAC 902.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 745 and 4555, Public Resources Code.

§ 902.3. Notice Distribution.

Notice of public hearing on issues raised by the Director pursuant to provisions of PRC 4555 shall be given at least 15 days prior to said hearing and be distributed as follows by:

(a) Mailing such notice to concerned federal, state and local agencies of government;

(b) Providing for mailing to timber owners, operators, and foresters (RPF's), who have plans held in abeyance by the Director pending action by the Board under PRC 4555.

(c) Providing for dissemination to the agenda mailing list of the Board and other parties as may be determined to be appropriate by the Executive Officer to provide full public participation in the hearing.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 745 and 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 903. Order of Procedure.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 903.1. Content of Discussion and Prejudice of Appeal.

In considering the need for possible emergency regulations, as well as the emergency regulations themselves, the Board normally will consider all relevant information. However, to avoid prejudicing future appeals on individual plans, the proceeding shall be addressed solely to the generic issue(s) presented by the Director.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 903.2. Board Action.

Immediately after public comments, the Board shall determine whether or not the intent of the Act has been provided for in the rules effective at the time the Director's determination was made.

If the Board finds the existing rules are adequate, it shall adopt a finding so stating.

If the Board finds that the intent of the Act has not been provided for in such rules, the Board shall comply with the provisions of PRC 4555 and immediately amend the rules to provide for such intent by adopting emergency regulations pursuant to the Administrative Procedure Act (commencing with Gov. C. 11371). The Board shall advise the Director by letter of the action taken and provide a copy of the emergency regulations indicating that they will become effective upon filing with the Secretary of State.

In either case, the Director shall act within 5 days after receipt of said letter on plans being held in abeyance pending Board consideration.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4555, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

Subchapter 3. Forest District Boundaries*

*Regulations adopted by Board of Forestry.

Article 1. Districts

§ 906. Forest Districts.

To meet the requirements of Chapter 8, Article 3 (commencing with Section 4531), Public Resources Code, and to designate areas for appropriate special forest practice rules, the nonfederally–owned commercial forest areas of the state are divided into three districts which are designated as Coast Forest District, Northern Forest District, and Southern Forest District. Each district is comprised of timberlands and cutover lands within the boundaries as set forth in this article.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New Subchapter 3 (Sections 906–909.2) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
2. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 907. Coast Forest District.

The Coast Forest District is comprised of the area bounded on the north by the State of Oregon, on the west by the Pacific Ocean, and on the south and east by a line declared and fixed as follows:

Beginning at the southwest corner of Santa Cruz County and running eastward along the southern boundaries of Santa Cruz and Santa Clara Counties to U.S. Highway 101; thence northerly along U.S. Highway 101 to Interstate Highway 680; thence northerly along Interstate Highway 680 to Interstate Highway 80; thence southerly along Interstate Highway 80 to State Highway 29 between Vallejo and the Carquinez Bridge; thence northerly along State Highway 29 to State Highway 128 at Rutherford; thence northerly along coinciding State Highways 29 and 128 to the junction of State Highways 29 and 128 at Calistoga; thence northwesterly along State Highway 128 to U.S. Highway 101; thence northerly along U.S. Highway 101 to the Covelo Road (State Highway 162, formerly designated 261); thence northeasterly along the Covelo Road to Mina Road (Mendocino County Road 336) just north of Covelo; thence northerly from Mendocino County into Trinity County along Mina Road, where it continues as Lake Mountain Road (Trinity County Road 503); continuing along Lake Mountain Road northwesterly through Kettenpom to the Ruth–Zenia Road (Trinity County Road 502) just southeast of Zenia; thence easterly and northerly along the Ruth–Zenia Road to the Van Duzen Road (Trinity County Road 511) at the Van Duzen River on the northwest side of Hettenshaw Valley; thence along the Van Duzen Road, following along a fork of the Van Duzen River and the main Van Duzen River northwesterly and northerly to State Highway 36; thence southeasterly along State Highway 36 to the South Fork of the Trinity River; thence northerly along the South Fork of the Trinity River and the main Trinity River to the Klamath River; thence northeasterly, then northerly along the Klamath River to the mouth of Indian Creek; thence northerly along Indian Creek to the crossing of State Highway 96; thence northeasterly along State Highway 96 to the Indian Creek Road (Siskiyou County Road 7C01); thence northwesterly along the Indian Creek Road following along Indian Creek to the crossing of Indian Creek in the south half of Section 25, Township 18N, Range 6E, HB&M, from whence the Indian Creek County Road continues as the U.S. Forest Service Grayback Road (U.S. Forest Service Road 40S07); continuing northwesterly along the Forest Service Grayback Road over the divide at the head of Indian Creek to the State of Oregon in Section 32, Township 19N, Range 6E, HB&M.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. Amendment filed 7–31–79; effective thirtieth day thereafter (Register 79, No. 31).

§ 907.1. Southern Subdistrict of the Coast Forest District.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Relocation of former section 907.1 ("Southern Subdistrict") to section 895.1 and repealer of section 907.1 filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 908. Northern Forest District.

The Northern Forest District is comprised of the area bounded on the north by the State of Oregon, on the east by the State of Nevada, on the west by the Coast Forest District, and on the south by a line declared and fixed as follows:

Beginning at the point where Interstate Highway 680 crosses the combined San Joaquin–Sacramento Rivers at the Benicia Bridge; thence easterly along the channel to the mouth of the Sacramento River; thence easterly and northerly along the Sacramento River to the Sacramento–Sutter County line; thence easterly along said county line to the Sacramento–Placer County line; thence easterly along said county line to the Placer–El Dorado County line; thence northerly and easterly along said county line to the intersection with the Lake Tahoe Basin crestline; thence northerly and then easterly along said crestline to its intersection with the west boundary of Section 10; thence north along the west boundary of Section 10 and Section 3 to the northwest corner of Section 3; thence east along the north boundary of Section 3 and Section 2 to the Lake Tahoe Basin crestline, all Sections being in Township 15N, Range 16E, MDB&M; thence northerly and easterly along said crestline to the State of Nevada.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 909. Southern Forest District.

The Southern Forest District is comprised of the area bounded on the north by the Northern Forest District, on the west by the Coast Forest District and the Pacific Ocean south of Santa Cruz County, on the east by the States of Nevada and Arizona, and on the south by Mexico.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).

§ 909.1. High Use Subdistrict.

The "High Use Subdistrict" of the Southern Forest District includes the Counties of Ventura, Santa Barbara, Los Angeles, San Bernardino, Orange, Riverside, Imperial, San Diego, Monterey, San Luis Obispo, and those portions of Placer and El Dorado lying within the authority of the Tahoe Regional Planning Agency. In this subdistrict, the growing of commercial timber is subjected to pressures for competing land uses, such as recreation, water, and urbanization.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Editorial correction to add section erroneously deleted in Register 79, No. 9 (Register 79, No. 14).

§ 909.2. Eastside Subdistrict.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4531, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer filed 6–27–84; effective thirtieth day thereafter (Register 84, No. 26).

Subchapter 4. Coast Forest District Rules*

*Regulations adopted by Board of Forestry.

Article 1. Introduction

§ 911. Statement of Purpose.

The purpose of these rules is to establish district forest practice rules and to establish standards in accordance with the policies set forth in Articles 1 and 4 of the Z'berg–Nejedly Forest Practice Act of 1973 (Sections 4511–4517 and 4551–4555 incl. of the Public Resources Code). Rules promulgated herein apply only to timberlands.

NOTE: Authority cited: Sections 740, 4531 and 4551, Public Resources Code. Reference: Sections 4512, 4513, 4531 and 4551.5, Public Resources Code.

HISTORY

1. Repealer of Subchapter 4 (Sections 911–921.8, not consecutive) and new Subchapter 4 (Sections 911–921.8, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For history of former Subchapter 4, see Registers 78, No. 3; 77, No. 14; 75, No. 30; 74, No. 41; and 73, No. 48.
2. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
3. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

Article 2. Ratings and Standards

§ 912. Definitions.

NOTE: Authority cited: Sections 4526, 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4526 and 4561, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Amendment filed 7–2–79; effective thirtieth day thereafter (Register 79, No. 27).
3. Amendment filed 7–9–81; effective thirtieth day thereafter (Register 81, No. 28).
4. Amendment filed 9–9–88; operative 10–9–88 (Register 88, No. 38).
5. Change without regulatory effect (Register 89, No. 23).
6. Adoption of subsection "Marbelet murrelet Habitat" filed 6–27–91 as an emergency; operative 6–27–91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL by 10–24–91 or emergency language will be repealed by operation of law on the following day.
7. Amendment of "Commercial species" to include Pacific Yew filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
8. Repealer of "Co–dominant," "Dominant," "Lake," "Logging Area," "Seed Tree," "Skidding or Yarding," "Skid trails," "Tractor roads" and "Waterbreak" filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
9. Pacific Yew under "Commercial species" repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
10. Repealer of "Marbled murrelet habitat" and "Marbled murrelet nest tree" by operation of Government Code section 11346.1(g) (Register 96, No. 45).
11. Amendment of article heading, relocation of definitions in former section 912 to section 895.1 and repealer of section 912 filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 912.5. Procedure for Estimating Surface Soil Erosion Hazard Rating.

A proposed plan shall show the estimated erosion hazard rating of the plan area, by areas, down to 20 acres (8.1 ha) if such a breakdown will change the estimated erosion hazard of individual areas. The plan shall show high and extreme erosion hazard ratings, by areas, down to 10 acres if such a breakdown will change the erosion hazard of the individual areas. Specific erosion hazard areas not fitting the above minimum will be considered independently and protective measures commensurate with the problem applied. These measures are covered in Chapter 4, Subchapter 4 of Title 14, CCR.

To estimate the erosion hazard rating of any plan or portion thereof, the RPF or supervised designee shall follow the procedures and requirements contained in Board Technical Rule Addendum #1, dated February 1, 1990. Appropriate weights for the factors in the Estimated Surface Soil Erosion Hazard, Form I, in the Addendum, shall be calculated and the factors shall be summed to give the rating. A copy of the calculations from Form I shall be attached to the timber harvesting plan. A copy of the Board Technical Rule Addendum #1 can be obtained from the State Board of Forestry at the Resources Building, 1416 9th Street, Room 1506–14, Sacramento, CA 95814.

NOTE: Authority cited: Sections 4551 and 4562.5, Public Resources Code. Reference: Section 4562.5, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 7–2–82; designated effective 1–1–83 (Register 82, No. 27).
3. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
4. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 912.7. Resource Conservation Standards for Minimum Stocking.

The following resource conservation standards constitute minimum acceptable stocking in the Coast Forest District after timber operations have been completed.

(a) Rock outcroppings, meadows, wet areas, or other areas not normally bearing commercial species shall not be considered as requiring stocking and are exempt from such provisions.

(b) An area on which timber operations have taken place shall be classified as acceptably stocked if either of the standards set forth in (1) or (2) below are met within five (5) years after completion of timber operations unless otherwise specified in the rules.

(1) An area contains an average point count of 300 per acre on Site I, II and III lands or 150 on Site IV and V lands to be computed as follows:

(A) Each countable tree [Ref. PRC § 4528(b)] which is not more than 4 inches d.b.h. counts 1 point.

(B) Each countable tree over 4 inches and not more than 12 inches d.b.h. counts 3 points.

(C) Each countable tree over 12 inches d.b.h. counts as 6 points.

(D) Root crown sprouts will be counted using the average stump diameter 12 inches above average ground level of the original stump from which the sprouts originate, counting one sprout for each foot of stump diameter to a maximum of 6 per stump.

(2) The average residual basal area, measured in stems 1 inch or larger in diameter, is at least 85 square feet per acre on Site I lands, and 50 square feet per acre on lands of Site II classification or lower. Site classification shall be determined by the RPF who prepared the plan.

(3) To the extent basal area standards are specified in the rules in excess of 14 CCR § 912.7(b)(2), up to 15 square feet of basal area of those standards higher than the minimum may be met by counting snags, and decadent or deformed trees of value to wildlife in the following sizes:

(A) 30 inches or greater dbh and 50 feet or greater in height on site I and II lands;

(B) 24 inches or greater dbh and 30 feet or greater in height on site III lands; and

(C) 20 inches or greater dbh and 20 feet or greater in height on site IV and V lands.

(c) The substitution provided for in 14 CCR § 912.7(b)(3) may only be done when the potential spread of insects and diseases will not have a significantly adverse impact on long term productivity or forest health.

(d) The resource conservation standards of the rules may be met with Group A and/or B commercial species. The percentage of the stocking requirements met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The site occupancy provided by Group A species shall not be reduced relative to Group B species. When considering site occupancy, the Director shall consider the potential long term effects of relative site occupancy of Group A species versus Group B species as a result of harvest. If Group A species will likely recapture the site after harvest, Group B species do not need to be reduced. The time frames for recapturing the site shall be consistent with achieving MSP. The Director may prohibit the use of Group A and/or B commercial species which are non-indigenous or are not physiologically suited to the area involved. Exceptions may be approved by the Director if the THP provides the following information and those exceptions are agreed to by the timberland owner:

(1) Explain and justify with clear and convincing evidence how using Group A nonindigenous, or Group B species to meet the resource conservation standards will meet the intent of the Forest Practice Act as described in PRC § 4513. The discussion shall include at least:

(A) the management objectives of the post-harvest stand;

(B) a description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage can be measured by using point-count, basal area, stocked plot, or other method agreed to by the Director.

(C) the percentage of the post-harvest stocking to be met with Group B species. Post harvest percentages will be determined on the basis of stocked plots. Only the methods provided by 14 CCR §§ 1070-1075 shall be used in determining if the standards of PRC § 4561 have been met.

(D) a description of what will constitute a countable tree, as defined by PRC § 4528 for a Group B species and how such a tree will meet the management objectives of the post-harvest stand.

The Director, after an initial inspection pursuant to PRC § 4604, shall approve use of Group B species, as exceptions to the pre-harvest basal area percentage standard, if in his judgement the intent of the Act will be met, and there will not be an immediate significant and long-term harm to the natural resources of the state.

NOTE: Authority cited: Sections 4551, 4553 and 4561.1, Public Resources Code. Reference: Sections 4561 and 4561.1, Public Resources Code.

HISTORY

1. New NOTE filed 2-21-79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Editorial correction filed 12-2-82 (Register 82, No. 49).
3. Editorial correction filed 8-29-84; effective thirtieth day thereafter (Register 84, No. 35).
4. Amendment filed 9-9-88; operative 10-9-88 (Register 88, No. 38).
5. Amendment of subsection (c) and (c)(1) filed 1-7-94; operative 3-1-94 (Register 94, No. 1).
6. Amendment of subsection (c) filed 5-16-94; operative 5-16-94 (Register 94, No. 20).
7. Amendment of subsections (b)(1)(A)-(B), new subsection (b)(3)-(c) and subsection relettering filed 11-14-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
8. Change without regulatory effect amending subsection (c) filed 11-25-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 48).

§ 912.8. Progeny, Clonal, or Provenance Testing Stocking Standard Exemption.

Pursuant to PRC 4561.7, the following standards shall apply to the request for an exemption from the stocking standards of the Act for progeny, clonal, or provenance testing.

(a) Any THP submitted pursuant to Section 4561.7 of the Public Resources Code shall include the following information, in addition to other requirements of the rules of the Board.

(1) A specific request for an exemption from stocking standards; and

(2) A description of the testing to be conducted on the site.

(b) The exemption from stocking shall become effective upon the Director's determination that the timber harvesting plan is in conformance with the rules and regulations of the Board.

NOTE: Authority cited: Sections 4551 and 4561.7, Public Resources Code. Reference: Sections 4561.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 12-11-86; effective thirtieth day thereafter (Register 86, No. 50).

[The next page is 229.]

§ 912.9. Cumulative Impacts Assessment Checklist.

STATE OF CALIFORNIA
BOARD OF FORESTRY
CUMULATIVE IMPACTS ASSESSMENT

(1) Do the assessment area(s) of resources that may be affected by the proposed project contain any past, present, or reasonably foreseeable probable future projects?

Yes____ No____

If the answer is yes, identify the project(s) and affected resource subject(s).

(2) Are there any continuing, significant adverse impacts from past land use activities that may add to the impacts of the proposed project?

Yes____ No____

If the answer is yes, identify the activities, describing their location, impacts and affected resource subject(s).

(3) Will the proposed project, as presented, in combination with past, present, and reasonably foreseeable probable future projects identified in items (1) and (2) above, have a reasonable potential to cause or add to significant cumulative impacts in any of the following resource subjects?

	Yes after mitigation (a)	No after mitigation (b)	No reasonably potential significant effects (c)
1. Watershed	_____	_____	_____
2. Soil Productivity	_____	_____	_____
3. Biological	_____	_____	_____
4. Recreation	_____	_____	_____
5. Visual	_____	_____	_____
6. Traffic	_____	_____	_____
7. Other	_____	_____	_____

a) Yes, means that potential significant adverse cumulative impacts are left after application of the forest practice rules and mitigations or alternatives proposed by the plan submitter.

b) No after mitigation means that any potential for the proposed timber operation to cause or add to significant adverse cumulative impacts by itself or in combination with other projects has been reduced to insignificance or avoided by mitigation measures or alternatives proposed in the THP and application of the forest practice rules.

c) No reasonably potential significant cumulative effects means that the operations proposed under the THP do not have a reasonable potential to join with the impacts of any other project to cause, add to, or constitute significant adverse cumulative impacts.

(4) If column (a) is checked in (3) above describe why the expected impacts cannot be feasibly mitigated or avoided and what mitigation measures or alternatives were considered to reach this determination. If column (b) is checked in (3) above describe what mitigation measures have been selected which will substantially reduce or avoid reasonably potential significant cumulative impacts except for those mitigation measures or alternatives mandated by application of the rules of the Board of Forestry.

(5) Provide a brief description of the assessment area used for each resource subject.

(6) List and briefly describe the individuals, organizations, and records consulted in the assessment of cumulative impacts for each resource subject. Records of the information used in the assessment shall be provided to the Director upon request.

BOARD OF FORESTRY
TECHNICAL RULE ADDENDUM NO. 2
CUMULATIVE IMPACTS ASSESSMENT

Introduction

The purpose of this addendum is to guide the assessment of cumulative impacts as required in 14 CCR 898 and 1034 that may occur as a result of proposed timber operations. This assessment shall include evaluation of both on–site and off–site interactions of proposed project activities with the impacts of past and reasonably foreseeable future projects.

In conducting an assessment, the RPF must distinguish between on–site impacts that are mitigated by application of the Forest Practice Rules and the interactions of proposed activities (which may not be significant when considered alone) with impacts of past and reasonably foreseeable future projects.

Resource subjects to be considered in the assessment of cumulative impacts are described in the Appendix.

The RPF preparing a THP shall conduct an assessment based on information that is reasonably available before submission of the THP. RPFs are expected to submit sufficient information to support their findings if significant issues are raised during the Department's review of the THP.

Information used in the assessment of cumulative impacts may be supplemented during the THP review period. Agencies participating in plan review may provide input into the cumulative impacts assessment based upon their area of expertise. Agencies should support their recommendations with documentation.

The Department, as lead agency, shall make the final determination regarding assessment sufficiency and the presence or absence of significant cumulative impacts. This determination shall be based on a review of all sources of information provided and developed during review of the Timber Harvesting Plan.

Identification of Resource Areas

The RPF shall establish and briefly describe the geographic assessment area within or surrounding the plan for each resource subject to be assessed and shall briefly explain the rationale for establishing the resource area. This shall be a narrative description and shall be shown on a map where a map adds clarity to the assessment.

Identification of Information Sources

The RPF shall list and briefly describe the individuals, organizations, and records used as sources of information in the assessment of cumulative impacts, including references for listed records and the names, affiliations, addresses, and phone numbers of specific individuals contacted. Records of information used in the assessment shall be provided to the Director upon request.

Common sources of information for cumulative effects assessment are identified below. Sources to be used will depend upon the complexity of individual situations and the amount of information available from other plans. Sources not listed below may have to be consulted based on individual circumstances. Not all sources of information need to be consulted for every THP.

1. Consultation with Experts and Organizations:

(a) County Planning Department; (b) Biologists;
(c) Geologists; (d) Soil Scientists;
(e) Hydrologists; (f) Federal Agencies;
(g) State Agencies; (h) Public and private utilities.

2. Records Examined:

(a) Soil Maps; (b) Geology Maps;
(c) Aerial Photographs; (d) Natural Diversity Data Base;
(e) THP Records; (f) Special Environmental Reports;
(g) Basin Plans; (h) Fire History Maps;
(i) Relevant Federal Agency Documents or Plans

As provided in Section 898 of the rules, the RPF or supervised designee and the plan submitter must consult information sources that are reasonably available.

Past and Future Activities

Past and future projects included in the cumulative impacts assessment shall be described as follows:

A. Identify and briefly describe the location of past and reasonably foreseeable probable future projects as defined in 14 CCR § 895.1 within described resource assessment areas. Include a map or maps and associated legend(s) clearly depicting the following information:

1. Township and Range numbers and Section lines.

2. Boundary of the planning watershed(s) within which the plan area is located along with the CALWATER 2.2 identification number.

3. Location and boundaries of past, present and reasonably foreseeable probable future timber harvesting projects on land owned or controlled by the timberland owner of the proposed timber harvest within the planning watershed(s) depicted in section (2) above. For purposes of this section, past projects shall be limited to those projects submitted within ten years prior to submission of the THP.

4. Silvicultural methods for each of the timber harvesting projects depicted in section (3) above. Each specific silvicultural method must be clearly delineated on the map(s), and associated THP number referenced in the legend or an annotated list. In addition, shading, hatching, or labeling shall be used which clearly differentiates silvicultural methods into one of the four categories outlined in Table 1.

5. A north arrow and scale bar (or scale text).

6. Source(s) of geographical information.

The map scale shall be large enough to clearly represent one planning watershed per page or of a scale not less than 1:63,360. Planning watersheds with densely situated or overlapping harvest units, or those which are large or irregular in size, may require multiple maps to achieve clarity. Map(s) shall be reproducible on black & white copiers, and submitted on an 8 1/2 x 11 page(s).

Table 1

Silvicultural Category	*Silvicultural Method*
Evenaged Management 14 CCR § 913.1	Clearcutting, Seed Tree Seed Step, Seed Tree Removal Step, Shelterwood Preparatory Step, Shelterwood Seed Step, Shelterwood Removal Step
Unevenaged Management 14 CCR § 913.2	Selection, Group Selection, Transition
Intermediate Treatments 14 CCR § 913.3	Commercial Thinning, Sanitation–Salvage
Special Prescriptions and Other Management 14 CCR § 913.4	Special Treatment Area Prescriptions, Rehabilitation of Understocked Area Prescription, Fuelbreak/Defensible Space, Southern Subdistrict Special Harvesting Method (14 CCR § 913.8), Variable Retention, Conversion

Alternative Prescriptions shall be put into the category within which the most nearly appropriate or feasible silvicultural method in the Forest Practice Rules is found pursuant to 14 CCR § 913.6(b)(3).

B. Identify and give the location and description of any known, continuing significant environmental problems caused by past projects as defined in 14 CCR § 895.1. The RPF who prepares the plan or supervised designee shall obtain information from plan submitters (timberland or timber owner), and from appropriate agencies, landowners, and individuals about past, and future land management activities and shall consider past experience, if any, in the assessment area related to past impacts and the impacts of the proposed operations, rates of recovery, and land uses. A poll of adjacent land owners is encouraged and may be required by the Director to determine such activities and significant adverse environmental problems on adjacent ownerships.

Appendix

Technical Rule Addendum #2

In evaluating cumulative impacts, the RPF shall consider the factors set forth herein.

A. Watershed Resources

Cumulative Watershed Effects (CWEs) occur within and near bodies of water or significant wet areas, where individual impacts are combined to produce an effect that is greater than any of the individual impacts acting alone. Factors to consider in the evaluation of cumulative watershed impacts are listed below.

1. Impacts to watershed resources within the Watershed Assessment Area (WAA) shall be evaluated based on significant on–site and off–site cumulative effects on beneficial uses of water, as defined and listed in applicable Water Quality Control Plans.

2. Watershed effects produced by timber harvest and other activities may include one or more of the following:

- o Sediment.
- o Water temperature.
- o Organic debris.
- o Chemical contamination.
- o Peak flow.

The following general guidelines shall be used when evaluating watershed impacts. The factors described are general and may not be appropriate for all situations. Actual measurements may be required if needed to evaluate significant environmental effects. The plan must comply with the quantitative or narrative water–quality objectives set forth in an applicable Water Quality Control Plan.

a. Sediment Effects

Sediment–induced CWEs occur when earth materials transported by surface or mass wasting erosion enter a stream or stream system at separate locations and are then combined at a downstream location to produce a change in water quality or channel condition. The eroded materials can originate from the same or different projects. Potentially adverse changes are most likely to occur in the following locations and situations:

- Downstream areas of reduced stream gradient where sediment from a new source may be deposited in addition to sediment derived from existing or other new sources.
- Immediately downstream from where sediment from a new source is combined with sediment from other new or existing sources and the combined amount of sediment exceeds the transport capacity of the stream.
- Any location where sediment from new sources in combination with suspended sediment from existing or other new sources significantly reduces the survival of fish or other aquatic organisms or reduces the quality of waters used for domestic, agricultural, or other beneficial uses.
- Channels with relatively steep gradients which contain accumulated sediment and debris that can be mobilized by sudden new sediment inputs, such as debris flows, resulting in debris torrents and severe channel scouring.

Potentially significant adverse impacts of cumulative sediment inputs may include:

- Increased treatment needs or reduced suitability for domestic, municipal, industrial, or agricultural water use.
- Direct mortality of fish and other aquatic species.
- Reduced viability of aquatic organisms or disruption of aquatic habitats and loss of stream productivity caused by filling of pools and plugging or burying streambed gravel.
- Accelerated channel filling (aggradation) resulting in loss of streamside vegetation and stream migration that can cause accelerated bank erosion.
- Accelerated filling of downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors.
- Channel scouring by debris flows and torrents.
- Nuisance to or reduction in water related recreational activities.

Situations where sediment production potential is greatest include:

- Sites with high or extreme erosion hazard ratings.
- Sites which are tractor logged on steep slopes.
- Unstable areas.

b. Water Temperature Effects

Water temperature related CWEs are changes in water chemistry or biological properties caused by the combination of solar warmed water from two or more locations (in contrast to an individual effect that results from impacts along a single stream segment) where natural cover has been removed. Cumulative changes in water temperature are most likely to occur in the following situations:

- Where stream bottom materials are dark in color.
- Where water is shallow and has little underflow.

– Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more locations along a stream.

– Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more streams that are tributary to a larger stream.

– Where water temperature is near a biological threshold for specific species.

Significant adverse impacts of cumulative temperature increases include:

– Increases in the metabolic rate of aquatic species.

– Direct increases in metabolic rate and/or reduction of dissolved oxygen levels, either of which can cause reduced vigor and death of sensitive fish and other sensitive aquatic organisms.

– Increased growth rates of microorganisms that deplete dissolved oxygen levels or increased disease potential for organisms.

– Stream biology shifts toward warmer water ecosystems.

c. Organic Debris Effects

CWEs produced by organic debris can occur when logs, limbs, and other organic material are introduced into a stream or lake at two or more locations. Decomposition of this debris, particularly the smaller sized and less woody material, removes dissolved oxygen from the water and can cause impacts similar to those resulting from increased water temperatures. Introduction of excessive small organic debris can also increase water acidity.

Large organic debris is an important stabilizing agent that should be maintained in small to medium size, steep gradient channels, but the sudden introduction of large, unstable volumes of bigger debris (such as logs, chunks, and larger limbs produced during a logging operation) can obstruct and divert streamflow against erodible banks, block fish migration, and may cause debris torrents during periods of high flow.

Removing streamside vegetation can reduce the natural, annual inputs of litter to the stream (after decomposition of logging– related litter.) This can cause both a drop in food supply, and resultant productivity, and a change in types of food available for organisms that normally dominate the lower food chain of streams with an overhanging or adjacent forest canopy.

d. Chemical Contamination Effects

Potential sources of chemical CWEs include run–off from roads treated with oil or other dust–retarding materials, direct application or run–off from pesticide treatments, contamination by equipment fuels and oils, and the introduction of nutrients released during slash burning or wildfire from two or more locations.

e. Peak Flow Effects

CWEs caused by management induced peak flow increases in streams during storm events are difficult to anticipate. Peak flow increases may result from management activities that reduce vegetative water use or produce openings where snow can accumulate (such as clear–cutting and site preparation) or that change the timing of flows by producing more efficient runoff routing (such as insloped roads.) These increases, however, are likely to be small relative to natural peak flows from medium and large storms. Research to date on the effects of management activities on channel conditions indicates that channel changes during storm events are primarily the result of large sediment inputs.

3. Watercourse Condition

The watershed impacts of past upstream and on–site projects are often reflected in the condition of stream channels on the project area. Following is a list of channel characteristics and factors that may be used to describe current watershed conditions and to assist in the evaluation of potential project impacts:

o Gravel Embedded – Spaces between stream gravel filled with sand or finer sediments. Gravel are often in a tightly packed arrangement.

o Pools Filled – Former pools or apparent pool areas filled with sediments leaving few areas of deep or "quiet" water relative to stream flow or size.

o Aggrading – Stream channels filled or filling with sediment that raises the channel bottom elevation. Pools will be absent or greatly diminished and gravel may be embedded or covered by finer sediments. Streamside vegetation may be partially or completely buried, and the stream may be meandering or cutting into its banks above the level of the former streambed. Depositional areas in aggrading channels are often increasing in size and number.

o Bank Cutting – Can either be minor or severe and is indicated by areas of fresh, unvegetated soil or alluvium exposed along the stream banks, usually above the low–flow channel and often with a vertical or undercut face. Severe bank cutting is often associated with channels that are downcutting, which can lead to over–steepened banks, or aggrading, which can cause the channel to migrate against slopes that were previously above the high flow level of the stream.

o Bank Mass Wasting – Channels with landslides directly entering the stream system. Slide movement may be infrequent (single events) or frequent (continuing creep or periodic events).

o Downcutting – Incised stream channels with relatively clean, uncluttered beds cut below the level of former streamside vegetation and with eroded, often undercut or vertical, banks.

o Scoured – Stream channels that have been stripped of gravel and finer bed materials by large flow events or debris torrents. Streamside vegetation has often been swept away, and the channel has a raw, eroded appearance.

o Organic Debris – Debris in the watercourse can have either a positive or negative impact depending on the amount and stability of the material. Some stable organic debris present in the watercourse helps to form pools and retard sediment transport and downcutting in small to medium sized streams with relatively steep gradients. Large accumulations of organic debris can block fish passage, block or divert streamflow, or could be released as a debris flow.

o Stream–Side Vegetation – Stream–side vegetation and near–stream vegetation provide shade or cover to the stream, which may have an impact on water temperature, and provides root systems that stabilize streambanks and floodplains and filter sediment from flood flows.

o Recent Floods – A recent high flow event that would be considered unusual in the project area may have an impact on the current watercourse condition.

B. Soil Productivity

Cumulative soil productivity impacts occur when the effects of two or more activities, from the same or different projects, combine to produce a significant decrease in soil biomass production potential. These impacts most often occur on–site within the project boundary, and the relative severity of productivity losses for a given level of impact generally increases as site quality declines.

The primary factors influencing soil productivity that can be affected by timber operations include:

o Organic matter loss.

o Surface soil loss.

o Soil compaction.

o Growing space loss.

The following general guidelines may be used when evaluating soil productivity impacts.

1. Organic Matter Loss

Displacement or loss of organic matter can result in a long term loss of soil productivity. Soil surface litter and downed woody debris are the store–house of long term soil fertility, provide for soil moisture conservation, and support soil microorganisms that are critical in the nutrient cycling and uptake process. Much of the chemical and microbial activity of the forest nutrient cycle is concentrated in the narrow zone at the soil and litter interface.

Displacement of surface organic matter occurs as a result of skidding, mechanical site preparation, and other land disturbing timber operations. Actual loss of organic matter occurs as a result of burning or erosion. The effects of organic matter loss on soil productivity may be expressed in

terms of the percentage displacement or loss as a result of all project activities.

2. Surface Soil Loss

The soil is the storehouse of current and future site fertility, and the majority of nutrients are held in the upper few inches of the soil profile. Topsoil displacement or loss can have an immediate effect on site productivity, although effects may not be obvious because of reduced brush competition and lack of side–by–side comparisons or until the new stand begins to fully occupy the available growing space.

Surface soil is primarily lost by erosion or by displacement into windrows, piles, or fills. Mass wasting is a special case of erosion with obvious extreme effects on site productivity. The impacts of surface soil loss may be evaluated by estimating the proportion of the project area affected and the depth of loss or displacement.

3. Soil Compaction

Compaction affects site productivity through loss of large soil pores that transmit air and water in the soil and by restricting root penetration. The risk of compaction is associated with:

- Depth of surface litter.
- Soil organic matter content.
- Soil texture.
- Soil structure.
- Presence and amount of coarse fragments in the soil.
- Soil moisture status.

Compaction effects may be evaluated by considering the soil conditions, as listed above, at the time of harvesting activities and the proportion of the project area subjected to compacting forces.

4. Growing Space Loss

Forest growing space is lost to roads, landings, permanent skid trails, and other permanent or non–restored areas subjected to severe disturbance and compaction.

The effects of growing space loss may be evaluated by considering the overall pattern of roads, etc., relative to feasible silvicultural systems and yarding methods.

C. Biological Resources

Biological assessment areas will vary with the species being evaluated and its habitat. Factors to consider in the evaluation of cumulative biological impacts include:

1. Any known rare, threatened, or endangered species or sensitive species (as described in the Forest Practice Rules) that may be directly or indirectly affected by project activities.

Significant cumulative effects on listed species may be expected from the results of activities over time which combine to have a substantial effect on the species or on the habitat of the species.

2. Any significant, known wildlife or fisheries resource concerns within the immediate project area and the biological assessment area (e.g. loss of oaks creating forage problems for a local deer herd, species requiring special elements, sensitive species, and significant natural areas).

Significant cumulative effects may be expected where there is a substantial reduction in required habitat or the project will result in substantial interference with the movement of resident or migratory species.

The significance of cumulative impacts on non–listed species viability should be determined relative to the benefits to other non–listed species. For example, the manipulation of habitat results in conditions which discourage the presence of some species while encouraging the presence of others.

3. The aquatic and near–water habitat conditions on the THP and immediate surrounding area. Habitat conditions of major concern are:

- o Pools and riffles.
- o Large woody material in the stream.
- o Near–water vegetation.

Much of the information needed to evaluate these factors is described in the preceding Watershed Resources section. A general discussion of their importance is given below:

a. Pools and Riffles

Pools and riffles affect overall habitat quality and fish community structure. Streams with little structural complexity offer poor habitat for fish communities as a whole, even though the channel may be stable. Structural complexity is often lower in streams with low gradients, and filling of pools can reduce stream productivity.

b. Large Woody Material

Large woody debris in the stream plays an important role in creating and maintaining habitat through the formation of pools. These pools comprise important feeding locations that provide maximum exposure to drifting food organisms in relatively quiet water. Removal of woody debris can reduce frequency and quality of pools.

c. Near–Water Vegetation

Near–water vegetation provides many habitat benefits, including: shade, nutrients, vertical diversity, migration corridors, nesting, roosting, and escape. Recruitment of large woody material is also an important element in maintaining habitat quality.

4. The biological habitat condition of the THP and immediate surrounding area. Significant factors to consider are:

- o Snags/den trees
- o Downed, large woody debris
- o Multistory canopy
- o Road density
- o Hardwood cover
- o Late seral (mature) forest characteristics
- o Late seral habitat continuity

The following general guidelines may be used when evaluating biological habitat. The factors described are general and may not be appropriate for all situations. The THP preparer must also be alert to the need to consider factors which are not listed below. Each set of ground conditions are unique and the analysis conducted must reflect those conditions.

a. Snags/Den/Nest Trees: Snags, den trees, nest trees and their recruitment are required elements in the overall habitat needs of more than 160 wildlife species. Many of these species play a vital role in maintaining the overall health of timberlands. Snags of greatest value are > 16″ DBH and 20 feet in height. The degree of snag recruitment over time should be considered. Den trees are partially live trees with elements of decay which provide wildlife habitat. Nest trees have importance to birds classified as a sensitive species.

b. Downed large, woody debris: Large downed logs (particularly conifers) in the upland and near–water environment in all stages of decomposition provide an important habitat for many wildlife species. Large woody debris of greatest value consists of downed logs > 16″ diameter at the large end and > 20 feet in length.

c. Multistory canopy: Upland multistoried canopies have a marked influence on the diversity and density of wildlife species utilizing the area. More productive timberland is generally of greater value and timber site capability should be considered as a factor in an assessment. The amount of upland multistoried canopy may be evaluated by estimating the percent of the stand composed of two or more tree layers on an average per acre basis.

Near–water multistoried canopies in riparian zones that include conifer and hardwood tree species provide an important element of structural diversity to the habitat requirements of wildlife. Near–water multistoried canopy may be evaluated by estimating the percentage of ground covered by one or more vegetative canopy strata, with more emphasis placed on shrub species along Class III and IV streams (14 CCR 916.5, 936.5, or 956.5).

d. Road Density: Frequently traveled permanent and secondary roads have a significant influence on wildlife use of otherwise suitable habitat. Large declines in deer and bear use of areas adjacent to open roads are frequently noted. Road density influence on large mammal habitat may be evaluated by estimating the miles of open permanent and temporary roads, on a per–section basis, that receive some level of maintenance and are open to the public. This assessment should also account for the effects

of vegetation screening and the relative importance of an area to wildlife on a seasonal basis (e.g. winter range).

e. Hardwood Cover: Hardwoods provide an important element of habitat diversity in the coniferous forest and are utilized as a source of food and/or cover by a large proportion of the state's bird and mammal species. Productivity of deer and other species has been directly related to mast crops. Hardwood cover can be estimated using the basal area per acre provided by hardwoods of all species.

f. Late Seral (Mature) Forest Characteristics: Determination of the presence or absence of mature and over– mature forest stands and their structural characteristics provides a basis from which to begin an assessment of the influence of management on associated wildlife. These characteristics include large trees as part of a multilayered canopy and the presence of large numbers of snags and downed logs that contribute to an increased level of stand decadence. Late seral stage forest amount may be evaluated by estimating the percentage of the land base within the project and the biological assessment area occupied by areas conforming to the following definitions:

Forests not previously harvested should be at least 80 acres in size to maintain the effects of edge. This acreage is variable based on the degree of similarity in surrounding areas. The area should include a multi–layered canopy, two or more tree species with several large coniferous trees per acre (smaller subdominant trees may be either conifers or hardwoods), large conifer snags, and an abundance of large woody debris.

Previously harvested forests are in many possible stages of succession and may include remnant patches of late seral stage forest which generally conform to the definition of unharvested forests but do not meet the acreage criteria.

g. Late Seral Habitat Continuity: Projects containing areas meeting the definitions for late seral stage characteristics must be evaluated for late seral habitat continuity. The fragmentation and resultant isolation of late seral habitat types is one of the most significant factors influencing the sustainability of wildlife populations not adapted to edge environments.

This fragmentation may be evaluated by estimating the amount of the on–site project and the biological assessment area occupied by late seral stands greater than 80 acres in size (considering the mitigating influence of adjacent and similar habitat, if applicable) and less than one mile apart or connected by a corridor of similar habitat.

h. Special Habitat Elements: The loss of a key habitat element may have a profound effect on a species even though the habitat is otherwise suitable. Each species may have several key limiting factors to consider. For example, a special need for some large raptors is large decadent trees/snags with broken tops or other features. Deer may have habitat with adequate food and cover to support a healthy population size and composition but dependent on a few critical meadows suitable for fawning success. These and other key elements may need special protection.

D. Recreational Resources: The recreational assessment area is generally the area that includes the logging area plus 300 feet.

To assess recreational cumulative impacts:

1. Identify the recreational activities involving significant numbers of people in and within 300 feet of logging area (e.g., fishing, hunting, hiking, picnicking, camping).

2. Identify any recreational Special Treatment Areas described in the Board of Forestry rules on the plan area or contiguous to the area.

E. Visual Resources: The visual assessment area is generally the logging area that is readily visible to significant numbers of people who are no further than three miles from the timber operation. To assess visual cumulative effects:

1. Identify any Special Treatment Areas designated as such by the Board of Forestry because of their visual values.

2. Determine how far the proposed timber operation is from the nearest point that significant numbers of people can view the timber operation. At distances of greater than 3 miles from viewing points, activities are not easily discernible and will be less significant.

3. Identify the manner in which the public identified in 1 and 2 above will view the proposed timber operation (from a vehicle on a public road, from a stationary public viewing point or from a pedestrian pathway).

F. Vehicular Traffic Impacts: The traffic assessment area involves the first roads not part of the logging area on which logging traffic must travel. To assess traffic cumulative effects:

1. Identify whether any publicly owned roads will be used for the transport of wood products.

2. Identify any public roads that have not been used recently for the transport of wood products and will be used to transport wood products from the proposed timber harvest.

3. Identify any public roads that have existing traffic or maintenance problems.

4. Identify how the logging vehicles used in the timber operation will change the amount of traffic on public roads, especially during heavy traffic conditions.

NOTE: Authority cited: Sections 4551, 4551.9 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4551.9, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New section, Technical Rule Addendum #2, and Appendix filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
2. Editorial correction (Register 97, No. 48).
3. Amendment of section and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
5. Amendment filed 10–28–2004; operative 1–1–2005 (Register 2004, No. 44).

§ 912.10. Pacific Yew.

HISTORY

1. New section filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

Article 3. Silvicultural Methods

§ 913. Silvicultural Objectives.

The objectives of this article are to describe standard silvicultural systems and to provide for alternatives that when applied shall meet the objectives of the FPA (PRC 4512 and 4513). The RPF shall select systems and alternatives which achieve maximum sustained production of high quality timber products.

The THP shall designate one or a combination of regeneration methods, prescriptions or intermediate treatments described by this article. If a method, prescription or treatment not defined in the rules (see 14 CCR 895.1), is to be used an alternative prescription shall be included in the plan.

The assessment of maximum sustained production of high quality timber products is based on:

(a) Regeneration methods, intermediate treatments and prescriptions described in the rules which establish standards. These methods, treatments, prescriptions, and standards shall not be utilized to permit harvesting of growing stock in a manner that will significantly delay reaching or maintaining maximum sustained production.

(b) Published yield tables or other tools which can be validated and which serve as a point of reference for evaluating and selecting silvicultural systems and their implementation.

(c) The Sustained Yield Plan. The SYP establishes the flow of forest products from managed timberlands, and shall demonstrate the achievement of maximum sustained production.

(d) An assessment of maximum sustained production of high quality timber products is not required for a harvest designated as, and meeting the definition of fuelbreak/defensible space under 14 CCR 913.4 [933.4, 953.4] Special Prescriptions. Because these lands are designated as defensible space areas, the wood production potential of these lands is compatible with the lowest site classifications and they shall be considered site IV timberland for stocking purposes.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5 and 4561, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 2-21-79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1-11-83; effective thirtieth day thereafter (Register 83, No. 3).
3. Amendment of section heading and section filed 1-7-94; operative 3-1-94 (Register 94, No. 1).
4. Amendment filed 5-16-94; operative 5-16-94 (Register 94, No. 20).
5. New subsection (d) filed 11-19-97; operative 1-1-98 (Register 97, No. 47).

§ 913.1. Regeneration Methods Used in Evenaged Management.

The following types of regeneration methods are designed to replace a harvestable stand with well spaced growing trees of commercial species. Evenaged management systems shall be applied with the limitations described by this rule:

(a) Timber stands harvested under an evenaged regeneration method shall meet the following standards:

(1) Where a regeneration step harvest of evenaged management will occur on stands younger than 50 years of age for Class I lands, 60 years of age for Class II and III lands, or 80 years of age for Class IV and V lands, or equivalent age of trees, based on height as determined according to the appropriate site class, the RPF preparing the THP or SYP must demonstrate how the proposed harvest will achieve MSP pursuant to 14 CCR § 913.11(a) or (b); provided, however, that the Director may grant an exemption from this section, based upon hardship.

(2) The regeneration harvest of evenaged management shall be limited to 20 acres for tractor yarding. Aerial or cable yarding may be 30 acres. Tractor yarding may be increased to 30 acres where the EHR is low and the slopes are < 30%.

The RPF may propose increasing these acreage limits to a maximum of 40 acres, and the Director may agree where measures contained in the THP provide substantial evidence that the increased acreage limit does any one of the following:

(A) by using additional on-site mitigation measures, reduce the overall detrimental effects of erosion thereby providing better protection of soil, water, fish and/or wildlife resources; or

(B) provide for the inclusion of "long corners", or

(C) create a more natural logging unit by taking maximum advantage of the topography; or

(D) will increase long-term sustained yield; or

(E) provide feasible off-site mitigation measures that can be incorporated in the plan to restore or enhance previously impacted resource areas or other environmental enhancements that will result in demonstrable net environmental benefits within the planning watershed. These measures may include, but are not limited to, watercourse restoration, soil stabilization, road surface stabilization, road outsloping, road abandonment, road reconstruction, enhancement of wildlife habitats and vegetation management.

To qualify for an exemption the plan submitter is not required to demonstrate that other feasible options are not available.

(3) Evenaged regeneration units within an ownership shall be separated by a logical logging unit that is at least as large as the area being harvested or 20 acres, whichever is less, and shall be separated by at least 300 feet in all directions.

(4) Within ownership boundaries, no logical logging unit contiguous to an evenaged management unit may be harvested using an evenaged regeneration method unless the following are met:

(A) The prior evenaged regeneration unit has an approved report of stocking, and the dominant and codominant trees average at least five years of age or average at least five feet tall and three years of age from the time of establishment on the site, either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent evenaged management may occur.

(5) Except for the clearcut method, all trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to felling operations. A sample area shall be marked prior to a preharvest inspection. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type, and must be representative of the range of conditions present in the area. The marking requirement may be waived by the Director if the trees to be harvested are easily distinguished from the trees to be retained, when explained and justified by the RPF in the plan.

(6) Special consideration for aesthetic enjoyment shall be given to selection of silvicultural treatments and timber operations within 200 feet of the edge of the traveled surface of any permanent road maintained by the County, or the State.

(7) Special consideration for aesthetic enjoyment and protection of adjacent stand vigor shall be given to the selection of silvicultural methods and timber operations within 200 feet of adjacent non-federal lands not zoned TPZ.

(b) Clearcutting. The clearcutting regeneration method involves the removal of a stand in one harvest. Regeneration after harvesting shall be obtained by direct seeding, planting, sprouting, or by natural seed fall. When practical, clearcuts shall be irregularly shaped and variable in size in order to mimic natural patterns and features found in landscapes. Site preparation and slash disposal measures, if necessary for successful regeneration, shall be described in the plan.

(c) Seed Tree. The seed tree regeneration method involves the removal of a stand in one harvest except for well distributed seed trees of desired species which are left singly or in groups to restock the harvested area. The seed step is utilized to promote natural reproduction from seed and to initiate the establishment of an evenaged stand. The removal step may be utilized to remove the seed trees after a fully stocked stand of reproduction has become established.

(1) Seed Tree Seed Step.

The seed tree seed step is the regeneration step and shall meet the following requirements:

(A) Retention of at least the following basal area of seed trees per acre which are 18 inches dbh or greater:

1. Fifteen square feet basal area on site I, II and III lands and
2. Twelve square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 150 feet from a seed tree.

(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 912.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in-lieu of retaining trees.

(2) Seed Tree Removal Step.

Not more than 15 predominant trees per acre may be removed in the seed tree removal step. Not more than 50 sq. ft. of basal area of predominant trees per acre may be removed in the seed tree removal step. The seed tree removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 912.7(b)(1). Regeneration shall not be harvested under the seed tree method unless the trees are dead, dying or diseased or substantially damaged during timber operations. The minimum stocking standards of 14 CCR § 912.7(b)(1) shall be met immediately upon completion of operations. The seed tree removal step shall only be used once in the life of the stand unless otherwise agreed to by the Director.

If the extent and intensity of the soil and vegetation disturbance caused by the harvest is similar to what would have been caused by a clearcut, the size limitations, separation (spacing) by logical logging unit requirements, and yarding equipment limitations of 14 CCR § 913.1(a) are applicable.

(d) Shelterwood. The shelterwood regeneration method reproduces a stand via a series of harvests (preparatory, seed, and removal). The preparatory step is utilized to improve the crown development, seed production capacity and wind firmness of designated seed trees. The seed step is utilized to promote natural reproduction from seed. The removal step is utilized when a fully stocked stand of reproduction has become established, and this step includes the removal of the protective overstory trees. The shelterwood regeneration method is normally utilized when some shade canopy is considered desirable for the establishment of regeneration.

(1) Shelterwood Preparatory Step. The shelterwood preparatory step shall meet the following minimum standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained.

1. Thirty square feet basal area on site I, II and III lands and

2. Twenty four square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

(C) Seed tree species shall be specified in the plan by the RPF.

(D) At least 125 square feet of basal area per acre on Site I lands, and 75 square feet of basal area per acre on Site II and III lands and 50 sq. ft. of basal area per acre on site IV and V lands shall be retained.

(E) The minimum stocking standards of 14 CCR § 912.7(b)(1) shall be met immediately upon completion of operations. Within six months following completion of work described in the plan, a report of stocking shall be filed as stated in PRC § 4587.

(2) Shelterwood Seed Step. The shelterwood seed step is the regeneration step and shall meet the following standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained

1. Thirty square feet basal area on site I, II and III lands and

2. Twenty four square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

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(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 912.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand.

The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

(3) Shelterwood Removal Step. The shelterwood removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 912.7(b)(1). Unless otherwise agreed to by the Director, the Shelterwood removal shall only be used once in the life of the stand. Regeneration shall not be harvested during the shelterwood removal step unless the trees are dead, dying or diseased or substantially damaged by timber operations. The minimum stocking standards of 14 CCR § 912.7(b)(1) shall be met immediately upon completion of operations.

The size limitations, and separation (spacing) by logical logging unit requirements, of 14 CCR § 913.1(a) are applicable unless the post–harvest stand, regardless of average diameter, meets the stocking standards of 14 CCR § 913.3(a)(1)(A) or (B). Not more than 32 predominant trees per acre may be removed in the shelterwood removal step. Not more than 100 square feet of basal area of predominant trees per acre may be removed in the shelterwood removal step.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561 and 4582(h), Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
4. Editorial correction of subsection (b)(2) (Register 91, No. 28).
5. Amendment of section heading and section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
6. Repealer of emergency amendments filed 11–25–91 and reinstatement of prior text filed 9–22–92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
7. Amendment filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
8. Amendment of subsections (a)(1)–(2)(A), (a)(4)(A) and (d)(3) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
9. Amendment of subsection (a)(4)(A) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
10. Editorial correction of subsection (a)(2)(B) (Register 96, No. 50).
11. Amendment of subsections (a)(5), (c)(1)(D) and (d)(2)(D) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
12. Amendment filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).

§ 913.1.5. Regeneration Methods Used in Even–Aged Management and Limitations.

NOTE: Authority cited: Sections 4551, 4553, 4561, and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4561 and 4582(h), Public Resources Code.

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 913.2. Regeneration Methods Used in Unevenaged Management.

Unevenaged management is utilized to establish and maintain an unevenaged stand structure. Unevenaged management attributes include the establishment and/or maintenance of a multi–aged, balanced stand structure, promotion of growth on leave trees throughout a broad range of diameter classes, and encouragement of natural reproduction.

(a) Selection. Under the selection regeneration method, the trees are removed individually or in small groups sized from .25 acres to 2.5 acres.

(1) Trees to be harvested or trees to be retained shall be marked by or under the supervision of the RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area.

(2) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. In no case shall stocking be reduced below the following standards:

(A) Selection System.

1. On Site I lands at least 125 square feet per acre of basal area shall be retained.

2. On Site II and III lands at least 75 square feet per acre of basal area shall be retained.

3. On Site IV and V lands at least 50 square feet per acre) of basal area shall be retained.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 913.11(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(B) Group Selection.

1. At least 80% of the stocked plots must meet the Basal Area stocking standards of 14 CCR § 913.2(a)(2)(A).

2. Not more than 20% of the stocked plots may meet stocking standards utilizing the 300 point count standard with trees that are at least 10 (ten) years old.

3. An RPF or supervised designee may offset up to 8 plots per 40 plots where those plot centers are initially placed within small group clearings created during the current harvest. Unless substantially damaged by fire, the RPF or supervised designee shall not exclude small group clearings created by previous timber harvesting from the stocking survey.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 913.11(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(3) Within any THP, small group clearings under the selection method shall be separated by a logical logging area.

(4) Following completion of timber operations (including site preparation) not more than 20 percent of the THP area harvested by this method shall be covered by small group clearings.

(5) Exceptions to stocking standards in 14 CCR § 913.2(a)(2) above may be granted only when proposed by the RPF and explained and justified in the plan, but in no case will the exceptions be less than specified in 14 CCR § 912.7(b)(2). Exceptions may only be granted when the RPF clearly demonstrates that the existing stand will grow substantially less than both the potential site productive capacity and the proposed post harvest stand.

(b) Transition. The transition method may be used to develop an unevenaged stand from a stand that currently has an unbalanced irregular or evenaged structure. The transition method involves the removal of

trees individually or in small groups from irregular or evenaged stands to create a balanced stand structure and to obtain natural reproduction.

(1) Area for determination of preharvest seed tree retention levels shall be no greater than 20 acres in size.

(2) This method is to be used to increase stocking and improve the balance of age classes so as to allow the residual stand to be managed by the selection regeneration method. This method shall not be used more than two times for a stand. The RPF shall delineate areas previously treated by the transition method on the plan map.

(3) Stands suitable for the transition method contain adequate quantity and quality of seed producing trees to provide adequate regeneration for new age classes. Stands suitable for this method shall have no more than 50 sq. ft. of basal area greater than the selection basal area standards.

(4) Trees to be harvested or trees to be retained shall be marked by or under the supervision of a RPF before felling operations. A sample area must be marked before the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present.

(5) Immediately following the completion of timber operations, the minimum basal area standards in 14 CCR § 912.7(b)(2) shall be met.

(6) The post–harvest residual stand shall contain at least 15 square feet of basal area per acre of seed trees at least 12 inches dbh or greater for timber sites I, II or III; or 12 square feet of basal area per acre of seed trees 12 inches dbh or greater for timber sites IV or V., except for timber sites I with Coast Redwood. For timber sites I with Coast Redwood, the post–harvest residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of the leave tree requirement specified under the seed tree method (14 CCR § 913.1(c)(1)(A)). Unless obviously stocked, these basal area requirements will be determined from sampling averaged across each harvested area required in 14 CCR § 913.2(b)(1). Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 913.11(a) or (b), where present in the preharvest stand, disease free, undamaged seed trees 18 inches dbh or greater shall be retained post harvest until the stand exceeds the minimum seed tree requirements of 14 CCR § 913.1(c)(1)(A). The seed trees shall be full crown, capable of seed production and representative of the best phenotypes available in the pre–harvest stand.

(7) Following completion of timber operations (including site preparation) not more than 20 percent of the Plan area harvested by this method shall be occupied by small group clearings.

(8) The Plan Submitter must provide the Director sufficient information such as growth and stand description to demonstrate that the standards of the selection regeneration method will be met by the third and subsequent entries of Plan areas harvested by the transition method.

(c) Within six months following completion of timber operations conducted pursuant to the selection and transition methods as described in the plan, a report of stocking shall be filed as stated in PRC § 4587.

(d) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material, and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4582(h) and 4587, Public Resources Code.

HISTORY

1. Amendment of subsection (a) and new NOTE filed 2–21–79; effective thirtieth day thereafter (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect of subsection (c) filed 5–24–89 (Register 89, No. 23).
4. Editorial correction of subsection (c) (Register 91, No. 28).
5. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. Amendment of subsections (a)(2)(A)4, (a)(2)(B)2 and 4 and (b)(5) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
7. Amendment of subsections (a)(2)(B)3. and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsection (a)(2)(B)3. (Register 97, No. 48).
9. Amendment filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
10. New subsection (b)(1), subsection renumbering, amendment of newly designated subsections (b)(2)–(7), repealer of former subsections (b)(7)–(b)(7)(A), redesignation and amendment of former subsection (b)(7)(B) as new subsection (b)(8) and amendment of NOTE filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

§ 913.2.5. Even–Aged Size Limits.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Sections 4512, 4513, 4561, 4582(h) and 21001, Public Resources Code.

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 913.3. Intermediate Treatments.

(a) Commercial Thinning. Commercial thinning is the removal of trees in a young–growth stand to maintain or increase average stand diameter of the residual crop trees, promote timber growth, and/or improve forest health. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand.

(1) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. Generally stands will develop stand structures with considerably higher levels of basal area than provided in these minimum standards as stand age increases. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 inches DBH:

1. On Site I lands at least 125 sq.ft. per acre of basal area shall be left.
2. On Site II and III lands at least 100 sq.ft. per acre of basal area shall be left.
3. On Site IV lands at least 75 sq.ft. per acre of basal area shall be left.
4. On Site V lands, at least 50 sq.ft. per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees less than 14 inches DBH, a minimum of 100 trees per acre over 4 inches DBH shall be retained for site I, II and III. For site IV and V 75 trees per acre over 4 inches DBH shall be retained.

(2) Exceptions to these stocking standards may be proposed by the RPF when explained and justified in the plan, but in no case will the standards be below those specified in 14 CCR 912.7(b)(2).

(3) For stands harvested in compliance with 14 CCR 913.3(a)(1)(A), the trees to be harvested or the trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. For all thinning proposals, a sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the thinning area up to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. The Director may waive the marking requirements for the remainder of the THP area when explained and justified in the THP.

(4) Within six months following completion of timber operations as described in the plan a report of stocking shall be filed as stated in PRC Section 4587.

(b) Sanitation–Salvage. Sanitation is the removal of insect–attacked or diseased trees in order to maintain or improve the health of the stand. Salvage is the removal of only those trees which are dead, dying or deteriorating, because of damage from fire, wind, insects, disease, flood or other injurious agents. Salvage provides for the economic recovery of trees prior to a total loss of their wood product value. Sanitation and salvage

may be combined into a single operation. The following requirements apply to the use of the sanitation–salvage treatment:

(1) The RPF shall estimate in the THP expected level of stocking to be retained upon completion of operations.

(2) Immediately upon completion of operations, the area shall meet the stocking standards of 14 CCR 912.7(b) unless explained and justified in the plan. If stocking is to be met immediately following completion of operations, a report of stocking shall be filed within 6 months of completion. If this standard cannot be met, the area must be planted during the first planting season following completion of operations and the minimum stocking standards of 14 CCR 912.7(b)(1) must be met within 5 years following completion of operations.

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(3) Trees to be harvested or trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the area, up to a maximum of 20 acres per stand type, whichever is less, which is representative of the range of conditions present in the area. The Director may waive the marking requirement for the remainder of the THP area when explained and justified in the THP.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4582(d), (h) and 4587, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. New subsection (c) filed 1–23–985; effective thirtieth day thereafter (Register 85, No. 4).
4. Change without regulatory effect filed 5–25–89 (Register 89, No. 23).
5. Editorial correction of subsections (a)(2) and (c)(2) (Register 91, No. 28).
6. Amendment filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
7. Amendment of subsections (a)(3) and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 913.4. Special Prescriptions.

The following special harvesting methods are appropriate under certain conditions:

(a) Special Treatment Areas Prescriptions. Special consideration in Special Treatment Areas shall be given to selection of a regeneration method or intermediate treatment compatible with the objectives for which the special area was established. Such areas shall be identified in the plan. To assure the integrity of legally designated historical and archaeological sites and legally designated ecological reserves, and that the objectives of the special treatment areas are met, the RPF and the Director may agree, after on–the–ground inspection, if requested by either party, on specific silvicultural and logging practices to protect such areas. The Director shall notify affected agencies or groups with expertise in the resource involved in the special treatment area of any such areas located during the THP review process.

(b) Rehabilitation of Understocked Area Prescription. For the purposes of restoring and enhancing the productivity of commercial timberlands which do not meet the stocking standards defined in 14 CCR 912.7 prior to any timber operations on such lands, an area may be harvested provided it is restocked in accordance with sub–sections (1) or (2). To facilitate restocking, a regeneration plan must be included in the THP. The regeneration plan shall include site preparation, method of regeneration, and other information appropriate to evaluate the plan.

(1) If the area meets the standards of 14 CCR 912.7 within five years of completion of timber operations, the area shall be considered acceptably stocked, or shall be considered acceptably stocked if it contains at least 10 planted countable trees for each tree harvested on sites I, II, and III, and 5 planted countable trees for each tree harvested on site IV and V.

(2) On understocked timberlands where no countable conifer trees n are to be harvested and the broadleaf species are not designated for management, the area shall be planted to equal or exceed the stocking standards of 14 CCR 912.7(b)(1) and shall be considered acceptably stocked if within five years of completion of timber operations it contains at least an average point count of 150 of Group A species on all site classifications.

(c) Fuelbreak/Defensible Space. Where some trees and other vegetation and fuels are removed to create a shaded fuel break or defensible space in an area to reduce the potential for wildfires and the damage they might cause. Minimum stocking standards within the timber operating area shall be met immediately after harvest and shall be those found in 14 CCR 912.7. The RPF shall describe in the plan specific vegetation and fuels treatment, including timing, to reduce fuels to meet the objectives of the Community Fuelbreak area.

(d) Variable Retention. Variable retention is an approach to harvesting based on the retention of structural elements or biological legacies (trees, snags, logs, etc.) from the pre–harvest stand for integration into the post–harvest stand to achieve various ecological, social and geomorphic objectives. The major variables in the variable retention harvest system are retention types, densities, and spatial arrangement of retained structures; aggregated retention is the retention of structures or biological legacies as intact forest patches within the harvest unit; dispersed retention is the retention of structures or biological legacies in a dispersed or uniform pattern. Retained trees may be intended to become part of future stands managed by the Selection regeneration method. Retained trees are often designated as decadent tree or snag recruitment hence not ever intended for harvest. Regeneration after harvest outside of aggregated retention patches may be obtained by direct seeding, planting, sprouting, or by natural seedfall.

(1) In the plan, the RPF shall describe in sufficient detail to provide for review and evaluation: the trees and elements retained, the objectives intended to be achieved by retention, the distribution and quantity of retained trees, the intended time period of retention, and any potential future conditions or events the RPF believes would allow harvest of retained trees. The RPF may explain and justify, and the Director may approve a plan which indicates up to 50% of retained trees are intended for harvest during future Intermediate Treatments of the regenerated portion of the harvest area where such harvest(s) are consistent with stated Variable Retention objectives.

(2) The retention standards for Dispersed Retention shall be measured in average basal area per acre. Where retention is aggregated in groups (greater than or equal to one–tenth acre), percentage of harvest unit area shall be the standard. Sum of all areas within groups divided by harvest unit acres will be used to determine percentage of aggregated retention in the harvest unit. Area and trees located within any standard width WLPZ will be excluded from calculating retention.

(3) The following retention standards shall be met:

(A) Minimum dispersed Variable Retention standard is 20 percent of the Resource Conservation Standards basal area levels stated in 14 CCR § 912.7 [932.7 952.7] (b) (2), 10 percent of harvest area in aggregated retention or combinations thereof. Variable Retention harvests at the minimum retention level shall be limited to 30 acres.

(B) Table 1 shall be used for Determining the Maximum Size Harvest Area for Variable Retention. For areas with a combination of dispersed and aggregated retention types for determination of permissible unit size, the percentage of basal area in dispersed retention portions of the combination area may be reduced proportionately to the area in aggregated retention indicated in Table 1.

Table 1

Dispersed Retention	*Aggregated Retention*	*Maximum Size Harvest Area*
>20% of 912.7(b)(2)	>10% Area	30 Acres
>30% of 912.7(b)(2)	>15% Area	40 Acres
>35% of 912.7(b)(2)	>20% Area	60 Acres
>45% of 912.7(b)(2)	>25% Area	80 Acres
>55% of 912.7(b)(2)	>30% Area	120 Acres
>75% of 912.7(b)(2)	>40% Area	200 Acres

(C) Aggregated retention areas that conform to the definition of Late Succession Forest Stands under 14 CCR § 895.1, with the exception of the minimum 20 acre threshold size, may be counted as contributing 1.5 times the acres they actually occupy toward providing retention.

(D) Retention trees classified as Dunning's Class 3, 4, 5, or 7 which exceed the size standards of 14 CCR § 912.7 may be counted as contributing 1.5 times their actual basal area toward providing retention.

(E) Retention standards shall be met on each 20–acre maximum area(s) within each harvest unit. Retention standards may be met by either dispersed, aggregated or a combination of the two types of retention.

(F) Unless explained and justified by the RPF in the plan, and approved by the Director, no point within the harvest area where retention standards are met by dispersed retention shall be more than 300 feet from a retention tree.

(G) With the exception of 14 CCR § 913.4(d)(3)(J) below, the average height of dispersed retention trees shall be at least (the average height of dominants and codominants of like species in the pre–harvest stand.

(H) For areas where the plan relies on natural seedfall to obtain regeneration, dispersed retention trees shall meet the standards of 14 CCR § 913.1(c)(1). Where retention is aggregated, retained aggregates shall meet the standards of Commercial Thinning required under 14 CCR § 913.3(a) including (a)(1)(A) or (a)(1)(B).

(I) Where specific WHR habitat elements are insufficient to provide functional wildlife habitat, the RPF may explain and justify and the Director may approve alternatives to the standards of subsections 14 CCR § 913.4(d)(3)(G) and (H).

(J) Decadent and Deformed Trees of Value to Wildlife, and Snags which meet the standards of 14 CCR § 912.7(b)(3)(A,B or C) and 14 CCR § 912.7(c) may be counted to meet up to 15 square feet of basal area per acre of retention in excess of the minimum variable retention standards (ref. 14 CCR § 913.4(d)(3)(A)).

(K) Trees shall be retained for at least 50 years unless a shorter period of time is described in the plan, explained and justified by the RPF, and approved by the Director.

(4) Retention standards shall be met immediately after harvest and if retention trees are to be used to meet stocking, at the time the stocking report is approved.

(5) The stocking standards of 14 CCR § 912.7(b)(1) within five years following completion of operations.

(6) Retention trees shall be protected to the extent feasible during timber operations consistent with 14 CCR §§ 914.1; 914.2(e); 914.3; 915.2; 915.3 and 917.7.

(7) The plan shall indicate the estimated average pre–harvest and post–harvest basal area by species and diameter class. Diameter class designations shall be grouped in no greater than 6″ classes.

(8) Where retention is aggregated in groups, the RPF shall provide in the plan a general description of group locations and/or a map showing the approximate location of the groups. This information shall be provided for each logging unit.

(9) All trees to be harvested or all retention trees shall be marked by, or under the supervision of, an RPF prior to felling operations. Where timber harvesting does not occur within retained aggregates, the boundaries of retained aggregates may be designated in lieu of marking individual trees within retained aggregates. A sample area must be marked prior to a pre–harvest inspection for evaluation. The sample area shall include at least 10% of the harvest area for each stand type represented in the range of conditions present in the area. Where necessary to evaluate the proposed retention, the Director may require additional marking before plan approval.

(10) To facilitate restocking, a regeneration plan must be included in the plan. The regeneration plan shall include site preparation, method of regeneration, and other information appropriate to evaluate the plan. Site preparation activities shall be designed to protect retention elements and maintain ground cover to the extent practicable while at the same time result in seedling establishment on the site and encourage long–term site occupancy of the regenerated trees.

(11) Another Variable Retention harvest may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report except as specified in: (i) a THP that has been approved pursuant to 14 CCR § 913.11(a), (ii) an SYP, (iii) a PTEIR or, (iv) an NTMP).

(12) Within ownership boundaries, no logical logging unit contiguous to a previously harvested Variable Retention harvest area may be harvested by a Variable Retention method unless the previously harvested Variable Retention unit has an approved report of stocking and the dominant and codominant trees, not counting retention trees, average at least five years of age or average at least five feet tall and three years of age from the time of establishment on the site either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent Variable Retention management may occur.

(13) A Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report.

(14) Within an ownership, at least 10 years must pass after a Variable Retention harvest that exceeds the size standards of 14 CCR § 913.1(a)(2) before a Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may occur in an adjacent logical harvest area.

(15) Within an ownership, the separation requirements and adjacency limitations of 14 CCR § 913.1(a)(3, 6 and 7) shall apply equally to Variable Retention harvest areas and evenaged regeneration units.

(16) Alternative Prescriptions proposed under 14 CCR § 913.6 may not reference Variable Retention as the most nearly feasible method (ref. 14 CCR § 913.6(b)(3 and 4)). Alternative Prescriptions which approach but do not fully meet the minimum standards of Variable Retention shall be considered Alternatives to a Regeneration Method Used in Evenaged Management.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Section 4582.5, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
4. Amendment of subsection (a) and NOTE filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
5. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. New subsection (c) filed 11–19–97; operative 1–1–98 (Register 97, No. 47).
7. New subsections (d)–(d)(16) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).

§ 913.5. Stocking Status.

Under any regeneration method where artificial regeneration is specified in the plan to restock the logged area, a preliminary report on the degree of stocking shall be submitted to the Director annually, between October 1 and December 31, beginning two years following completion of logging by the timber owner or his/her agent until the stocking standard of 14 CCR 912.7 is met or exceeded or as otherwise required. This report shall indicate the degree of stocking achieved and any additional measures that will be taken to stock the logged area.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4587 and 4588, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Amendment filed 7–2–79; effective thirtieth day thereafter (Register 79, No. 27).
3. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

§ 913.6. Alternative Prescriptions.

(a) An alternative prescription shall be included in a THP when, in the judgment of the RPF, an alternative regeneration method or intermediate

treatment offers a more effective or more feasible way of achieving the objectives of Section 913 than any of the standard silvicultural methods provided in this article.

(b) An alternative prescription, as defined in 14 CCR 895.1, shall normally contain at least the following information:

(1) A description of the stand before timber operations, including:

(A) The RPF's professional judgment of the species composition of the stand before harvest.

(B) The RPF's professional judgment of the current stocking on the area expressed in basal area or a combination of basal area and point count.

(C) The RPF's estimate of the basal area per acre to be removed from the stand during harvest.

(2) A description of stand management constraints such as animal, insect, disease, or other natural damage, competing vegetation, harsh site conditions, or other problems which may affect stand management.

(3) A statement of which silvicultural method in the current District rules is most nearly appropriate or feasible and an explanation of why it is not appropriate or feasible.

(4) An explanation of how the proposed alternative prescription will differ from the most nearly feasible method in terms of securing regeneration; protection of soil, water quality, wildlife and disease protection.

(5) A description of the stand expected after completion of timber operations, including the following:

(A) The management objective under which the post–harvest stand is to be managed (even–aged, uneven–aged, or neither);

(B) The desired tree species composition of the post–harvest stand and the RPF's judgment as to the remaining stocking after harvest expressed as basal area or a combination of basal area and point count.

(6) The treatment of the stand to be used in harvesting, including:

(A) The guidelines to be used in determining which trees are to be harvested or left;

(B) The type of field designation to be followed, such as marking, sample marking of at least 20 percent of the area to be harvested, professional supervision of fallers, or other methods; and

(C) The site preparation and regeneration method and time table to be used for restocking.

(c) If an alternative prescription will have the practical on–the–ground effect of a clearcut, regardless of name or description, then the acreage limitations, and requirement for separation by a typical logging unit, yarding equipment limitations, exceptions, and stocking requirements for the clearcut regeneration method, shall apply.

(d) All trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to harvest. A sample area must be marked prior to the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. The Director may waive the requirements for the remainder of the area when explained and justified by the RPF in the THP.

(e) The Director shall approve the alternative if in his judgment it complies with 14 CCR 898 and if, considering the entire area to which the alternative is to be applied, it would: (1) when compared with the standard most closely related method identified in subsection (b)(3) above have the effect equal to or more favorable than such standard method would achieve in the areas of values relating to soil, the quality and beneficial uses of water, wildlife and fisheries,

(2) not create a significant adverse change in range and forage, and recreation and aesthetic values; and

(3) not reduce the after harvest stocking standards or evenaged prescription limitation below the most closely associated standard, unless the RPF demonstrates that either:

(A) the harvest will result in stand conditions that will increase long term sustained yield as compared to the long term sustained yield achieved by utilizing the stocking standards of the method identified in subsection (b)(3); or

(B) the yield over 20 years of a "No Harvest" alternative would be less than the yield over 20 years of the proposed alternative.

(4) not lead to the direct or indirect conversion of the timberland to other land uses not associated with timber growing and harvesting and compatible uses unless a timberland conversion permit is approved before submission of the THP; and

(5) not result in violations of any of the other standards in the rules of the Board.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5 and 4561, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect filed 6–19–89 (Register 89, No. 28).
4. Repealer of subsection (d) and new subsections (d) and (e) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
5. Amendment of subsections (e), (e)(1), (3) and (4) and new subsection (e)(3)(B) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
6. Amendment of subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
7. Editorial correction of subsection (d) (Register 97, No. 48).

§ 913.7. Exceptions.

The requirements of this article shall not prohibit the timber operator from cutting or removing trees for purposes of:

(a) Clearing rights–of–way, log landings, campsites, or firebreaks necessary for the conduct of timber operations.

(b) The harvesting of Christmas trees and construction of a public fire protection agency fuelbreak is also permitted.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4584, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer of former Section 913.7 and renumbering of Section 913.10 to Section 913.7 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Amendment filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

§ 913.8. Special Harvesting Methods for Southern Subdistrict.

Only the following regeneration methods and stocking requirements shall apply in the Southern Subdistrict of the Coast Forest District. Timber operations shall be conducted in accordance with subsections (a), (b), (c), or (d) below. If the provisions of more than one subsection will be used within any individual timber operation or logging area, a line separating the areas to be cut under provisions of each shall be shown in the plan and clearly defined on the ground by paint or other means prior to filing the plan and so as to be readily identifiable during and after completion of logging.

(a) Leave uncut a well–distributed timber stand after timber operations have been completed on the logging area that is at least 40% by number of those trees 45.7 cm (18 inches) and more d.b.h. present prior to commencement of current timber operations and at least 50% by number of those trees over 30.5 cm (12 inches) d.b.h., but less than 45.7 cm (18 inches) d.b.h. Leave trees shall be thrifty coniferous trees which were dominant or co–dominant in crown class prior to timber harvesting or which have crowns typical of such dominant or co–dominant trees. They shall be free from significant damage caused by the timber operations. No conifer shall be cut which is more than 22.9 m (75 feet) from a leave tree 30.5 cm (12 inches) d.b.h. or larger located within the logging area. Average top stump diameter, outside bark, shall be considered 2.5 cm (1 inch) greater than d.b.h. No area may be cut in excess of the leave tree standards of this rule in any 10 year period. Upon completion of timber operations one of the following stocking standards for coniferous trees shall be met:

(1) Basal Area. The average residual basal area, measured in stems 2.5 cm (1 inch) or larger in diameter at least 27.6 m^2/ha (120 square feet per acre) on Site I lands, and at least 22.7 m^2/ha (100 square feet per acre) on Site II lands, and 17.22 m^2/ha (75 square feet per acre) on Site III lands, and 11.48 m^2/ha (50 square feet per acre) on Sites IV and V lands.

(2) Countable Trees. The area contains a well–distributed stand of trees with an average of at least 1112 countable trees per ha (450 point count per acre) as determined by using the following countable tree equivalents:

(A) 1112 countable trees per ha (450 countable trees per acre) not more than 10.2 cm (4 inches) d.b.h.; each tree to count as one toward meeting stocking requirements.

(B) 371 countable trees per ha (150 countable trees per acre) over 10.2 cm (4 inches) d.b.h. and not more than 30.5 cm (12 inches) d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 185 countable trees per ha (75 countable trees per acre) over 30.5 cm (12 inches) d.b.h. and not more than 45.7 cm (18 inches) d.b.h.; each tree to count as 6 toward meeting stocking requirements.

(D) 124 countable trees per ha (50 countable trees per acre) over 45.7 cm (18 inches) d.b.h.; and not more than 61 cm (24 inches) d.b.h.; each tree to count as 9 toward meeting stocking requirements.

(E) 74 countable trees per ha (30 countable trees per acre) over 61 cm (24 inches) d.b.h.; each tree to count as 15 toward meeting stocking requirements.

(F) Redwood root crown sprouts over .3 m (1 foot) in height will be counted using the average stump diameter .3 m (1 foot) above average ground level of the original stump from which the redwood root crown sprouts originate counting 1 sprout for each .3 m (1 foot) of stump diameter to a maximum of 6 per stump. Any countable redwood root crown sprout over .3 m (1 foot) in height but less than 10.2 cm (4 inches) d.b.h. shall count as 1 toward meeting stocking requirements.

(b) An alternative regeneration method may be approved only if all of the following are met:

(1) The regeneration method described in subsection (a) above is not silviculturally appropriate or feasible in the professional judgment of the Director and the RPF who prepared the plan.

(2) Cutting methods prescribed under the provisions of this section must maintain a well–distributed tree crown cover of at least 50% of the pre–existing tree crown canopy. At no time shall the crown cover be reduced to a level where the productivity of the land is jeopardized or to a level which would create a threat to soil and/or water resources. Provided the required crown cover can be maintained, the removal of all trees in small groups not exceeding .202 ha (one–half acre) in size may be approved as part of the overall cutting prescription.

(3) The alternative method shall provide overall protection at least equal to that of the standard provided by subsection (a) for watershed, wildlife, soil and aesthetic resources considering the silvicultural method, conditions necessary for regeneration, tree growth rate, annual rainfall, summer temperature and length of dry season, critical problems of erodible soils, unstable areas, need for high water quality, increased fire potential and exposure to more intensive use.

(4) A plan agreed upon between the RPF and the Director is prepared which gives timber stand information concerning stocking levels, cutting goals, timber stand growth and future harvest timing expectations. The plan must also include information on site location and preparation for planting required under (6) below.

(5) The timber operator is responsible for carrying out timber operations as described in the plan. The plan submitter is responsible for retaining an RPF to provide professional advice to the timber operator and timberland owner on a continuing basis throughout the timber operations. The RPF or the designee of the RPF works closely with the timber operator to help assure compliance with the approved alternative prescription and the terms and specifications of the approved plan. The RPF or the designee of the RPF is present on the harvest area sufficient hours each week to know the operations' progress and advise the timber operator. The RPF informs the timber operator of potential environmental impacts and the mitigation measures to be taken to minimize such impacts. The timber operator shall sign the plan and major amendments thereto, or shall sign and file with the Director a facsimile thereof prior to commencement or continuation of operation thereunder agreeing to abide by the terms and specifications of the plan. An RPF may be responsible for the conduct of timber operations under contractual arrangements with the timber owner.

(6) The logging area shall meet the stocking standards described in 14 CCR 913.8(a) within five years following completion of timber operations. Hardwoods, as per 14 CCR 912 "Commercial Species," designated for management may be counted for stocking. If such hardwoods are counted to meet stocking requirements, at least 20% of the total harvest area cut under 14 CCR 913.8(a) shall be planted with conifer trees at the rate of at least 1112 well–distributed trees per ha (450 trees/acre).

(c) The harvest of dead, dying or deteriorating trees resulting from fire, wind, insect, disease, flood, or other injurious agents as provided in 14 CCR 913.3(b) shall be exempt from 14 CCR 913.8(a) and (b) except for stocking under 14 CCR 913.8(b) provided there has been a preharvest inspection and a plan has been approved.

(d) Eucalyptus stands designated for management as a commercial crop may be harvested under the evenage silvicultural system provided the following conditions and limitations are met:

(1) Except as provided in 14 CCR 913.1 (a) (2), clearcuts shall be limited to 10 acres in size, and must conform with all other provisions of 14 CCR 913.1 (a).

(2) Clearcut areas shall be screened from direct public view by having screening vegetation between the clearcut area and public areas utilized by substantial numbers of viewers. Screening vegetation shall be a minimum of 100 feet in width. Screening shall be retained until vegetative regrowth effectively covers all areas of visible bare soil.

(3) Regenerated stands may be re–entered for harvest not sooner than ten (10) years after harvest.

NOTE: Authority cited: Sections 4551, 4553, 4561 and 4562.5, Public Resources Code. Reference: Sections 4561, 4561.1, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 7–2–79; effective thirtieth day thereafter (Register 79, No. 27).
3. Repealer of former section 913.8 and renumbering and amendment of section 913.9 to section 913.8 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
4. Amendment of first paragraph and new subsection (d) filed 8–10–87; operative 9–9–87 (Register 87, No. 33).
5. Amendment of subsection (b)(3) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 913.9. Southern Subdistrict—Cutting Method and Stocking Provisions.

HISTORY

1. Renumbering and amendment of Section 913.9 to Section 913.8 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

§ 913.10. Timberland Productivity.

The goal of this section is to restore, enhance and maintain the productivity of the state's timberlands, where feasible.

(a) Where feasible, the productivity of timberlands shall be maintained on a site–specific basis by

(1) meeting the stocking standards of the selected silvicultural or regeneration method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY) that is proposed in 913.11 a or b.

(2) proposing and implementing an appropriate silvicultural system and regeneration method for the site,

(3) protecting the soil resource and its ability to grow commercial tree species and provide sustainable associated forest values.

(b) Timberland productivity is restored by mitigating the adverse effects of catastrophic events or previous land use activities in order to improve the site capacity to grow for harvest commercial tree species and provide forest values.

(c) Timberland productivity is enhanced by such means as planting, thinning, stand manipulation, stream channel improvement, or other techniques that will lead to increased tree growth and yield, accumulation of growing stock and production of associated forest values.

(d) Measures implemented to mitigate or avoid adverse environmental impacts of timber harvesting contribute to restoration and enhancement of timberland productivity. Plan submitters are encouraged, but not required, to undertake additional measures to restore and enhance timberland productivity. CDF may advise plan submitters of measures which could be undertaken at the plan submitters' option to further restore and enhance timberland productivity.

(e) This section does not impose any additional obligation on owners of timberlands where wildfires, insects, disease, wind, flood, or other blight caused by an act of nature reduces stocking levels below any applicable stocking requirements.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 94, No. 1.

§ 913.11. Maximum Sustained Production of High Quality Timber Products.

The goal of this section is the achieve Maximum Sustained Production of High Quality Timber Products (MSP). MSP is achieved by meeting the requirements of either (a) or (b) or (c) in a THP, SYP or NTMP, or as otherwise provided in Article 6.8.

(a) Where a Sustained Yield Plan (14 CCR § 1091.1) or Nonindustrial Timber Management Plan (NTMP) has not been approved for an ownership, MSP will be achieved by:

(1) Producing the yield of timber products specified by the landowner, taking into account biologic and economic factors, while accounting for limits on productivity due to constraints imposed from consideration of other forest values, including but not limited to, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment.

(2) Balancing growth and harvest over time, as explained in the THP for an ownership, within an assessment area set by the timber owner or timberland owner and agreed to by the Director. For purposes of this subsection the sufficiency of information necessary to demonstrate the balance of growth and harvest over time for the assessment area shall be guided by the principles of practicality and reasonableness in light of the size of the ownership and the time since adoption of this section using the best information available. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield.

(3) Realizing growth potential as measured by adequate site occupancy by species to be managed and maintained given silvicultural methods selected by the landowner.

(4) Maintaining good stand vigor.

(5) Making provisions for adequate regeneration. At the plan submitters option, a THP may demonstrate achievement of MSP pursuant to the criteria established in (b) where an SYP has been submitted but not approved.

(b) Where a SYP or NTMP is submitted for an ownership, an approved SYP or NTMP achieves MSP by providing sustainable harvest yields established by the landowner which will support the production level of those high quality timber products the landowner selects while at the same time:

(1) meeting minimal stocking, and basal area standards for the selected silvicultural methods as provided in these rules as described;

(2) protecting the soil, air, fish and wildlife, water resources and any other public trust resources;

(3) giving consideration to recreation, range and forage, regional economic vitality, employment and aesthetic enjoyment;

(4) balancing growth and harvest over time. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield. A THP which relies upon and is found to be consistent with an approved SYP shall be deemed adequate to achieve MSP.

(c) In a THP or NTMP, MSP is achieved by:

(1) for evenage management, meeting the minimum stand age standards of 14 CCR § 913.1(a)(1), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules; or

(2) for unevenaged management, complying with the seed tree retention standards pursuant to 14 CCR §§ 913.1(c)(1)(A) or 913.2(b)(6), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules.

(3) for intermediate treatments and special prescriptions, complying with the stocking requirements of the individual treatment or prescription.

(4) Timberland ownerships totaling 50,000 acres or less may use subsection (c) to show MSP.

(5) Timberland ownerships of 50,000 acres or more may use subsection (c) through December 31, 1999. Thereafter they may use subsection (c) if an SYP or demonstration of achievement of MSP pursuant to 14 CCR § 913.11(a) has been filed with the department and has not been returned unfiled or approved.

(6) For scattered parcels on timberland ownerships of 50,000 acres or more, subsection (c) may be used to show MSP.

NOTE: Authority cited: Sections 4551 and 4554.5, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Repealed by operation of Government Code section 11346.1. New section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 92, No. 25.
2. Amendment of subsections (c)(4) and (c)(5) and amendment of NOTE filed 11–13–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 46).
3. Amendment of first paragraph filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
4. Editorial correction inserting inadvertently omitted last paragraph (Register 96, No. 48).
5. Amendment of subsection (c)(5) and new subsection (c)(6) filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
6. Amendment of subsection (c)(5) filed 11–18–98; operative 1–1–99 (Register 98, No. 47).
7. Amendment of subsections (a), (c)(1)–(2) and (c)(5) filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

Article 4. Harvesting Practices and Erosion Control

§ 914. Purposes.

Timber operations shall be conducted to: meet the goal of maximum sustained production of high quality timber products; minimize breakage of merchantable timber; prevent unreasonable damage to residual trees, fish and wildlife habitat as identified in the THP, or contained in the rules, reproduction, and riparian vegetation; prevent degradation of the quality and beneficial uses of water; and maintain site productivity by minimizing soil loss.

The following provisions shall be applied in a manner which achieves this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553 Public Resources Code. Reference: 33 U.S.C.A. Section 1288; Sections 4512, 4513, 4514.3, 4527, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Repealer of Article 4 (Sections 914–914.7) and new Article 4 (Sections 914–914.9, not consecutive) filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32). For prior history, see Register 79, No. 9.
2. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).

§ 914.1. Felling Practices.

The following standards are applicable to felling practices:

(a) To the fullest extent possible and with due consideration given to topography, lean of trees, landings, utility lines, local obstructions, and safety factors, trees shall be felled to lead in a direction away from watercourses and lakes.

(b) Desirable residual trees and tree seedlings of commercial species, and those oak trees requiring protection pursuant to 14 CAC 953.10 shall not be damaged or destroyed by felling operations, except where unavoidable due to safety factors, lean of trees, location of obstructions or roads, or lack of sufficient openings to accommodate felled trees.

(c) Trees shall be felled in conformance with watercourse and lake protection measures incorporated in timber harvesting plans and consistent with Article 6 of these rules.

(d) Felling practices shall conform to requirements of 914.4, 934.4, 954.4 to protect bird nesting sites.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5 and 4562.7, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, 4581, 4582 and 4582.5, Public Resources Code.

§ 914.2. Tractor Operations.

The following standards are applicable to tractor operations:

(a) Tractor operations shall be conducted in a manner which complies with 14 CCR 914.

(b) Tractor, or other heavy equipment which is equipped with a blade, shall not operate on skid roads or slopes that are so steep as to require the use of the blade for braking.

(c) Tractor roads shall be limited in number and width to the minimum necessary for removal of logs. When less damage to the resources specified in 14 CCR 914 will result, existing tractor roads shall be used instead of constructing new tractor roads.

(d) Heavy equipment shall not operate on unstable areas. If such areas are unavoidable, the RPF shall develop specific measures to minimize the effect of operations on slope instability. These measures shall be explained and justified in the plan and approved by the Director, and must meet the requirements of 14 CCR 914.

(e) Slash and debris from timber operations shall not be bunched adjacent to residual trees required for silvicultural or wildlife purposes or placed in locations where they could be discharged into a Class I or II watercourse, or lake.

(f) Tractor operations shall be subject to the following limitations:

(1) Heavy equipment shall be prohibited where any of the following conditions are present:

(i) slopes steeper than 65%

(ii) slopes steeper than 50% where the erosion hazard rating is high or extreme

(iii) slopes over 50% which lead without flattening to sufficiently dissipate water flow and trap sediment before it reaches a watercourse or lake.

(2) On slopes between 50 percent and 65 percent where the erosion hazard rating is moderate, and all slope percentages are for average slope steepness based on sample areas that are 20 acres, or less if proposed by the RPF or required by the Director, heavy equipment shall be limited to:

(i) existing tractor roads that do not require reconstruction, or

(ii) new tractor roads at a location that has been shown on the THP map, flagged by an RPF or supervised designee prior to the pre–harvest inspection or, when a pre–harvest inspection is not required, prior to the start of timber operations, and approved by the Director.

(3) The RPF may propose exceptions to the limitations on tractor operations described above if the proposed exception will comply with 14 CCR 914, and if the THP both clearly explains the proposed exception and justifies why application of the standard rule is either not feasible, or would not comply with 14 CCR 914. The location of tractor roads to be used under such exceptions shall be flagged prior to the pre–harvest inspection or, when a pre–harvest inspection is not required, prior to the start of timber operations.

(g) Where tractor roads are constructed, timber operators shall use tractor roads only, both for skidding logs to landings and on return trips.

(h) Timber operators shall exercise due diligence so that desirable residual trees and seedlings will not be damaged or destroyed in tractor operations.

(i) Where waterbreaks cannot effectively disperse surface runoff, other erosion controls shall be installed as needed.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 1–24–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsection (d) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
3. New subsection (i) filed 9–23–91; operative 9–23–91 (Register 92, No. 25).
4. Amendment of subsections (d) and (f)–(f)(3) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
5. Amendment of subsection (f)(2)(ii) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 914.3. Cable Yarding.

The following standards are applicable to cable yarding:

(a) Due diligence shall be exercised in the installing, and operating, of cable lines so that residual trees will not incur unreasonable damage by such installation or use.

(b) Residual trees required to be left upon completion of timber operations shall not be used for rub trees, corner blocks, rigging or other cable ties unless effectively protected from damage.

(c) The practice of tight–lining for the purpose of changing location of cable lines is prohibited unless such practice can be carried on without damaging residual trees.

(d) Cable yarding settings shall take maximum advantage of the natural topography and timber types so that yarding operations will protect residual trees.

(e) Tractors shall not be used in areas designated for cable yarding except to pull trees away from streams, to yard logs in areas where deflection is low, where swing yarding is advantageous, to construct firebreaks and/or layouts, and to provide tail–holds. Such exception(s) shall be explained and justified in the THP, and require Director's approval.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (e) filed 8–17–84; effective thirtieth day thereafter (Register 84, No. 33).
2. Amendment of subsection (e) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 914.5. Servicing of Logging Equipment, Disposal of Refuse, Litter, Trash and Debris.

The following standards shall be adhered to in servicing logging equipment and disposing of refuse, litter, trash and debris:

(a) Equipment used in timber operations shall not be serviced in locations where servicing will allow grease, oil, or fuel to pass into lakes or watercourses.

(b) Non–biodegradable refuse, litter, trash, and debris resulting from timber operations, and other activity in connection with the operations shall be disposed of concurrently with the conduct of timber operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 914.6. Waterbreaks *[Effective until 1–1–2000]*.

The following standards are applicable to the construction of waterbreaks:

(a) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations, except as otherwise provided for in the rules.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

[The next page is 243.]

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient*				*Metric Measure Road or Trail Gradient*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.35	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

The appropriate waterbreak spacing shall be based upon the erosion hazard rating and road or trail gradient.

(d) Cable roads that are so deeply cut as to divert and carry water away from natural drainage patterns for more than 100 feet shall have waterbreaks installed on them at 100 feet intervals, or other appropriate erosion control measures may be applied if specified in the plan.

(e) Waterbreaks shall be installed at all natural watercourses on tractor roads and firebreaks regardless of the maximum distances specified in this section except where permanent drainage facilities are provided.

(f) Waterbreaks shall be located to allow water to be discharged into some form of vegetative cover, duff, slash, rocks, or less erodible material wherever possible, and shall be constructed to provide for unrestricted discharge at the lower end of the waterbreak so that water will be discharged and spread in such a manner that erosion shall be minimized. Where waterbreaks cannot effectively disperse surface runoff, including where waterbreaks on roads and skid trail cause surface run-off to be concentrated on downslopes, roads or skid trails, other erosion controls shall be installed as needed to comply with 14 CCR 914.

(g) Waterbreaks shall be cut diagonally a minimum of 15.2 cm (6 inches) into the firm roadbed, cableroad, skid trail or firebreak surface and shall have a continuous firm embankment of at least 15.2 cm (6 inches) in height immediately adjacent to the lower edge of the waterbreak cut. In the Southern Subdistrict of the Coast Forest District, on truck roads having firmly compacted surfaces, waterbreaks installed by hand methods need not provide the additional 15.2 cm (6 inch) embankment provided the waterbreak ditch is constructed so that it is at least 15.2 cm (6 inches) deep and 15.2 cm (6 inches) wide on the bottom and provided there is ample evidence based on slope, material amount of rainfall, and period of use that the waterbreaks so constructed will be effective in diverting water flow from the road surface without the embankment.

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8–9–90; operative 9–10–90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17). *Text of version effective through 12–31–99 retained for reference.*

§ 914.6. Waterbreaks *[Effective 1–1–2000].*

The following standards are applicable to the construction of waterbreaks:

(a) except as otherwise provided for in the rules:

(1) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations.

(2) Installation of drainage facilities and structures is required from October 15 to November 15 and from April 1 to May 1 on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient (in percent)*				*Metric Measure Road or Trail Gradient (in percent)*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.35	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

The appropriate waterbreak spacing shall be based upon the erosion hazard rating and road or trail gradient.

(d) Cable roads that are so deeply cut as to divert and carry water away from natural drainage patterns for more than 100 feet shall have water-

breaks installed on them at 100 feet intervals, or other appropriate erosion control measures may be applied if specified in the plan.

(e) Waterbreaks shall be installed at all natural watercourses on tractor roads and firebreaks regardless of the maximum distances specified in this section except where permanent drainage facilities are provided.

(f) Waterbreaks shall be located to allow water to be discharged into some form of vegetative cover, duff, slash, rocks, or less erodible material wherever possible, and shall be constructed to provide for unrestricted discharge at the lower end of the waterbreak so that water will be discharged and spread in such a manner that erosion shall be minimized. Where waterbreaks cannot effectively disperse surface runoff, including where waterbreaks on roads and skid trail cause surface run–off to be concentrated on downslopes, roads or skid trails, other erosion controls shall be installed as needed to comply with 14 CCR 914.

(g) Waterbreaks shall be cut diagonally a minimum of 15.2 cm (6 inches) into the firm roadbed, cableroad, skid trail or firebreak surface and shall have a continuous firm embankment of at least 15.2 cm (6 inches) in height immediately adjacent to the lower edge of the waterbreak cut. In the Southern Subdistrict of the Coast Forest District, on truck roads having firmly compacted surfaces, waterbreaks installed by hand methods need not provide the additional 15.2 cm (6 inch) embankment provided the waterbreak ditch is constructed so that it is at least 15.2 cm (6 inches) deep and 15.2 cm (6 inches) wide on the bottom and provided there is ample evidence based on slope, material amount of rainfall, and period of use that the waterbreaks so constructed will be effective in diverting water flow from the road surface without the embankment.

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8–9–90; operative 9–10–90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17).

§ 914.7. Timber Operations, Winter Period.

During the winter period:

(a) Mechanical site preparation and timber harvesting, shall not be conducted unless in winter period operating plan is incorporated in the timber harvesting plan and is followed, or unless the requirements of subsection (c) are met. Cable, helicopter and balloon yarding methods are exempted.

(b) The winter period operating plan shall include the specific measures to be taken in winter timber operations to minimize damage due to erosion, soil movement into watercourses and soil compaction from felling, yarding, loading, mechanical site preparation, and erosion control activities. A winter period operating plan shall address the following subjects:

(1) Erosion hazard rating.
(2) Mechanical site preparation methods.
(3) Yarding system (constructed skid trails).
(4) Operating period.
(5) Erosion control facilities timing.
(6) Consideration of form of precipitation–rain or snow.
(7) Ground conditions (soil moisture condition, frozen).
(8) Silvicultural system–ground cover.
(9) Operations within the WLPZ.
(10) Equipment use limitations.
(11) Known unstable areas.

(c) In lieu of a winter period operating plan, the RPF can specify the following measures in the THP:

(1) Tractor yarding or the use of tractors of constructing layouts, firebreaks or other tractor roads shall be done only during dry, rainless periods where soils are not saturated.

(2) Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to the end of the day if the U.S. Weather Service forecast is a "chance" (30 percent or more) of rain before the next day, and prior to weekend or other shutdown periods.

The provisions of this subsection do not apply to mechanical site preparation.

(3) Site specific mitigation measures needed to comply with 14 CCR 914 for operations within the WLPZ and unstable areas during the winter period.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsections (a), (b) and (c)(3) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 914.8. Tractor Road Watercourse Crossing.

Watercourse crossing facilities on tractor roads shall be planned, constructed, maintained, and removed according to the following standards:

(a) The number of crossings shall be kept to a minimum. Existing crossing locations shall be used wherever feasible.

(b) A prepared watercourse crossing using a structure such as a bridge, culvert, or temporary log culvert shall be used to protect the watercourse from siltation where tractor roads cross a watercourse in which water may be present during the life of the crossing.

(c) Crossing facilities on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and for unrestricted passage of water. Such crossing facilities shall be fully described in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) Watercourse crossing facilities not constructed to permanent crossing standards on tractor roads shall be removed before the beginning of the winter period. If a watercourse crossing is to be removed, it shall be removed in accordance with 14 CCR 923.3(d).

(e) If the watercourse crossing involves a culvert, the minimum diameter shall be stated in the THP and the culvert shall be of a sufficient length to extend beyond the fill material.

(f) Consistent with the protection of water quality, exceptions may be provided through the Fish and Game Codes and shall be indicated in the plan.

(g) The amendments to 14 CCR § 914.8 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (d) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

2. Amendment of subsection (e) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
3. Amendment of subsections (a) and (c) and new subsection (g) filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
4. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph and amendment of NOTE filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
9. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 914.9. Alternatives to Standard Rules.

(a) Alternative practices may be developed by the RPF on a site–specific basis provided the following conditions are complied with and the alternative practices will achieve environmental protection at least equal to that which would result from using measures stated in Sections 914.1–914.8.

(1) Environmental impacts with potential for significant adverse effects on the beneficial uses of water, on the residual timber, and on the soil productivity are identified and measures proposed to mitigate such impacts are included in an approved THP. The THP shall also contain a clear statement as to why alternative harvesting and erosion control measures are needed.

(2) The alternative practice(s) must be explained in sufficient detail and standards provided in the THP so that they can be adequately evaluated and enforced by the Director and implemented by the licensed timber operator.

(3) On a THP in which alternatives covering harvesting and erosion control measures have been incorporated, the timber operator shall agree to the alternative specifications by signing and filing with the Director a copy of the plan, the amended plan or a facsimile thereof, prior to beginning or continuing operations on the portion of the plan to which the alternatives apply.

(b) The Director shall not accept for inclusion in a THP alternative harvesting and erosion control measures proposed under this section which do not meet the standard of subsection (a) of this section. In the event that there is more than one written negative position showing that the alternative practice(s) does (do) not meet the standard of subsection (a) received from among the agencies listed in 14 CAC 1037.3 and the Department of Forestry which participated in the review of the plan including on–the–ground inspection, the Director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4562.5, 4562.7 and 21080, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4552, 4562.5, 4562.7, 4582, 21002 and 21080.5, Public Resources Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1975) 59 C.A. 3rd 959, 131 Cal Rptr, 172.

Article 5. Site Preparation

§ 915. Purposes.

Site preparation shall be planned and conducted in a manner which encourages maximum timber productivity, minimizes fire hazard, prevents substantial adverse effects to soil resources and to fish and wildlife habitat, and prevents degradation of the quality and beneficial uses of water. The following provisions shall be applied in a manner which complies with this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 915.1. Use of Heavy Equipment for Site Preparation.

(a) Use of heavy equipment for site preparation shall comply with the provisions set forth in 14 CCR 914.2.

(b) Heavy equipment shall not be used for site preparation under saturated soil conditions or when it cannot operate under its own power due to wet conditions.

(c) Watercourse crossings for heavy equipment shall be planned, constructed, maintained, and removed in accordance with the requirements for tractor roads in 14 CCR Section 914.8.

(d) Undisturbed areas or energy dissipators shall be used to control and disperse concentrated runoff from roads, landings, tractor roads, firebreaks and erosion control facilities where it flows into site preparation areas.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 915.2. Treatment of Vegetative Matter.

(a) Piling, burning, and other treatment of snags, slash and vegetative matter and protection of desirable residual trees during site preparation shall comply with 14 CCR Sections 917 through 917.7.

(b) Broadcast burning shall not fully consume the larger organic debris which retains soil on slopes and stabilizes watercourse banks. The Director may approve exceptions to this requirement when such exceptions are explained and justified in the THP and the exceptions would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 915.3. Protection of Natural Resources.

(a) Site preparation activities shall comply with the watercourse and lake protection requirements in 14 CCR Article 6 and 917.3.

(b) Site preparation activities shall comply with the wildlife and habitat protection provisions of 14 CCR Article 9.

(c) Site preparation shall performed in a manner which does not deleteriously affect species which are threatened, endangered, or designated by the Board as species of special concern. The director may allow exceptions to this standard in the plan, after consultation with the Department of Fish and Game pursuant to the California Endangered Species Act (F&G Code 2050–2098).

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 915.4. Site Preparation Addendum.

Where site preparation will occur on the logging area, the THP shall incorporate a site preparation addendum which includes the following information:

(a) Whether site preparation will be required to meet stocking.

(b) The general methods of site preparation to be used.

(c) The types of equipment (if any) to be used for mechanical site preparation and firebreak construction.

(d) The methods for protecting any desirable residual trees in accordance with 14 CCR 917.7.

(e) Explanations and justifications for any exceptions or alternatives to the standard rules.

(f) A map identifying the boundaries of site preparation areas, if different from logging area boundaries, and distinguishing areas by type of site preparation activity.

(g) The name, address, and telephone number of the person responsible for conduct of site preparation activities shall be provided prior to conducting site preparation activities.

(h) The estimated timing of site preparation operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.
2. Amendment of subsection (g) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 915.5. Waterbreaks.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

§ 915.6. Erosion Control, Winter Period.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

§ 915.7. Timber Harvesting, Winter Period.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

§ 915.8. Erosion Hazard Ratings.

HISTORY

1. Repealer filed 7–2–82; designated effective 1–1–83 (Register 82, No. 27).

§ 915.9. Specific Erosion Control Measures.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

Article 6. Watercourse and Lake Protection

§ 916. Intent of Watercourse and Lake Protection.

The purpose of this article is to ensure that the beneficial uses of water, native aquatic and riparian species, and the beneficial functions of riparian zones are protected from potentially significant adverse site–specific and cumulative impacts associated with timber operations.

It is the intent of the Board to restore, enhance, and maintain the productivity of timberlands while providing equal consideration for the beneficial uses of water. Further, it is the intent of the Board to clarify and assign responsibility for recognition of potential and existing impacts of timber operations on watercourses and lakes, native aquatic and riparian–associated species, and the beneficial functions of riparian zones and to ensure adoption of feasible measures to effectively achieve compliance with this article. Further, it is the intent of the Board that the evaluations that are made, and the measures that are taken or prescribed, be documented in a manner that clearly and accurately represents those existing conditions and those measures. "Evaluations made" pertain to the assessment of the conditions of the physical form, water quality, and biological characteristics of watercourses and lakes, including cumulative impacts affecting the beneficial uses of water on both the area of planned logging operations and in the Watershed Assessment Area (WAA). "Measures taken" pertain to the procedures used or prescribed for the restoration, enhancement, and maintenance of the beneficial uses of water.

All provisions of this article shall be applied in a manner, which complies with the following:

(a) During and following timber operations, the beneficial uses of water, native aquatic and riparian–associated species, and the beneficial functions of riparian zones shall be maintained where they are in good condition, protected where they are threatened, and insofar as feasible, restored where they are impaired.

(b) Protection of the quality and beneficial uses of water during the planning, review, and conduct of timber operations shall comply with all applicable legal requirements including those set forth in any applicable water quality control plan adopted or approved by the State Water Resources Control Board. At a minimum, the LTO shall not do either of the following during timber operations:

(1) Place, discharge, or dispose of or deposit in such a manner as to permit to pass into the waters of the state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water;

(2) Remove water, trees or large woody debris from a watercourse or lake, the adjacent riparian area, or the adjacent flood plain in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water.

(c) Protecting and restoring native aquatic and riparian–associated species, the beneficial functions of riparian zones and the quality and beneficial uses of water shall be given equal consideration as a management objective within any prescribed WLPZ and within any ELZ or EEZ designated for watercourse or lake protection.

(d) The measures set forth in this Section are meant to enforce the public's historical and legal interest in protection for wildlife, fish, and water quality and are to be used to guide timberland owners in meeting their legal responsibilities to protect public trust resources.

(e) The amendments to 14 CCR §§ 916 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4552, 4562.5, 4562.7, 21001(b), (f), 21002 and 21002.1, Public Resources Code; and Sections 100, 1243, 1243.5, 13001, 13050(f), 13146 and 13147, Water Code.

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of section and NOTE filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
4. Amendment of section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
5. Amendment of subsection (e) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsection (e) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (e) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (e) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
10. Amendment of subsection (e) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 916.1. In Lieu Practices.

In rule sections where provision is made for site specific practices to be approved by the director and included in the THP in lieu of a stated rule, the RPF shall reference the standard rule, shall explain and describe each proposed practice, how it differs from the standard practice, and the specific locations where it shall be applied; and shall explain and justify how the protection provided by the proposed practice is at least equal to the protection provided by standard rule.

(a) The in lieu practice(s) must provide for the protection of the beneficial uses of water to the standards of 14 CCR 916.3 and 916.4(b).

(b) In lieu practices stated in an approved THP shall have the same enforceability and legal authority as those practices required by the standard rules.

(c) Any in lieu practices which propose less than standard rule WLPZ widths for Class I watercourses shall include 14 CCR 916.5(e) "A" & "D" protection measures.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21001(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment and new subsection (c) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

§ 916.2. Protection of the Beneficial Uses of Water and Riparian Functions.

(a) The measures used to protect each watercourse and lake in a logging area shall be determined by the presence and condition of the following values:

(1) The existing and restorable quality and beneficial uses of water as specified by the applicable water quality control plan and as further identified and refined during preparation and review of the plan.

(2) The restorable uses of water for fisheries as identified by the DFG or as further identified and refined during preparation and review of the plan.

(3) Riparian habitat that provides for the biological needs of native aquatic and riparian–associated species as specified in 14 CCR 916.4(b).

(4) Sensitive conditions near watercourses and lakes as specified in 14 CCR 916.4(a).

These values shall be protected from potentially significant adverse impacts from timber operations and restored to good condition, where needed, through a combination of the rules and plan–specific mitigation. The RPF shall propose and the Director may require, adequate protection of overflow and changeable channels which are not contained within the channel zone.

(b) The State's waters are grouped into four classes based on key beneficial uses. These classifications shall be used to determine the appropriate minimum protection measures to be applied during the conduct of timber operations. The basis for classification (characteristics and key beneficial uses) are set forth in 14 CCR 916.5, Table 1 and the range of minimum protective measures applicable to each class are contained in 14 CCR 916.3, 916.4, and 916.5.

(c) When the protective measures contained in 14 CCR 916.5 are not adequate to provide protection to beneficial uses, feasible protective measures shall be developed by the RPF or proposed by the Director under the provisions of 14 CCR 916.6, Alternative Watercourse and Lake Protection, and incorporated in the plan when approved by the Director.

(d) The amendments to 14 CCR § 916.2 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243, 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of section heading, repealer of subsection (a), new subsections (a)(1)–(4), and amendment of subsection (c) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Amendment of section heading, section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
5. Amendment of subsection (d) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsections (a)(4) and (d) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (d) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (d) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
10. Amendment of subsection (d) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 916.3. General Limitations Near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas.

The quality and beneficial uses of water shall not be unreasonably degraded by timber operations. During timber operations, the timber operator shall not place, discharge, or dispose of or deposit in such a manner as to permit to pass into the water of this state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, or the quality and beneficial uses of water. All provisions of this article shall be applied in a manner which complies with this standard.

(a) When there is reasonable expectation that slash, debris, soil, or other material resulting from timber operations, falling or associated activities, will be deposited in Class I and Class II waters below the watercourse or lake transition line or in watercourses which contain or conduct Class IV water, those harvest activities shall be deferred until equipment is available for its removal, or another procedure and schedule for completion of corrective work is approved by the Director.

(b) Accidental depositions of soil or other debris in lakes or below the watercourse or lake transition line in waters classed I, II, and IV shall be removed immediately after the deposition or as approved by the director.

(c) The timber operator shall not construct or reconstruct roads, construct or use tractor roads or landings in Class I, II, III or IV watercourses, in the WLPZ, marshes, wet meadows, and other wet areas unless explained and justified in the THP by the RPF, and approved by the Director, except as follows:

(1) At prepared tractor road crossings as described in 914.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et seq.)

Use of existing roads is addressed in 916.4(a).

(d) Vegetation, other than commercial species, bordering and covering meadows and wet areas shall be retained and protected during timber operations unless explained and justified in the THP and approved by the director. Soil within the meadows and wet areas shall be protected to the maximum extent possible.

(e) Trees cut within the WLPZ shall be felled away from the watercourse by pulling or other mechanical methods if necessary, in order to protect the residual vegetation in theWLPZ. Exceptions may be proposed in the THP and used when approved by the director.

(f) Where less than 50% canopy exists in the WLPZs of Class I and II waters before timber operations, only sanitation salvage which protects the values described in 14 CCR 916.4(b) shall be allowed.

(g) Recruitment of large woody debris for instream habitat shall be provided by retaining at least two living conifers per acre at least 16 inches diameter breast high and 50 feet tall within 50 feet of all Class I and II watercourses.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of subsection(a) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
4. Amendment of first paragraph and subsection (a), repealer of subsection (c), new subsection (c), amendment of subsection (e), repealer of subsection (f), and new subsection (f) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
5. Amendment of subsection (c) and new subsections (c)(1)–(4) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 916.4. Watercourse and Lake Protection.

(a) The RPF or supervised designee shall conduct a field examination of all lakes and watercourses and shall map all lakes and watercourses which contain or conduct Class I, II, III or IV waters.

(1) As part of this field examination, the RPF or supervised designee shall evaluate areas near, and areas with the potential to directly impact, watercourses and lakes for sensitive conditions including, but not limited to, existing and proposed roads, skidtrails and landings, unstable and erodible watercourse banks, unstable upslope areas, debris, jam potential, inadequate flow capacity, changeable channels, overflow channels, flood prone areas, and riparian zones wherein the values set forth in 14 CCR §§ 916.4(b) are impaired. The RPF shall consider these conditions, and those measures needed to maintain, and restore to the extent feasible, the functions set forth in 14 CCR §§ 916.4(b), when proposing WLPZ widths and protection measures. The plan shall identify such conditions, including where they may interact with proposed timber operations, that individually or cumulatively significantly and adversely affect the beneficial uses of water, and shall describe measures to protect and restore to the extent feasible, the beneficial uses of water. In proposing, reviewing, and approving such measures, preference shall be given to measures that are on–site, or to offsite measures where sites are located to maximize the benefits to the impacted portion of a watercourse or lake.

(2) As part of this field examination, the RPF or supervised designee shall map the location of spawning and rearing habitat for anadromous salmonids, and the condition of the habitat shall be evaluated using habitat typing that at a minimum identifies the pool, flatwater, and riffle percentages. The opportunity for habitat restoration shall be described within the plan for each Class I watercourse, and for each Class II watercourse that can be feasibly restored to a Class I.

(3) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to permit the Director and the other review team representatives to evaluate the potential environmental impacts of timber operations, the proposed mitigation measures and the proposed restoration measures.

(4) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to provide direction and clear guidance to the timber operator.

(5) The mapping of conditions identified in 14 CCR § 916.4 subsections (a)(1) and (a)(2), and their protective and restoration measures, should be done at a scale of 1:2,400. In site–specific cases, the mapping of critical locations of corrective work and logging operation impacts shall be done at a scale of at least 1:240 when the Director determines it is necessary to evaluate the plan.

(6) One set of photocopies of recent stereo aerial photographs of the plan area may be required by the Director.

(b) The standard width of the WLPZ and/or the associated basic protection measures shall be determined from Table I (14 CCR 916.5), or Section 916.4(c), and shall be stated in the plan. A combination of the rules, the plan, and mitigation measures shall provide protection for the following:

a. Water temperature control.

b. Streambed and flow modification by large woody debris.

c. Filtration of organic and inorganic material.

d. Upslope stability.

e. Bank and channel stabilization.

f. Spawning and rearing habitat for salmonids

g. Vegetation structure diversity for fish and riparian wildlife habitat, possibly including but not limited to,

1. Vertical diversity
2. Migration corridor
3. Nesting, roosting, and escape
4. Food abundance
5. Microclimate modification
6. Snags
7. Surface cover

(1) Measures and the appropriate zone widths for the protection of the State's waters which have been taken from Table I (14 CCR 916.5) or developed under Section 916.4(c) shall be stated in the THP.

(2) All timber operations shall conform to the marking, flagging and other identification of protective measures specified in CCR 916.4 and 916.5 and the THP. Conformance shall be determined based on the evaluation of no less than a 200 foot lineal segment of each watercourse or lake.

(3) The width of the WLPZ shall be measured along the surface of the ground from the watercourse or lake transition line or in the absence of riparian vegetation from the top edge of the watercourse bank.

(4) Slopes shall be measured in percent for the proposed WLPZ. If topography within the proposed WLPZ is variable, segments of the proposed WLPZ should be segregated by slope class as indicated in Table I, 14 CCR 916.5.

(5) If requested by either party, and after on–the–ground inspection, the RPF and the Director may increase or decrease the width of a proposed WLPZ. A decrease shall not exceed 25 percent of the width as determined by the procedure prescribed in Sections 14 CCR 916.4(c), and 916.5. Such changes in zone width shall be based on considerations of soil, slope, biologic, hydrologic, and geologic values listed in Section 14 CCR 916.4(b), silvicultural methods, yarding systems, road location, and site preparation activities. In no case shall the width be adjusted to less than 50 feet for Class I and II waters. Where soil surfaced roads exist within the standard WLPZ, no in–lieu reduction of WLPZ width shall be approved.

(6) Within the WLPZ, at least 75 percent surface cover and undisturbed area shall be retained to act as a filter strip for raindrop energy dissipation, and for wildlife habitat.

This percentage may be adjusted to meet site specific conditions when proposed by the RPF and approved by the Director or where broadcast burning is conducted under the terms of a project type burning permit and in compliance with 14 CCR 915.2(b).

(c) The protection and WLPZ widths for Class III and Class IV waters shall prevent the degradation of the downstream beneficial use of water and shall be determined on a site–specific basis.

(1) Where operations occur adjacent to Class III watercourses, the RPF shall designate in the THP an equipment limitation zone (ELZ) of at least 25 feet where sideslope steepness is less than 30% and at least 50 feet where sideslope steepness is 30% or greater unless explained and justified otherwise in the THP and approved by the director. Class III watercourses within logging areas where the EHR is Low and the slopes are less than 30% shall not require an ELZ unless proposed by the RPF or required by the Director. The RPF shall describe the limitations on the use of heavy equipment in the THP. Where appropriate to protect the beneficial uses of water the RPF shall describe additional protection measures which may include surface cover retention, vegetation protection and timber falling limitations. The location of the areas of heavy equipment use in any ELZ shall be clearly described in the plan, or flagged or marked on the ground before the preharvest inspection. When necessary to protect the beneficial use of water, the RPF shall designate and the Director may require a WLPZ for Class III and Class IV waters or an ELZ for Class IV waters.

(2) The width of the WLPZ for Class III and Class IV waters shall be determined from on–site inspection. Minimum protective measures required when Class III and Class IV protection zones are necessary are contained in Table I 14 CCR 916.5.

(3) Soil deposited during timber operations in a Class III watercourse other than at a temporary crossing shall be removed and debris deposited during timber operations shall be removed or stabilized before the conclusion of timber operations, or before October 15. Temporary crossings shall be removed before the winter period, or as approved by the Director.

(4) When approved by the Director on an individual plan basis as provided in Section 14 CCR 916.4(c)(1) Class IV waters shall be exempted from required protection when such protection is inconsistent with the management objectives of the owner of the manmade watercourse.

(d) Heavy equipment shall not be used in timber falling, yarding, or site preparation within the WLPZ unless such use is explained and justified in the THP, and approved by the Director.

(e) Flagging for heavy equipment use within the WLPZ adjacent to Class I waters and for all tractor road watercourse crossings of all watercourses must be completed before the preharvest inspection, if one is

conducted or start of operations, whichever comes first. Flagging for heavy equipment use within the WLPZ adjacent to Class II, III and IV waters may be done at the option of the RPF or as required by the director on a site-specific basis.

(f) Subsection (d) does not apply to (1)–(4) below. Subsection (e) does not apply to (2)–(4) below.

(1) At prepared tractor road crossings as described in 914.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et. seq.)

NOTE: Authority cited: Sections 4551, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Resources Code; Sections 1600 and 5650(c), Fish and Game Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–143 (Register 83, No. 27).
3. Amendment of subsection (d) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
4. Amendment and new subsection (b)(6) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
5. Amendment of subsections (d)–(d)(2) and new final subsections (1)–(4) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
6. Repealer and new subsection (c)(1), amendment of subsection (d), redesignation and amendment of former sections (d)(1)–(d)(2) as new subsection (e), and new subsection (f) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
7. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsection (d) (Register 99, No. 26).
9. Redesignation and amendment of portion of subsection (a) as (a)(1), new subsections (a)(2)–(6), amendment of subsection (b), new subsection (b)f. and subsection relettering filed 12–1–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 916.5. Procedure for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures.

The following procedure for determining watercourse and lake protection zone (WLPZ) widths and protective measures. The following procedure for determining WLPZ widths and protective measures shall be followed:

(a) The following information shall be determined from field investigation:

(1) The location of all lakes and watercourses including man made watercourses.

(2) The existing and restorable beneficial uses of the waters to be protected as identified in subsection (1) above.

(3) The side slope classes for the individual class waters to be protected (e.g. < 30%, 30–50%,), where side slope is measured from the watercourse or lake transition line to a point 100 feet upslope from the watercourse or lake transition line, or, in the absence of riparian vegetation, from the top of the watercourse bank. Where slope configurations are variable, a weighted average method shall be used to determine sideslope percent.

(b) The beneficial uses noted from the field investigations in subsection (a) shall be compared to the characteristics or key beneficial uses listed in Row 1 of Table I (14 CCR 916.5) to determine the water classes (e.g. I, II, III, IV, Row 2).

(c) The standard protection zone width differentiated by slope classes determined in subsection (a) are shown in Rows 4–7, Table I (14 CCR 916.5). These widths may be modified as stated in 14 CCR 916.4(b)(5).

(d) The alphabetical letter designations A through I in Rows 4–7, Table 1 14 CCR 916.5, and described in subsection (e) to Table I indicate the standard protective measures to be applied to the classes of water as determined in subsection (b) above.

(e) The letter designations shown in the "Protective Measures and Widths" column in Table I correspond to the following:

"A" WLPZ shall be clearly identified on the ground by the RPF who prepared the plan, or supervised designee, with paint, flagging, or other suitable means prior to the preharvest inspection. For nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 916.4 and 916.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"B" WLPZ shall be clearly identified on the ground by an RPF or supervised designee, with paint, flagging, or other suitable means, prior to the start of timber operations. In watersheds with threatened or impaired values, on the ground identification of the WLPZ shall be completed prior to the preharvest inspection. For all nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 916.4 and 916.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"C" In site-specific cases, the RPF may provide in the plan, or the director may require, that the WLPZ be clearly identified on the ground with flagging or by other suitable means prior to the start of timber operations.

"D" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi-storied stand for protection of values described in 14 CCR § 916.4(b), residual or harvest trees shall be marked, including a base mark below the cut-line within the WLPZ by the RPF, or supervised designee. Outside of watersheds with threatened or impaired values, sample marking prior to the preharvest inspection is satisfactory in those cases where the Director determines it is adequate for plan evaluation. When sample marking has been used, the remaining WLPZ shall be marked in advance of falling operations by the RPF, or supervised designee. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions of 14 CCR §§ 916.4 and 916.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF, or supervised designee, prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"E" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi-storied stand for protection of values described in 14 CCR § 916.4(b), residual or harvest trees shall be marked, including a base mark below the cut line, within the WLPZ by the RPF or supervised designee. Outside of watersheds with threatened or impaired values, tree marking shall be done prior to timber falling operations. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions

of 14 CCR §§ 916.4 and 916.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"F" Residual or harvest tree marking within the WLPZ may be stipulated in the THP by the RPF or required by the Director in site–specific cases to ensure retention of filter strip properties or to maintain soil stability of the zone. The RPF shall state in the THP if marking was used in these zones.

"G" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the overstory and 50% of the understory canopy covering the ground and adjacent waters shall be left in a well distributed multi–storied stand composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Species composition may be adjusted consistent with the above standard to meet on–site conditions when agreed to in the THP by the RPF and the Director.

"H" At least 50 percent of the understory vegetation present before timber operations shall be left living and well distributed within the WLPZ to maintain soil stability. This percentage may be adjusted to meet on–site conditions when agreed to by the RPF and the Director. Unless required by the Director, this shall not be construed to prohibit broadcast burning with a project type burning permit for site preparation.

"I" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the total canopy covering the ground shall be left in a well distributed multi–storied stand configuration composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Due to variability in Class II watercourses these percentages and species composition may be adjusted to meet on–site conditions when agreed to by the RPF and the Director in the THP.

TABLE I—14 CCR 916.5
PROCEDURES FOR DETERMINING
WATERCOURSE AND LAKE PROTECTION ZONE
WIDTHS AND PROTECTIVE MEASURES[1]

Water Class Characteristics or key indicator Beneficial Use	1) Domestic supplies on site and/or within 100 feet downstream of the operations area and/or 2) Fish always or seasonally present onsite includes habitat to sustain fish migration and spawning	1) Fish always or seasonally present offsite within 1,000 feet downstream and/or 2) Aquatic habitat for non–fish aquatic species. 3) Excludes Class III waters that are tributary to Class I waters.	No aquatic life present, watercourse showing evidence of being capable of sediment transport downstream to waters Class I or II waters under normal high water flow conditions after completion of timber operations.	Man–made watercourses, usually downstream established domestic, agricultural, hydro–electric supply, or other beneficial use.

WATER CLASS	*CLASS I*		*CLASS II*		*CLASS III*	*CLASS IV*
SLOPE CLASS (%)	WIDTH FEET	PROTECTION MEASURE	WIDTH FEET	PROTECTION MEASURE	WIDTH PROTECTION FEET MEASURE	WIDTH PROTECTION FEET MEASURE
					See 916.4(c)	See 916.4(c)
<30	75	BDG	50	BEI	See CFH	See CFI
30–50	100	BDG	75	BEI	See CFH	See CFI
>50	150[2]	ADG	100[3]	BEI	See CFH	See CFI

[1]See Section 916.5(e) for letter designations applicable to this table.

[2]Subtract 50 feet width for cable yarding operations

[3]Subtract 25 feet width for cable yarding operations

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4513, 4551.5 and 21001(f), Public Resources Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of section heading, section, and Table I filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Amendment of subsections (e)"B," "D" and "E" filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
5. Amendment of subsection (e) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of subsection (e) (Register 97, No. 48).
7. Editorial correction of Table (Register 98, No. 21).
8. Editorial correction of table heading (Register 99, No. 26).

9. Amendment of subsection (e) filed 11–16–2006; operative 1–1–2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).

§ 916.6. Alternative Watercourse and Lake Protection.

(a) Alternative prescriptions for the protection of watercourses and lakes may be developed by the RPF or proposed by the Director on a site–specific basis provided the following conditions are complied with and the alternative prescriptions will achieve compliance with the standards set forth in 916.3 and 916.4(b):

(1) The following information regarding an alternative prescription shall be included in the THP:

(A) An identification of each standard prescription which would be replaced by the alternative prescription.

(B) An identification of any beneficial uses of water or other features listed in 14 CCR 916.4(b), which may be adversely affected by the replaced standard prescription and the alternative practice.

(C) An evaluation of any significant effects on such beneficial uses or features due to implementation of the alternative prescription.

(D) A clear and complete explanation and justification as to the reasons why, given site–specific technical, environmental, economic, or institutional considerations, an alternative prescription is needed. The reasons given must include at least one of the following:

1. Implementation of the specified standard prescriptions would not be feasible.

2. Implementation of the specified standard prescription(s) would not adequately prevent or reduce damage to the quality and beneficial uses of water.

3. Implementation of the proposed alternative prescription would provide equal or greater protection, including all proposed mitigations for the quality and beneficial uses of water and those features listed in 916.4(b), than would implementation of the specified standard prescriptions.

(E) A plan for evaluating the results of the proposed alternative practice by either the plan submitter or the Director. The plan must include the criteria and procedures for evaluating and inspecting each approved alternative practice.

(2) The alternative measures stated in the plan shall be written so that they provide clear, enforceable standards for the guidance of the timber operator.

(3) Prior to beginning or continuing an operation in which alternative measures have been added to an approved THP in regard to watercourse and lake protection measures, the timber operator shall acknowledge the new specifications by signing and filing with the director, a copy of the amended plan.

(b) The director shall not accept for inclusion in a THP alternative watercourse and lake protection measures which do not meet the standard of subsection (a) of this section. In the event that written comments received from two or more agencies listed in 4582.6 PRC and 14 CCR 1037.3 and which participated in review of the plan, including on–the–ground inspection, lead to the conclusion that the proposed alternative does not meet the criteria of Section 916.5, and is therefore not consistent with rules of the Board, the director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513 and 4551.5, Public Resources Code; and USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83, designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of subsection (a), repealer of subsection (a)(1), new subsections (a)(1)(A)–(E), and amendment of subsection (b) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

§ 916.7. Reduction of Soil Loss.

Within the watercourse and lake protection zone adjacent to Class I and Class II waters, areas where mineral soil exceeding 800 continuous square feet in size, exposed by timber operations, shall be treated for reduction of soil loss. Treatment shall be done prior to October 15th except that such bare areas created after October 15th shall be so treated within 10 days, or as agreed to by the director. Stabilization measures shall be included and explained in the THP or other required notices. Stabilization measures shall be selected that will prevent significant movement of soil into Class I and II waters and may include, but need not be limited to, mulching, rip–rapping, grass seeding, or chemical soil stabilizers.

(a) This section does not apply to the traveled surface of roads. Erosion control measures on road surfaces are specified in 14 CCR 923.

(b) Where mineral soil has been exposed by timber operations on approaches to watercourse crossings of Class I or II waters, or Class III waters if an ELZ or WLPZ is required, the disturbed area shall be stabilized to the extent necessary to prevent the discharge of soil into watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

(c) Where necessary to protect beneficial uses of water from timber operations, protection measures, such as seeding, mulching, or replanting, shall be specified to retain and improve the natural ability of the ground cover within the standard width of the WLPZ to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. References: Sections 4512, 4513, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. New subsections (a) and (b) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Editorial correction of subsection (b) (Register 95, No. 41).
5. New subsection (b) and subsection relettering filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 916.8. Sensitive Watersheds.

The Board, at a public hearing, shall determine whether nominated planning watersheds are "sensitive" to further timber operations. Classifications of a water shed as "sensitive" shall be supported by substantial evidence that a condition, or conditions, exist(s) where further timber operations within the planning watershed will create a reasonable potential to cause, or contribute to ongoing, significant adverse cumulative effect(s) on the resources identified in 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)], and as set forth in Technical Rule Addendum No. 2 (14 CCR 912.9) [932.9, 952.9] and that mitigation of such significant cumulative effects requires the application of protection measures not required by the Forest Practice Rules. For all planning watersheds classified as "sensitive", the Board shall identify the specific resources which are sensitive to further timber operations and specific mitigation measures that will provide the necessary protection of the sensitive resource(s). A Board finding that a planning watershed is no longer sensitive shall be supported by substantial evidence that such conditions no longer exist. Unless and until a planning watershed(s) is classified as sensitive and any necessary rulemaking completed, the existing rules shall apply.

(a) Nomination process:

The Director, local, state, or federal agencies and the public may nominate planning watersheds to the Board and shall provide evidence supporting classification of the watershed as sensitive. The nominator shall discuss the effects that further timber operations will have on the specific resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)] which are at risk within the nominated watershed and specify those effects not sufficiently addressed under the forest practice rules and discuss the significance of the effects in light of the condition of the resources in areas adjacent to the planning watershed. Such nominations must be accompanied by the following information, descriptions, documents, or maps as appropriate:

1. Name, approximate size and location of the watershed(s) identified by county, township and range, and name(s) of USGS topographic map(s) on which the planning watershed is found.

2. The name of the higher–order stream, if any, to which the watershed is tributary.

3. Specific resources that are significantly threatened by further timber operations on non–federal timberland in the nominated watershed, including, as appropriate, but not limited to:

A. fish, aquatic organisms, aquatic habitat, or riparian habitat;

B. domestic and other water supplies, water quality, other beneficial uses of water existing at the time of nomination or factors related to the stream system and channel morphology.

C. downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors;

D. wildlife species, or the habitat of species, listed under state or federal law as rare, threatened or endangered, candidate, or sensitive, including discussion of the habitat features threatened by timber operations;

E. wildlife species with narrow geographic range, low density, low reproductive rates, and highly dependent on localized habitat features, including discussion of the habitat features threatened by timber operations and a discussion of why protective measures are required to prevent a loss of population viability.

4. Natural or management–induced conditions present in the watershed which pose a significant threat to the resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, including, as appropriate, but not limited to:

A. steep slopes and easily destabilized soils;

B. continuing landslide or soil erosion problems related to past or ongoing land–use activities;

C. extensive ground disturbance, particularly associated with roads, skid trails, landings, and watercourse crossings;

D. accelerated aggradation, streambank erosion, and channel scouring;

E. changes in the habitat or condition of wildlife species identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above.

F. accelerated rates of proposed road construction or timber harvesting within a watershed or near streams or springs.

5. Approved Habitat Conservation Plans or other documents approved or under review by public agencies within the nominated watershed which provide for maintenance or improvement over time of management induced conditions within or adjacent to the planning watershed or forest district.

6. Suggested, feasible mitigation measures needed, in addition to current forest practice rules, to provide adequate protection for resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, and to mitigate or avoid new or continuing significant cumulative effects related to timber operations, including, but not limited to, restoration or rehabilitation of degraded resources within any portion of the proposed sensitive watershed.

7. Other information about the watershed that may assist the Board to evaluate the nomination.

8. Literature citations, expert written opinion, and other relevant sources of information and, where possible, copies of information used to complete the nomination.

9. A list of names and mailing addresses of the following:

A. landowners of 40 acres or more of lands zoned for timber production in the planning watershed;

B. public water purveyors and known private purveyors within the planning watershed;

C. commonly known watershed associations within the planning watershed;

D. commonly known neighborhood or community associations within the planning watershed;

E. chairman, county board of supervisors;

F. chairman, county planning commission;

G. local manager for any public agency having custodial responsibility for timberlands within the planning watershed; and

H. district or local representatives for review team agencies.

10. A draft notice for newspaper publication containing the information in (a)(1)–(3), a statement that a public hearing will be scheduled before the Board within 60 days of Board receipt of a nomination forwarded by the committee, and a statement that further information can be obtained from the local Department Ranger Unit Headquarters.

(b) Notice Process

The Board shall mail notice of the nominated watershed, as provided in (a)10, to the addresses of parties described in 9 A–H and shall publish the provided notice one time in a newspaper with general circulation in the county containing the planning watershed. Such notice shall be provided following a determination that information contained in the nomination meets the requirements of 14 CCR 916.8(a) [936.8(a) and 956.8(a)], above.

(c) Screening Process:

Before consideration by the Board, nominations shall be screened for compliance with the informational requirements by a nominations review committee, which may consist of the appropriate District Technical Advisory Committee or other Board Committee, as determined by the Board. The nominations review committee shall consult with CDF, the appropriate Regional Water Quality Control Board, the Department of Fish and Game, the Division of Mines and Geology, and other(s) as deemed necessary to determine whether the nomination is supported by substantial evidence. The nominations review committee shall then forward a recommendation for approval or denial of the nomination to the Board within 120 days of the date of receipt by the committee, or such longer time provided by the Board. The nominations review committee shall describe its specific reason(s) for recommending approval or denial of the nomination. In the event that the committee forwards a recommendation for approval, it shall describe the substantial evidence which supports nomination, including specific reasons why the current forest practice rules are inadequate to protect the specific resources at risk and shall provide the following information:

1. A list of which resource is threatened and by which timber operations;

2. if possible, performance standard(s) for timber operations that will avoid or mitigate new or continuing significant cumulative effects;

3. additional information that is needed for evaluating the impacts of proposed timber operations and is to be included in harvesting plans submitted in the planning watershed;

4. Onsite mitigation measures in addition to the current forest practice rules, which can be required by the Director to mitigate the impacts of timber operations within the watershed;

5. Offsite mitigation measures that can be applied within or outside of the sensitive watershed area to offset adverse on–site impacts of timber operations. If such mitigation measures are proposed to protect the resources discussed in subdivision (a)(3)(A) and (B), they must occur in the same drainage. Such measures may include, but are not limited to, voluntary mitigation agreements among ownerships.

6. If needed, recommended alternatives to evaluate the implementation and effectiveness of mitigations required under this section.

7. Exemptions for ownerships, emergencies, or land–use classifications that are different than those provided in the current forest practice regulations and that may be applied in the watershed.

(d) Public hearing Process:

The Board shall consider the recommendations of the nominations review committee at a public hearing on classification of the planning watershed, which will be held within 60 days of receipt from the committee. The watershed nomination and recommendations of the committee will be made available to the public between the date of receipt by the Board and the public hearing. Recommendations adopted by the Board which have the effect of a regulation shall be processed in accordance with the Administrative Procedures Act (Section 11340. et seq. Gov. Code).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

History
1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.

§ 916.9. Protection and Restoration in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon where the standards listed under 916.9.1 and 916.9.2 shall apply:

(a) GOAL — Every timber operation shall be planned and conducted to prevent deleterious interference with the watershed conditions that primarily limit the values set forth in 14 CCR 916.2(a) (e.g., sediment load increase where sediment is a primary limiting factor; thermal load increase where water temperature is a primary limiting factor; loss of instream large woody debris or recruitment potential where lack of this value is a primary limiting factor; substantial increase in peak flows or large flood frequency where peak flows or large flood frequency are primary limiting factors). To achieve this goal, every timber operation shall be planned and conducted to meet the following objectives where they affect a primary limiting factor:

(1) Comply with the terms of a Total Maximum Daily Load (TMDL) that has been adopted to address factors that may be affected by timber operations if a TMDL has been adopted, or not result in any measurable sediment load increase to a watercourse system or lake.

(2) Not result in any measurable decrease in the stability of a watercourse channel or of a watercourse or lake bank.

(3) Not result in any measurable blockage of any aquatic migratory routes for anadromous salmonids or listed species.

(4) Not result in any measurable stream flow reductions during critical low water periods except as part of an approved water drafting plan pursuant to 14 CCR 916.9(r).

(5) Consistent with the requirements of 14 CCR § 916.9(i), 14 CCR § 936.9(i), or 14 CCR § 956.9(i); protect, maintain, and restore trees (especially conifers), snags, or downed large woody debris that currently, or may in the foreseeable future, provide large woody debris recruitment needed for instream habitat structure and fluvial geomorphic functions.

(6) Consistent with the requirements of 14 CCR § 916.9(g), 14 CCR § 936.9(g), or 14 CCR § 956.9(g); protect, maintain, and restore the quality and quantity of vegetative canopy needed to: (A) provide shade to the watercourse or lake, (B) minimize daily and seasonal temperature fluctuations, (C) maintain daily and seasonal water temperatures within the preferred range for anadromous salmonids or listed species where they are present or could be restored, and (D) provide hiding cover and a food base where needed.

(7) Result in no substantial increases in peak flows or large flood frequency.

(b) Pre–plan adverse cumulative watershed effects on the populations and habitat of anadromous salmonids shall be considered. The plan shall specifically acknowledge or refute that such effects exist. Where appropriate, the plan shall set forth measures to effectively reduce such effects.

(c) Any timber operation or silvicultural prescription within 150 feet of any Class I watercourse or lake transition line or 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of anadromous salmonids or listed aquatic or riparian–associated species as significant objectives.

Additionally, for evenaged regeneration methods and rehabilitation with the same effects as a clearcut that are adjacent to a WLPZ, a special operating zone shall retain understory and mid–canopy conifers and hardwoods. These trees shall be protected during falling, yarding and site preparation to the extent feasible. If trees that are retained within this zone are knocked down during operations, that portion of the trees that is greater than 6″ in diameter shall remain within the zone as Large Woody Debris. The zone shall be 25 feet above Class I WLPZs with slopes 0–30% and 50 feet above Class I WLPZs with slopes > 30%.

(d)(1) The plan shall fully describe: (A) the type and location of each measure needed to fully offset sediment loading, thermal loading, and potential significant adverse watershed effects from the proposed timber operations, and (B) the person(s) responsible for the implementation of each measure, if other than the timber operator.

(2) In proposing, reviewing, and approving such measures, preference shall be given to the following: (A) measures that are both onsite (i.e., on or near the plan area) and in–kind (i.e., erosion control measures where sediment is the problem), and (B) sites that are located to maximize the benefits to the impacted portion of a watercourse or lake. Out–of–kind measures (i.e., improving shade where sediment is the problem) shall not be approved as meeting the requirements of this subsection.

(e) Channel zone requirements

(1) There shall be no timber operations within the channel zone with the following exceptions:

(A) timber harvesting that is directed to improve salmonid habitat through the limited use of the selection or commercial thinning silvicultural methods with review and comment by DFG.

(B) timber harvesting necessary for the construction or reconstruction of approved watercourse crossings.

(C) timber harvesting necessary for the protection of public health and safety.

(D) to allow for full suspension cable yarding when necessary to transport logs through the channel zone.

(E) Class III watercourses where exclusion of timber operations is not needed for protection of listed salmonids.

(2) In all instances where trees are proposed to be felled within the channel zone, a base mark shall be placed below the cut line of the harvest trees within the zone. Such marking shall be completed by the RPF that prepared the plan prior to the preharvest inspection.

(f) The minimum WLPZ width for Class I waters shall be 150 feet from the watercourse or lake transition line. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other WLPZ widths on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

(g) Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25% overstory conifer canopy post–harvest. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other canopy retention standards on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

Harvesting of hardwoods shall only occur for the purpose of enabling conifer regeneration.

(h) For Class I waters, any plan involving timber operations within the WLPZ shall contain the following information:

(1) A clear and enforceable specification of how any disturbance or log or tree cutting and removal within the Class I WLPZ shall be carried out to conform with 14 CCR 916.2(a) and 916.9(a).

(2) A description of all existing permanent crossings of Class I waters by logging roads and clear specification regarding how these crossings

are to be modified, used, and treated to minimize risks, giving special attention to allowing fish to pass both upstream and downstream during all life stages.

(3) Clear and enforceable specifications for construction and operation of any new crossing of Class I waters to prevent direct harm, habitat degradation, water velocity increase, hindrance of fish passage, or other potential impairment of beneficial uses of water.

(i) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the THP area that lies within 50 feet of the watercourse transition line. Where the THP boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 912.7(b)(2); the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones within the THP area shall be retained within 50 feet of the watercourse transition line.

The RPF may propose alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must explain and justify in the THP why the proposed alternative is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(j) Where an inner gorge extends beyond a Class I WLPZ and slopes are greater than 55%, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break–in–slope to less than 55% for a distance of 100 feet or more, or 300 feet as measured from the watercourse or lake transition line, which ever is less. All operations on slopes exceeding 65% within an inner gorge of a Class I or II watercourse shall be reviewed by a Professional Geologist prior to plan approval, regardless of whether they are proposed within a WLPZ or outside of a WLPZ.

(k) From October 15 to May 1, the following shall apply: (1) no timber operations shall take place unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 914.7(a), (2) unless the winter period operating plan proposes operations during an extended period with low antecedent soil wetness, no tractor roads shall be constructed, reconstructed, or used on slopes that are over 40 percent and within 200 feet of a Class I, II, or III watercourse, as measured from the watercourse or lake transition line, and (3) operation of trucks and heavy equipment on roads and landings shall be limited to those with a stable operating surface.

(*l*) Construction or reconstruction of logging roads, tractor roads, or landings shall not take place during the winter period unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 914.7(a) that specifically address such road construction. Use of logging roads, tractor roads, or landings shall not take place at any location where saturated soil conditions exist, where a stable logging road or landing operating surface does not exist, or when visibly turbid water from the road, landing, or skid trail surface or inside ditch may reach a watercourse or lake. Grading to obtain a drier running surface more than one time before reincorporation of any resulting berms back into the road surface is prohibited.

(m) All tractor roads shall have drainage and/or drainage collection and storage facilities installed as soon as practical following yarding and prior to either (1) the start of any rain which causes overland flow across or along the disturbed surface within a WLPZ or within any ELZ or EEZ designated for watercourse or lake protection, or (2) any day with a National Weather Service forecast of a chance of rain of 30 percent or more, a flash flood warning, or a flash flood watch.

(n) Within the WLPZ, and within any ELZ or EEZ designated for watercourse or lake protection, treatments to stabilize soils, minimize soil erosion, and prevent the discharge of sediment into waters in amounts deleterious to aquatic species or the quality and beneficial uses of water, or that threaten to violate applicable water quality requirements, shall be applied in accordance with the following standards:

(1) The following requirements shall apply to all such treatments.

(A) They shall be described in the plan.

(B) For areas disturbed from May 1 through October 15, treatment shall be completed prior to the start of any rain that causes overland flow across or along the disturbed surface.

(C) For areas disturbed from October 16 through April 30, treatment shall be completed prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service or within 10 days, whichever is earlier.

(2) The traveled surface of logging roads shall be treated to prevent waterborne transport of sediment and concentration of runoff that results from timber operations.

(3) The treatment for other disturbed areas, including: (A) areas exceeding 100 contiguous square feet where timber operations have exposed bare soil, (B) approaches to tractor road watercourse crossings between the drainage facilities closest to the crossing, (C) road cut banks and fills, and (D) any other area of disturbed soil that threatens to discharge sediment into waters in amounts deleterious to the quality and beneficial uses of water, may include, but need not be limited to, mulching, rip–rapping, grass seeding, or chemical soil stabilizers. Where straw, mulch, or slash is used, the minimum coverage shall be 90%, and any treated area that has been subject to reuse or has less than 90% surface cover shall be treated again prior to the end of timber operations. The RPF may propose alternative treatments that will achieve the same level of erosion control and sediment discharge prevention.

(4) Where the undisturbed natural ground cover cannot effectively protect beneficial uses of water from timber operations, the ground shall be treated by measures including, but not limited to, seeding, mulching, or replanting, in order to retain and improve its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

(o) As part of the plan, the RPF shall identify active erosion sites in the logging area, assess them to determine which sites pose significant risks to the beneficial uses of water, assess them to determine whether feasible remedies exist, and address in the plan feasible remediation for all sites that pose significant risk to the beneficial uses of water.

(p) The erosion control maintenance period on permanent and seasonal roads and associated landings that are not abandoned in accordance with 14 CCR § 923.8 shall be three years.

(q) Site preparation activities shall be designed to prevent soil disturbance within, and minimize soil movement into, the channels of watercourses. Prior to any broadcast burning, burning prescriptions shall be designed to prevent loss of large woody debris in watercourses, and vegetation and duff within a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. No ignition is to occur within any WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. When burning prescriptions are proposed, the measures or burning restrictions which are intended to accomplish this goal shall be stated in the plan and included in any required burning permit. This information shall be provided in addition to the information required under 14 CCR § 915.4.

(r) Water drafting for timber operations from within a channel zone of a natural watercourse or from a lake shall conform with the following standards:

(1) The RPF shall incorporate into the THP:

(A) a description and map of proposed water drafting locations,

(B) the watercourse or lake classification, and

(C) the general drafting location use parameters (i.e., yearly timing, estimated total volume needed, estimated total uptake rate and filling time, and associated water drafting activities from other THPs).

(2) On Class I and Class II streams where the RPF has estimated that:

(A) bypass flows are less than 2 cubic feet per second, or

(B) pool volume at the water drafting site would be reduced by 10%, or

(C) diversion rate exceeds 350 gallons per minute, or

(D) diversion rate exceeds 10% of the above surface flow;

no water drafting shall occur unless the RPF prepares a water drafting plan to be reviewed and, if necessary a stream bed alteration agreement issued, by DFG and approved by the Director. The Director may accept the project description and conditions portion of an approved "Streambed Alteration Agreement" issued under the Fish and Game Code (F&GC 1600 et seq.) which is submitted instead of the water drafting plan described in 14 CCR § 916.9(r)(2)(D)(1–5).

The water drafting plan shall include, but not be limited to:

1. disclosure of estimated percent streamflow reduction and duration of reduction,

2. discussion of the effects of single pumping operations, or multiple pumping operations at the same location,

3. proposed alternatives and discussion to prevent adverse effects (e.g. reduction in hose diameter, reduction in total intake at one location, described allowances for recharge time, and alternative water drafting locations),

4. conditions for operators to include an operations log kept on the water truck containing the following information: Date, Time, Pump Rate, Filling Time, Screen Cleaned, Screen Conditions, and Bypass flow observations,

5. a statement by the RPF for a pre–operations field review with the operator to discuss the conditions in the water drafting plan.

(3) Intakes shall be screened in Class I and Class II waters. Screens shall be designed to prevent the entrainment or impingement of all life stages of fish or amphibians. Screen specifications shall be included in the plan.

(4) Approaches to drafting locations within a WLPZ shall be surfaced with rock or other suitable material to avoid generation of sediment.

(s) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code, or

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions.

(t) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code,

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(7) the harvest of dead or dying conifer trees subject to the following conditions:

(A) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the area of operations that lies within 50 feet of the watercourse transition line. Where the area of operations is bounded by an ownership boundary that corresponds with a class I watercourse, and where the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 912.7(b)(2), the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones shall be retained within 50 feet of the watercourse transition line within the area of operations.

The RPF may provide alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must provide with the notice an explanation and justification why the alternative provided is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.

(C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

(D) Within the WLPZ, or ELZ/EEZ, if the stocking standards of 14 CCR § 912.7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

(u) No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

(1) This section does not apply to emergency operations under 14 CCR § 1052.

(v) Nonstandard practices (i.e., waivers, exceptions, in–lieu practices, and alternative practices) shall comply with the goal set forth in subsection (a) above as well as with the other requirements set forth in the rules.

(w) The Director may approve alternatives provided the alternative practice will achieve the goal of this section. The Director shall not accept for inclusion in a plan any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR § 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the goal of this section and the agency(ies) participated in the review of the plan, including an on–the–ground inspection.

(x) Other measures that would effectively achieve the goal set forth in 14 CCR § 916.9(a) may be approved in accordance with 14 CCR 916.6.

(y) The provisions of 14 CCR § 916.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(z) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 96, No. 45.
2. Amendment of subsection (y) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsections (a)(2)–(4), redesignation and amendment of former subsection (e)–(e)(5) as subsections (e)–(e)(2), amendment of subsections (f)–(g), (i), (j), (s) and (y) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsections (f), (g), (r)(2)(D), (s) and (y) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (y) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsections (i)–(*l*), (p), (q) and (s), new subsections (s)(1)–(t)(7)(D), subsection relettering, amendment of newly designated sub-

sections (u) and (w)–(y) and new subsection (u)(1) filed 11–16–2006; operative 1–1–2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).

8. Amendment of subsection (z) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
9. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 916.9.1. Protection Measures in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with coho salmon:

(a) GOAL — Every timber operation shall be planned and conducted to prevent deleterious interference with the watershed conditions that primarily limit the values set forth in 14 CCR 916.2(a) (e.g., sediment load increase where sediment is a primary limiting factor; thermal load increase where water temperature is a primary limiting factor; loss of instream large woody debris or recruitment potential where lack of this value is a primary limiting factor; substantial increase in peak flows or large flood frequency where peak flows or large flood frequency are primary limiting factors). To achieve this goal, every timber operation shall be planned and conducted to meet the following objectives where they affect a primary limiting factor:

(1) Comply with the terms of a Total Maximum Daily Load (TMDL) that has been adopted to address factors that may be affected by timber operations if a TMDL has been adopted, or not result in any measurable sediment load increase to a watercourse system or lake.

(2) Not result in any measurable decrease in the stability of a watercourse channel or of a watercourse or lake bank.

(3) Not result in any measurable blockage of any aquatic migratory routes for coho salmon or listed species.

(4) Not result in any measurable stream flow reductions during critical low water periods except as part of an approved water drafting plan pursuant to 14 CCR 916.9.1(r).

(5) Consistent with the requirements of 14 CCR § 916.9.1(i) or 14 CCR § 936.9.1(i); protect, maintain, and restore trees (especially conifers), snags, or downed large woody debris that currently, or may in the foreseeable future, provide large woody debris recruitment needed for instream habitat structure and fluvial geomorphic functions.

(6) Consistent with the requirements of 14 CCR § 916.9.1(g) or 14 CCR § 936.9.1(g); protect, maintain, and restore the quality and quantity of vegetative canopy needed to: (A) provide shade to the watercourse or lake, (B) minimize daily and seasonal temperature fluctuations, (C) maintain daily and seasonal water temperatures within the preferred range for coho salmon or listed species where they are present or could be restored, and (D) provide hiding cover and a food base where needed.

(7) Result in no substantial increases in peak flows or large flood frequency.

(b) Pre–plan adverse cumulative watershed effects on the populations and habitat of coho salmon shall be considered. The plan shall specifically acknowledge or refute that such effects exist. Where appropriate, the plan shall set forth measures to effectively reduce such effects.

(c) Any timber operation or silvicultural prescription within 150 feet of any Class I watercourse or lake transition line or 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of coho salmon or listed aquatic or riparian–associated species as significant objectives. Additionally, for evenaged regeneration methods and rehabilitation with the same effects as a clearcut that are adjacent to a WLPZ, a special operating zone shall retain understory and mid–canopy conifers and hardwoods. These trees shall be protected during falling, yarding and site preparation to the extent feasible. If trees that are retained within this zone are knocked down during operations, that portion of the trees that is greater than 6″ in diameter shall remain within the zone as Large Woody Debris. The zone shall be 25 feet above Class I WLPZs with slopes 0–30% and 50 feet above Class I WLPZs with slopes > 30%.

(d)(1) The plan shall fully describe: (A) the type and location of each measure needed to fully offset sediment loading, thermal loading, and potential significant adverse watershed effects from the proposed timber operations, and (B) the person(s) responsible for the implementation of each measure, if other than the timber operator.

(2) In proposing, reviewing, and approving such measures, preference shall be given to the following: (A) measures that are both onsite (i.e., on or near the plan area) and in–kind (i.e., erosion control measures where sediment is the problem), and (B) sites that are located to maximize the benefits to the impacted portion of a watercourse or lake. Out–of–kind measures (i.e., improving shade where sediment is the problem) shall not be approved as meeting the requirements of this subsection.

(e) Channel zone requirements

(1) There shall be no timber operations within the channel zone with the following exceptions:

(A) timber harvesting that is directed to improve coho habitat through the limited use of the selection or commercial thinning silvicultural methods with review and comment by DFG.

(B) timber harvesting necessary for the construction or reconstruction of approved watercourse crossings.

(C) timber harvesting necessary for the protection of public health and safety.

(D) to allow for full suspension cable yarding when necessary to transport logs through the channel zone.

(E) Class III watercourses where exclusion of timber operations is not needed for protection of coho salmon.

(2) In all instances where trees are proposed to be felled within the channel zone, a base mark shall be placed below the cut line of the harvest trees within the zone. Such marking shall be completed by the RPF that prepared the plan prior to the preharvest inspection.

(f) The minimum WLPZ width for Class I waters shall be 150 feet from the watercourse or lake transition line.

(g) Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25% overstory conifer canopy post–harvest. Harvesting of hardwoods shall only occur for the purpose of enabling conifer regeneration.

(h) For Class I waters, any plan involving timber operations within the WLPZ shall contain the following information:

(1) A clear and enforceable specification of how any disturbance or log or tree cutting and removal within the Class I WLPZ shall be carried out to conform with 14 CCR 916.2(a) and 916.9.1(a).

(2) A description of all existing permanent crossings of Class I waters by logging roads and clear specification regarding how these crossings are to be modified, used, and treated to minimize risks, giving special attention to allowing fish to pass both upstream and downstream during all life stages.

(3) Clear and enforceable specifications for construction and operation of any new crossing of Class I waters to prevent direct harm, habitat degradation, water velocity increase, hindrance of fish passage, or other potential impairment of beneficial uses of water.

(i) Recruitment of large woody debris for aquatic habitat in Class I coho salmon–bearing waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the THP area that lies within 50 feet of the watercourse transition line. Where the THP boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 912.7(b)(2); the five (5) largest dbh co-

nifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones within the THP area shall be retained within 50 feet of the watercourse transition line.

The RPF may propose alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must explain and justify in the THP why the proposed alternative is more conducive to current and long-term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(j) Where an inner gorge extends beyond a Class I WLPZ and slopes are greater than 55%, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break-in-slope to less than 55% for a distance of 100 feet or more, or 300 feet as measured from the watercourse or lake transition line, which ever is less. All operations on slopes exceeding 65% within an inner gorge of a Class I or II watercourse shall be reviewed by a Professional Geologist prior to plan approval, regardless of whether they are proposed within a WLPZ or outside of a WLPZ.

(k) From October 15 to May 1, the following shall apply: (1) no timber operations shall take place unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 914.7(a), (2) unless the winter period operating plan proposes operations during an extended period with low antecedent soil wetness, no tractor roads shall be constructed, reconstructed, or used on slopes that are over 40 percent and within 200 feet of a Class I, II, or III watercourse, as measured from the watercourse or lake transition line, and (3) operation of trucks and heavy equipment on roads and landings shall be limited to those with a stable operating surface.

(*l*) Construction or reconstruction of logging roads, tractor roads, or landings shall not take place during the winter period unless the approved plan incorporates a complete winter period operating plan pursuant to 14 § CCR 914.7(a) that specifically address such road construction. Use of logging roads, tractor roads, or landings shall not take place at any location where saturated soil conditions exist, where a stable logging road or landing operating surface does not exist, or when visibly turbid water from the road, landing, or skid trail surface or inside ditch may reach a watercourse or lake. Grading to obtain a drier running surface more than one time before reincorporation of any resulting berms back into the road surface is prohibited.

(m) All tractor roads shall have drainage and/or drainage collection and storage facilities installed as soon as practical following yarding and prior to either (1) the start of any rain which causes overland flow across or along the disturbed surface within a WLPZ or within any ELZ or EEZ designated for watercourse or lake protection, or (2) any day with a National Weather Service forecast of a chance of rain of 30 percent or more, a flash flood warning, or a flash flood watch.

(n) Within the WLPZ, and within any ELZ or EEZ designated for watercourse or lake protection, treatments to stabilize soils, minimize soil erosion, and prevent the discharge of sediment into waters in amounts deleterious to aquatic species or the quality and beneficial uses of water, or that threaten to violate applicable water quality requirements, shall be applied in accordance with the following standards:

(1) The following requirements shall apply to all such treatments.

(A) They shall be described in the plan.

(B) For areas disturbed from May 1 through October 15, treatment shall be completed prior to the start of any rain that causes overland flow across or along the disturbed surface.

(C) For areas disturbed from October 16 through April 30, treatment shall be completed prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service or within 10 days, whichever is earlier.

(2) The traveled surface of logging roads shall be treated to prevent waterborne transport of sediment and concentration of runoff that results from timber operations.

(3) The treatment for other disturbed areas, including: (A) areas exceeding 100 contiguous square feet where timber operations have exposed bare soil, (B) approaches to tractor road watercourse crossings between the drainage facilities closest to the crossing, (C) road cut banks and fills, and (D) any other area of disturbed soil that threatens to discharge sediment into waters in amounts deleterious to the quality and beneficial uses of water, may include, but need not be limited to, mulching, rip-rapping, grass seeding, or chemical soil stabilizers. Where straw, mulch, or slash is used, the minimum coverage shall be 90%, and any treated area that has been subject to reuse or has less than 90% surface cover shall be treated again prior to the end of timber operations. The RPF may propose alternative treatments that will achieve the same level of erosion control and sediment discharge prevention.

(4) Where the undisturbed natural ground cover cannot effectively protect beneficial uses of water from timber operations, the ground shall be treated by measures including, but not limited to, seeding, mulching, or replanting, in order to retain and improve its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

(o) As part of the plan, the RPF shall identify active erosion sites in the logging area, assess them to determine which sites pose significant risks to the beneficial uses of water, assess them to determine whether feasible remedies exist, and address in the plan feasible remediation for all sites that pose significant risk to the beneficial uses of water.

(p) The erosion control maintenance period on permanent and seasonal roads and associated landings that are not abandoned in accordance with 14 CCR § 923.8 shall be three years.

(q) Site preparation activities shall be designed to prevent soil disturbance within, and minimize soil movement into, the channels of watercourses. Prior to any broadcast burning, burning prescriptions shall be designed to prevent loss of large woody debris in watercourses, and vegetation and duff within a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. No ignition is to occur within any WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. When burning prescriptions are proposed, the measures or burning restrictions which are intended to accomplish this goal shall be stated in the plan and included in any required burning permit. This information shall be provided in addition to the information required under 14 CCR § 915.4.

(r) Water drafting for timber operations from within a channel zone of a natural watercourse or from a lake shall conform with the following standards:

(1) The RPF shall incorporate into the THP:

(A) a description and map of proposed water drafting locations,

(B) the watercourse or lake classification, and

(C) the general drafting location use parameters (i.e., yearly timing, estimated total volume needed, estimated total uptake rate and filling time, and associated water drafting activities from other THPs).

(2) On Class I and Class II streams where the RPF has estimated that:

(A) bypass flows are less than 2 cubic feet per second, or

(B) pool volume at the water drafting site would be reduced by 10%, or

(C) diversion rate exceeds 350 gallons per minute, or

(D) diversion rate exceeds 10% of the above surface flow;

no water drafting shall occur unless the RPF prepares a water drafting plan to be reviewed and, if necessary a stream bed alteration agreement issued, by DFG and approved by the Director. The Director may accept the project description and conditions portion of an approved "Streambed Alteration Agreement" issued under the Fish and Game Code (F&GC 1600 et seq.) which is submitted instead of the water drafting plan described in 14 CCR § 916.9.1(r)(2)(D)(1-5).

The water drafting plan shall include, but not be limited to:

1. disclosure of estimated percent streamflow reduction and duration of reduction,

2. discussion of the effects of single pumping operations, or multiple pumping operations at the same location,

3. proposed alternatives and discussion to prevent adverse effects (e.g. reduction in hose diameter, reduction in total intake at one location, described allowances for recharge time, and alternative water drafting locations),

4. conditions for operators to include an operations log kept on the water truck containing the following information: Date, Time, Pump Rate, Filling Time, Screen Cleaned, Screen Conditions, and Bypass flow observations,

5. a statement by the RPF for a pre–operations field review with the operator to discuss the conditions in the water drafting plan.

(3) Intakes shall be screened in Class I and Class II waters. Screens shall be designed to prevent the entrainment or impingement of all life stages of fish or amphibians. Screen specifications shall be included in the plan.

(4) Approaches to drafting locations within a WLPZ shall be surfaced with rock or other suitable material to avoid generation of sediment.

(s) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code, or

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions.

(t) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code,

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(7) the harvest of dead or dying conifer trees subject to the following conditions:

(A) Recruitment of large woody debris for aquatic habitat in Class I coho salmon–bearing waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the area of operations that lies within 50 feet of the watercourse transition line. Where the area of operations is bounded by an ownership boundary that corresponds with a class I watercourse, and where the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 912.7(b)(2), the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones shall be retained within 50 feet of the watercourse transition line within the area of operations.

The RPF may provide alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must provide with the notice an explanation and justification why the alternative provided is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.

(C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

(D) Within the WLPZ or ELZ/EEZ, if the stocking standards of 14 CCR § 912.7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

(u) No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

(1) This section does not apply to emergency operations under 14 CCR § 1052.

(v) Nonstandard practices (i.e., waivers, exceptions, in–lieu practices, and alternative practices) shall comply with the goal set forth in subsection (a) above as well as with the other requirements set forth in the rules.

(w) The Director may approve alternatives that provide equal or better protection for coho salmon and achieve the goal of this section.

(1) Any alternative proposed under this subsection for timber operations in a watershed with coho salmon shall only be included in a plan: i) after consultation and written concurrence from DFG prior to plan submittal, and ii) with a clear demonstration of compliance with the issuance criteria described under Fish and Game Code § 2081(b) as determined by DFG.

(2) The Director shall not accept for inclusion in a plan any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR § 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the goal of this section and the agency(ies) participated in the review of the plan, including an on–the–ground inspection.

(x) Other measures that would effectively achieve the goal set forth in 14 CCR § 916.9.1(a) may be approved with written concurrence from DFG (i)in accordance with 14 CCR 916.6, or (ii) pursuant to a coho salmon watershed evaluation for timber operations when the plan incorporates minimization and mitigation measures based on the watershed evaluation, and with written concurrence from DFG. The watershed evaluation must include the components set forth below and shall be included in addition to all other District Forest Practice Rules.

(1) The following are required components of a watershed evaluation:

(A) Description of assessment area.

(B) Status of coho salmon within each planning watershed in the assessment area.

(C) Status of coho salmon habitat conditions and water quality within each planning watershed in the assessment area.

(D) Identification and prioritization of limiting factors. A reasoned analysis shall assign ratings of high, moderate and low to those factors which may individually or cumulatively limit coho salmon distribution and abundance in the watershed.

(E) Proposed planning watershed specific management practices to prevent or control discharges and environmental impacts from timber operations that could contribute to the identified high and moderate risk limiting factors, and; corrective actions that would reduce or eliminate the high and moderate risk limiting factors on the landscape and mitigate the impacts of timber operations which cause or contribute to those limiting factors.

(F) A plan and schedule for implementing proposed management practices.

(G) A program for monitoring implementation and effectiveness of the management practices.

(y) The operational provisions of 14 CCR §§ 916.9.1 and 916.9.2 shall not apply to a plan under which the incidental take from timber operations of Coho Salmon within the planning watershed is already authorized pursuant to the following:

(1) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(2) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(3) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG.

(z) The operational provisions of 14 CCR §§ 916.9.1 and 916.9.2 shall not apply to a plan that specifies project revisions, guidelines, or take avoidance measures pursuant to a memorandum of understanding or a planning agreement entered into between the plan submitter and DFG, which DFG has determined will avoid take of coho salmon.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

§ 916.9.2. Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon. *[Effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective]*

(a) The measures to facilitate Incidental Take Authorization in watersheds with coho salmon are intended to facilitate the process of obtaining incidental take permits for state-listed coho salmon from DFG for timber operations under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.).

(b) In addition to all other District Forest Practice Rules, in any watershed with coho salmon, subsections (c) through (f) shall apply to all timber operations where DFG determines that take will, or is likely to result from such proposed timber operations, unless incidental take of coho salmon is already authorized as specified under 14 CCR § 916.9.1(y) or 916.9.1(z).

(c) Class I Watercourse and Lake Protection Measures — The following shall apply to all Class I watercourses and lakes within watersheds with coho salmon.

(1) Within a WLPZ for Class I watercourses and lakes, sufficient trees shall be retained to maintain the preharvest level of direct shading to pools. The percentage of shade provided by Group A species shall not be reduced relative to other species.

(2) Recruitment of large woody debris for aquatic habitat in Class I coho salmon-bearing watercourses shall be ensured by retaining the ten (10) largest dbh conifers (live or dead) per 330 feet of stream channel length on each side of the watercourse. The retained conifers shall be selected from within the plan area that lies within 100 feet of the watercourse transition line. Where the plan boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 912.7(b)(2); the ten (10) largest dbh conifers (live or dead) per 330 feet of stream channel length within the plan area shall be retained within 100 feet of the watercourse transition line.

(d) Class II Watercourse and Lake Protection Measures —

(1) Any timber operation or silvicultural prescription within 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of coho salmon or listed aquatic or riparian-associated species as significant objectives.

(2) Where an inner gorge extends beyond a Class II WLPZ and watercourse sideslopes are greater than 55 percent, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break-in-slope to less than 55 percent for a distance of 100 feet or more, or 200 feet as measured from the watercourse or lake transition line, which ever is less. All operations within the special management zone shall be reviewed by a Professional Geologist prior to plan approval and disclosed and incorporated in the plan as appropriate.

(3) The following shall apply to all Class II watercourses and lakes mapped on current 1:24,000 scale U.S. Geological Survey topographic map within watersheds with coho salmon except as provided under 14 CCR § 916.9.2(d)(3)(E):

(A) Inner Band: From 0-50 feet, retain a minimum of 85 percent post-harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(B) Outer Band with 0-30 percent watercourse sideslope: From 50-75 feet, retain a minimum of 65 percent post-harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(C) Outer Band with 31-50 percent watercourse sideslope: From 50-100 feet, retain a minimum of 65 percent post harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(D) Outer Band with >50 percent watercourse sideslope: From 50-125 feet, retain a minimum of 65 percent post-harvest overstory canopy. WLPZ width may be reduced to 100 feet for helicopter or cable yarding operations. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(E) 14 CCR § 916.9.2(b)(3)(B)(C) and (D) do not apply to plans in the Southern Subdistrict of the Coast Forest District or to NTMPs within watersheds with coho salmon.

(e) Class III Watercourse Protection Measures — The following shall apply to all Class III watercourses within watersheds with coho salmon in or adjacent to harvest units where evenaged management, rehabilitation of under-stocked stands, or variable retention prescriptions are proposed.

(1) establish a minimum 25-foot-wide ELZ on each side of the watercourse for slopes less than or equal to 30% and a minimum 50-foot-wide ELZ on each side of the watercourse for slopes greater than 30%,

(2) retain all trees situated within the channel zone and trees that have boles that overlap the edge of the channel zone,

(3) within the ELZ, at least 50 percent of the understory vegetation shall be left post-harvest in an evenly distributed condition,

(4) within the ELZ; retain all snags, large woody debris, and countable trees 10 inches dbh or less, except where necessary to allow for cable yarding corridors, safety, or crossing construction,

(5) within the ELZ, prohibit initiation of any burning,

(6) allow cable yarding when necessary to transport logs through a Class III ELZ,

(7) tractor yarding is prohibited within the ELZ, except for the use of feller-bunchers and shovel yarding that minimize soil compaction and disturbance, and

(8) within the ELZ, retain at least 15 square feet basal area per acre of hardwoods where it exists before harvest, including the largest hardwoods available for this purpose. Retain all hardwoods when less than 15 square feet basal area per acre is present before harvest.

(f) Where harvesting is proposed on a connected headwall swale:

(1) Only the selection regeneration method allowed under 14 CCR § 913.2(a)(2)(A) or the commercial thinning intermediate treatment allowed under 14 CCR § 913.3(a) may be utilized in that area.

(2) Areas of ground based yarding shall be delineated on the ground as an equipment exclusion zone and marked prior to the preharvest inspection.

(3) All proposed road construction or reconstruction shall be reviewed by a Professional Geologist and disclosed and incorporated in the plan as appropriate prior to plan approval.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 916.10. Domestic Water Supply Protection.

(a) When proposed timber operations may threaten to degrade a domestic water supply the Director shall evaluate any mitigations recommended prior to the close of the public comment period (PRC 4582.7) and shall require the adoption of those practices which are feasible and necessary to protect the quality and beneficial use of the supply.

(b) The Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the domestic water supply as a condition of plan approval. The Director shall require an evaluation at the request of the California Regional Water Quality Control Board, or any affected water purveyor, if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near streams or springs. The design and implementation of the evaluation shall be done in consultation with the Director, appropriate RWQCB, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40

§ 916.11. Effectiveness and Implementation Monitoring.

(a) Where timber operations will be conducted within a WLPZ, the Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the watercourse(s) or lake(s) as a condition of plan approval. The Director shall require such an evaluation if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or DFG, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality. The evaluation may utilize procedures including, but not limited, to:

(1) Procedures for effectiveness and implementation monitoring,

(2) Existing landowner monitoring programs, or

(3) Photographic monitoring

(b) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 96, No. 45.
2. Amendment of subsection (b) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (b) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (b) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (b) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (b) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 916.11.1. Monitoring for Adaptive Management in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

(a) Goal: The Board will develop a monitoring and adaptive management program for timber harvesting operations in watersheds with coho salmon. The purpose of the program will be: (i) to determine whether or not the operational Forest Practice Rules and associated hillslope and instream mitigation measures afford a level of protection that is both appropriate and adequate to ensure protection of coho salmon and its habitat, (ii) to provide monitoring necessary to ensure the Forest Practice Rules are being implemented in a manner consistent with the California Endangered Species Act as required under 14 CCR § 896, and (iii) to provide a timely feedback process for the Board to assess rule effectiveness in meeting the stated goals under subsections (i) and (ii).

(1) The monitoring component of the program will provide the information necessary to evaluate the effectiveness of mitigation measures and identify when site–specific mitigation or operational rules should be revised to better accomplish the goals of the Board.

(A) Four types of monitoring will be addressed under the program including: (i) compliance, (ii) implementation, (iii) effectiveness, and (iv) validation.

(B) Review Team agencies will continue to conduct mandated compliance and implementation monitoring as part of their regulatory responsibilities.

(C) Effectiveness monitoring will be undertaken by the landowner; or be a cooperative effort between landowners and the Department, Review Team agencies, or a cooperative interdisciplinary team.

(D) Long–term validation monitoring will be undertaken by the Department, or facilitated through cooperative agreements among stakeholders and Review Team agencies.

(E) The Board or its designee may include any monitoring that meets the intent of this section, including any efforts that are already underway by the landowner, agencies or other cooperators.

(2) The adaptive management component of the program will be a process of action–based planning, monitoring, evaluating and adjusting through use of the scientific method; with the objective of maintaining fully functioning habitat conditions and facilitating conservation of coho salmon populations.

(A) Four elements of adaptive management will be addressed under the program including: (i) identification of substantial new information, (ii) collection of substantial new information, (iii) evaluation of substantial new information, and (iv) determination regarding the necessity or benefit of adjustments and improvements to mitigation and protective measures, including the Forest Practice Rules, based upon the substantial new information.

(b)(1) In collaboration with the Department and other Review Team agencies, the Board shall appoint a scientific technical advisory committee to develop monitoring practices to evaluate the effectiveness of mitigation measures at the appropriate scale.

(A) In development of monitoring practices, the Board's appointed scientific technical advisory committee may also engage other experts in the field for assistance.

(B) The monitoring practices will be applied by the landowner; or be a cooperative effort between landowners and the Department, Review Team agencies, or a cooperative interdisciplinary team.

(2) Monitoring practices and strategies may be peer reviewed by a scientific technical advisory committee as directed by the Board.

(3) The design and implementation of monitoring shall be done in consultation with the Department and other Review Team agencies, and the sufficiency of information shall be judged in light of its scientific merit and what is reasonable and practical.

(A) Monitoring data shall be derived from agency monitoring programs, landowner monitoring programs, or cooperative projects.

(4) As a condition of plan approval, based upon substantial evidence in the record, the Director may require monitoring:

(A) Anytime after plan approval,

(B) Concurrent with timber operations, and

(C) After completion of operations during the remainder of the prescribed maintenance period.

(5) Monitoring data collected pursuant to (b)(4) or (b)(6) shall be provided to the Board annually.

(6) The plan shall incorporate monitoring requirements in conformance with the requirements of a valid incidental take permit for coho salmon within the planning watershed that has been authorized pursuant to the following:

(A) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(B) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(C) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG; or

(c) The Department shall prepare an annual report in conjunction with a Board appointed technical subcommittee summarizing progress and significant findings from monitoring activities collected throughout the year in accordance with subsection (b)(4) above. The report shall be (i) provided to the Board during the first quarter of each calendar year, (ii) made available to the public upon request, and (iii) placed on the Board's website for at least 180 days.

(d) Based upon the findings presented in the annual monitoring report(s), the Director, in conjunction with the Board appointed technical subcommittee, may recommend additions, deletions or modifications to the Forest Practice Rules if the necessity for such a change is supported by substantial evidence in the reports. A specific recommendation based upon the findings that a rule requirement is no longer necessary shall also be supported by substantial evidence.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 916.12. Section 303(d) Listed Watersheds.

For any planning watershed in which timber operations could contribute to the pollutants or stressors which have been identified as limiting water quality in a water body listed pursuant to 303(d) Federal Clean Water Act, the following shall apply:

(a) The Department shall, in collaboration with the appropriate RWQCB and SWRCB, prioritize watersheds in which the following will be done: 1) conduct or participate in any further assessment or analysis of the watershed that may be needed, 2) participate in the development of Total Maximum Daily Load (TMDL) problem assessment, source assessment, or load allocations related to timber operations, and 3) if existing rules are deemed not to be sufficient, develop recommendations for watershed–specific silvicultural implementation, enforcement and monitoring practices to be applied by the Department.

(b) The Department shall prepare a report setting forth the Department's findings and recommendations from the activities identified pursuant to (a) above. The report shall be submitted to the Board and the appropriate RWQCB. The report shall be made available to the public upon request and placed on the Boards' website for a 90–day period.

(c) Where the Department has recommended that the adoption of watershed specific rules is needed, the Board shall consider that recommendation as a proposal for rulemaking under the Administrative Procedures Act (Section 11340 et. seq. Gov Code) and shall begin that process within 180 days following receipt of that report.

(d) These watershed specific rules shall be developed in collaboration with the appropriate RWQCB, the landowner(s) or designee with land in the planning watershed, and other persons or groups within the watershed, and may also be incorporated into a TMDL implementation plan.

(e) The watershed specific rules shall remain in effect until the water body has been removed from the 303(d) list, or that the Board finds, after consulting with the appropriate RWQCB, that timber operations are no longer a significant source of the pollutant or stressor that limits water quality in the listed water body.

(f) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 96, No. 45.
2. Amendment of subsection (f) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (f) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (f) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (f) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (f) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 916.13. Interim Watershed Mitigation Addendum (IWMA).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.1. Consultation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

[The next page is 254.3.]

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.2. IWMA Evaluation Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.3. Contents of IWMA

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.4. Standards for IWMA Preparation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.5. Submission of an IWMA as Part of a Plan.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.6. Compliance Monitoring and Expanded Completion Report.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.7. Subsequent Plans Within the IWMA Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 916.13.8. Equivalent Analysis.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

History

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

Article 7. Hazard Reduction

§ 917. Hazard Reduction.

This article shall provide standards for the treatment of snags and logging slash in order to reduce the fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

History

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2 (d) (Register 84, No. 25).
2. Amendment filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 917.1. Snag Disposal and Retention.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

History

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).
2. Repealer of section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 917.2. Treatment of Slash to Reduce Fire Hazard.

Except in the Southern Subdistrict of the Coast Forest District and Coastal Commission Special Treatment Areas of the Coast Forest District, the following standards shall apply to the treatment of slash created by timber operations within the plan area and on road adjacent to the plan area, but excluding appurtenant roads. Lopping for fire hazard reduction is defined in 14 CCR 895.1.

(a) Slash to be treated by piling and burning shall be treated not later than April 1 of the year following its creation, or within 30 days following climatic access, or as justified in the plan.

(b) Within 100 feet of the edge of the traveled surface of public roads, and within 50 feet of the edge of the traveled surface of permanent private roads open for public use where permission to pass is not required, slash created and trees knocked down by road construction or timber operations shall be treated by lopping for fire hazard reduction, piling and burning, chipping, burying or removal from the zone.

(c) All woody debris created by timber operations greater than one inch but less than eight inches in diameter within 100 feet of permanently located structures maintained for human habitation shall be removed or piled and burned; all slash created between 100–200 feet of permanently located structures maintained for human habitation shall be lopped for fire hazard reduction, removed, chipped or piled and burned; lopping

may be required between 200–500 feet where unusual fire risk or hazard exist as determined by the Director or the RPF.

(d) An alternative to treating slash along roads and within 200 feet of structures may be approved by the Director when the RPF explains and justifies in the plans how equal fire protection will be provided. The alternative shall include a description of the alternate treatment(s) and the portion(s) of the plan area in which they will be utilized. In proposing alternate slash treatments the RPF shall consider the estimated amount and distribution of slash to be created by the operation, type of remaining vegetation, topography, climate, and degree of public exposure fire history.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Repealer of former section 917.2 and renumbering and amendment of former section 917.6 to section 917.2 filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Repealer and new section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

§ 917.3. Prescribed Broadcast Burning of Slash.

Outside the Southern Subdistrict, broadcast burning may be prescribed for slash treatment subject to the following conditions:

(a) It may occur in Zone A, as described in PRC 4423, subject to a project–type burning permit;

(b) It may occur in Zone B, as described in PRC 4423, without a burning permit from December 1 through March 31, unless a permit is required pursuant to paragraph (e), or subject to the provisions of a project–type burning permit between April 1 and December 1;

(c) It may occur within cleared firebreaks of not less than 10 feet (3.05 m) in width;

(d) Use of the broadcast burning prescription in the Watercourse and Lake Protection Zone for Class I, and II waters, is prohibited. Where necessary to protect downstream beneficial uses, the director may prohibit burning prescriptions in Class III watercourses;

(e) Exceptions to requirements (b), (c), and (d) above may be granted to any time of year provided a project–type burning permit is obtained prior to burning and the terms of the permit are adhered to while burning.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5, 4562 and 4562.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 917.3 to 917.4 and renumbering and amendment of former Section 917.4 to Section 917.3 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).
2. Amendment of subsection (d) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
3. New subsection (f) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
4. Subsection (f) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

§ 917.4. Treatment of Logging Slash in the Southern Subdistrict.

To reduce fire hazards within the Southern Subdistrict of the Coast Forest District, treatment of slash created by timber operations shall be done in addition to requirements of 14 CAC 917.2 as follows:

(a) To provide more efficient firebreaks the areas within 50 feet (15.24 m) of the edge of all public roads shall be kept free of slash greater than 1 inch (2.5 cm) in diameter. Slash between 50 feet (15.24 m) and 100 feet (30.48 m) of the edge of said roads and slash within 200 feet (60.96 m) of all permanently located structures currently maintained for human habitation shall be treated by piling and burning, chipping, burying, removal, or lopping to within 12 inches (30.5 cm) above the ground not later than April 1 of the year following its creation. Distances shall be measured along the surface of the ground. Timber operations shall not cause a violation of PRC 4291.

(b) Concentrations of slash created by the current operation around logging landings or located within the logging area excluding those areas substantially covered with logs on the ground, shall be crushed, chipped, spread, piled and burned, or otherwise treated no later than April 1st of the following year following their creation.

(c) Slash created by the current timber operation within and adjacent to the logging area, excluding those areas substantially covered with logs on the ground, shall be lopped over the entire logging area by April 1st of the year following the creation of the slash. Slash created by the current operations along roads not in the logging area shall be lopped concurrently with its creation.

(d) Use of the broadcast burning prescription for slash is prohibited in the Southern Subdistrict of the Coast Forest District.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 917.4 to Section 917.3 and renumbering and amendment of former Sections 917.3, 917.5 and 917.7 to Section 917.4 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 917.5. Burning of Piles and Concentrations of Slash.

When the option of burning piles or concentrations of slash is chosen to meet the slash treatment requirements as specified in these rules, such burning shall be done as follows:

(a) Piles and concentrations shall be sufficiently free of soil and other noncombustible material for effective burning.

(b) The piles and concentrations shall be burned at a safe time during the first wet fall or winter weather or other safe period following piling and according to laws and regulations. Piles and concentrations that fail to burn sufficiently to remove the fire hazard shall be repiled and burned in the manner aforesaid or treated to eliminate the fire hazard. All necessary precautions shall be taken to confine the burning to the piled slash.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5 and 4562, Public Resources Code.

[The next page is 255.]

HISTORY

1. Renumbering and amendment of former section 917.5 to 917.4 and new section 917.5 filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Amendment of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

§ 917.6. Notification of Burning.

The local representative of the Director shall be notified in advance of the time and place of any burning of logging slash. Any burning shall be done in the manner provided by law.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 917.6 to Section 917.2 and renumbering and amendment of former Section 917.8 to Section 917.6 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 917.7. Protection of Residual Trees.

Slash burning operations and fire hazard abatement operations shall be conducted in a manner which will not damage residual trees and reproduction to the extent that they will not qualify in meeting the silvicultural and stocking requirements of the rules.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 917.7 to Section 917.4 and renumbering and amendment of former Section 917.9 to Section 917.7 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 917.8. Slash Disposal to Control Forest Insects.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 5–3–89 as an emergency; operative 5–3–89 (Register 89, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–31–89. For prior history, see Register 84, No. 25.
2. Repealed by operation of law pursuant to Government Code section 11346.1(d) filed 1–15–91 (Register 91, No. 19).

§ 917.9. Prevention Practices.

Timber operations shall be conducted so as to minimize the build–up of destructive insect populations or the spread of forest diseases. To achieve this goal the following shall occur:

(a) Where THPs are in areas where the Board of Forestry has declared a zone of infestation or infection pursuant to PRC sections 4712–4718, the RPF shall identify feasible measures being taken to mitigate adverse infestation or infection impacts from the timber operation.

(b) Where significant adverse insect or disease build–ups are identified by the RPF preparing the plan or the Director on an area to be harvested under a THP, the plan shall include feasible measures to address the problem.

(c) The Board of Forestry has determined that insects breeding in pine logging slash can be a significant problem if they are not managed. Board of Forestry Technical Rule Addendum Number 3 describes the considerations that the RPF preparing a THP shall use in developing alternatives for treating pine brood material. The addendum also describes methods of treating pine brood material that may be used to meet the objectives of this rule. The RPF may propose or the Director may require hazard reduction treatments to mitigate significant adverse impacts of insects breeding in pine brood material at any time during the life of a THP.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513, and 4713, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 917.9 to section 917.7 filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. New section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. Editorial correction adding inadvertently omitted HISTORY 2 (Register 96, No. 50).
4. Amendment of subsection (c) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Appendix

BOARD OF FORESTRY TECHNICAL RULE
ADDENDUM NO. 3
BROOD MATERIAL

A. Hazard Determination

Tree mortality and top killing result when Ips beetle populations reproduce and increase in pine brood material[1] and then leave this material and attack pines in the residual stand. Hazard increases with the amount of pine brood material present.

Any suitable breeding material, including pine logs from recently felled trees, represents a hazard as long as it remains on site long enough for the beetles to complete a life cycle in it. During suitable weather, the life cycle may be as short as five weeks. Piling of brood material is more hazardous than leaving it spread–out on the ground.

Timing of brood material production may influence hazard. Hazard is presumed to be highest when pine brood material is produced from February through June and moderate when produced at other times of the year. At no time is hazard presumed to be low. In some parts of the Southern Forest District, hazard is presumed to be high year round, regardless of when the brood material was produced.

Age, size, and species of residual trees influence hazard. Young pole size stands of pine are most susceptible to damage. Tree species other than pine are not damaged by insects that breed in pine brood material. Brood material from tree species other than pine generally does not contribute to the build–up of damaging beetle populations.

Low vigor residual trees are at greatest risk. Historically, drought stressed, suppressed, and overstocked stands have been identified as high risk. Off–site, diseased, damaged, and overmature trees are also at risk.

If damaging insect populations are high, hazard will be greater. High beetle populations have the potential to damage more than just low vigor trees. Chronic pine mortality in the area should be evaluated to determine if high beetle populations are present. An established Zone of Infestation for pine bark beetles implies that conditions are appropriate for the build–up of beetle populations.

Potential for the spread of damaging insects to adjacent ownerships should be considered. The closer the ownership, the greater the risk. Generally, ownerships beyond one quarter of a mile will have little or no risk.

Value of residual trees should be considered. How much loss to residuals is acceptable?

B. Hazard Reduction Treatment Alternatives

Any treatment to reduce hazard should apply to the entire area where a hazard has been determined to exist, including the area where lopping for fire hazard reduction has been used. Treatment alternatives include modification of the brood material so that it is less suitable as a breeding site for beetles or methods to reduce beetle populations that have developed.

Specific Treatment Alternatives applied to pine brood material are as follows:

(1) The following treatments are acceptable provided they are completed before insect broods emerge from infested material. During weather that is suitable for brood development, a five week window is the maximum time that should elapse between creation of brood material and its treatment by one of the following methods: brood material can be removed from the site for processing or disposal; if left on–site, it can be piled and burned, chipped, debarked, treated with an appropriate pesticide, or piled and covered with clear plastic. If brood material is piled and covered, the plastic used must be a minimum of 6 mil thick; piles must be completely sealed by the plastic so that there are no openings to the outside and remain covered for 6 months (or 4 months if at least 2 summer months are included).

(2) The following treatment is acceptable, provided it is completed as soon after brood material creation as is practical, but not later than one week. Lop all branches from the sides and tops of those portions of main stems which are 3″ or more in diameter. Branches shall be scattered so

that stems have maximum exposure to solar radiation. Do not pile brood material. Lopped stems could also be cut into short segments to decrease drying time and further reduce hazard.

(3) Burying brood material will prevent it from being colonized by beetles, but may not prevent emergence of the beetles. Therefore, it must be buried before becoming infested. During suitable weather, brood material must be buried concurrent with its creation.

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[1]"Suitable" weather depends upon location. In areas that receive snowfall, suitable weather generally exists from April 15–October 15. In other areas, suitable weather exists from March 1–November 30.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513, and 4713, Public Resources Code.

HISTORY

1. New Appendix filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

§ 917.10. Prevention Practices.

Adverse insect and disease impacts shall be identified by the RPF in the timber harvesting plan, and mitigating measures shall be prescribed to improve the health and productivity of the timber stand. Timber operations shall be conducted to as to minimize the build–up of destructive insect populations or the spread forest diseases.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Renumbering and amendment of section 919.2 to section 917.10 filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
2. Editorial correction renumbering former section 917.10 to section 917.11 and renumbering of former section 919 (mistakenly repealed) to section 917.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 917.11. Locating and Reporting.

Timber operators, timber owners and foresters (RPF), if any employed on the operation, shall assist the State in determining the location of insect and disease outbreaks, and report such outbreaks to the Director or a representative of the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Renumbering and amendment of section 919.2 to section 917.10 filed 8–5–91; operative 8–5–91–91 (Register 91, No. 50).
2. Renumbering of former section 919.2 to section 917.11 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

Article 8. Fire Protection

§ 918. Fire Protection.

When burning permits are required pursuant to Public Resources Code 4423, timber operators shall:

(a) observe the fire prevention and control rules within this article, and

(b) submit each year, either before April 1st or before the start of timber operations a fire suppression resources inventory to the Department as required by the rules.

NOTE: Authority cited: Section 4551 and 4553, Public Resources Code. Reference: Sections 4423, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 918.1. Fire Suppression Resource Inventory.

The Fire Suppression Resources Inventory shall include, as a minimum, the following information:

(a) Name, address and 24–hour telephone number of an individual and an alternate who has authority to respond to Department requests for resources to suppress fires.

(b) Number of individuals available for fire fighting duty and their skills.

(c) Equipment available for fire fighting.

The Fire Suppression Resources Inventory shall be submitted to the ranger unit headquarters office of the Department having jurisdiction for the timber operation.

NOTE: Authority cited: Section 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Repealer and new section filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 918.2. Fire Plan Contents.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Repealer filed 6–21–89; operative 7–21–89 (Register 89, No. 25).
3. Editorial correction removing repealed text (Register 99, No. 26).

§ 918.3. Roads to Be Kept Passable.

Timber operators shall keep all logging truck roads in a passable condition during the dry season for fire truck travel until snag and slash disposal has been completed.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 918.4. Smoking and Matches.

Subject to any law or ordinance prohibiting or otherwise regulating smoking, smoking by persons engaged in timber operations shall be limited to occasions where they are not moving about and are confined to cleared landings and areas of bare soil at least three feet (.914 m) in diameter. Burning material shall be extinguished in such areas of bare soil before discarding. The timber operator shall specify procedures to guide actions of his employees or other persons in his employment consistent with this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 918.5. Lunch and Warming Fires.

Subject to any law or ordinance regulating or prohibiting fires, warming fires or other fires used for the comfort or convenience of employees or other persons engaged in timber operations shall be limited to the following conditions:

1. There shall be a clearance of 10 feet (3.05 m) or more from the perimeter of such fires and flammable vegetation or other substances conducive to the spread of fire.

2. Warming fires shall be built in a depression in the soil to hold the ash created by such fires.

3. The timber operator shall establish procedures to guide actions of his employees or other persons in their employment regarding the setting, maintenance, or use of such fires that are consistent with (a) and (b) of this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4103.5, 4432, 4433, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 918.6. Posting Procedures.

Timber operators shall post notices which set forth lists of procedures that they have established consistent with Sections 918.4 and 918.5. Such notices shall be posted in sufficient quantity and location throughout their logging areas so that all employees, or other persons employed by them to work, shall be informed of such procedures. Timber operators

shall provide for diligent supervision of such procedures throughout their operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 918.7. Blasting and Welding.

Timber operators shall provide for a diligent fire watch service at the scene of any blasting or welding operations conducted on their logging areas to prevent and extinguish fires resulting from such operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).

§ 918.8. Inspection for Fire.

The timber operator and his/her agent shall conduct a diligent aerial or ground inspection within the first two hours after cessation of felling, yarding, or loading operations each day during the dry period when fire is likely to spread. The person conducting the inspection shall have adequate communication available for prompt reporting of any fire that may be detected.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 918.9. Glass Containers.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 918.10. Cable Blocks.

During the period when burning permits are required, all tail and side blocks on a cable setting shall be located in the center of an area that is either cleared to mineral soil or covered with a fireproof blanket that is at least 15 feet in diameter. A shovel and an operational full five–gallon back pump or fire extinguisher bearing a label showing at least a 4A rating must be located within 25 feet of each such block before yarding.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

Article 9. Wildlife Protection Practices

§ 919. Wildlife Practice.

Timber operations shall be planned and conducted to maintain suitable habitat for wildlife species as specified by the provisions of this Article. These provisions are in addition to those directly or indirectly provided in other rules of the Board of Forestry.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Repealer of former section 919, and renumbering and amendment of former section 919.1 to section 919 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. Repealer of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13). For prior history, see Register 91, No. 50.
4. Renumbering of former section 919 to section 917.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
5. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 919.1. Snag Retention.

Within the logging area all snags shall be retained to provide wildlife habitat except as follows:

(a) If required by the Director during the review of a THP, snags over 20 feet in height and 16 inches dbh shall be felled in the following locations:

(1) Within 100 feet of main ridge tops that are suitable for fire suppression and delineated on a THP map.

(2) For hazard reduction within 100 feet of all public reads, permanent reads, seasonal reads, landings, and railroads.

(b) Where federal and state safety laws and regulations require the felling of snags.

(c) Within 100 feet of structures maintained for human habitation.

(d) Merchantable snags in any location as provided for in the plan, or

(e) snags whose falling is required for insect or disease control.

(f) When proposed by the RPF; where it is explained and justified that there will not be a significant impact to wildlife habitat needs or there is a threat to human health or safety, including fire where the Director determines a high hazard exists.

NOTE: Authority cited: Sections 4551, Public Resources Code. Reference: Sections 4513, 4551.5, and 4582.75, and 4583 Public Resources Code.

HISTORY

1. Renumbering and amendment of section 919.1 to section 919 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 919.2. General Protection of Nest Sites.

The following general standards for protection of Sensitive species shall apply.

(a) A pre–harvest inspection will normally be required when it is known or suspected that the minimum buffer zone surrounding an active nest of a Sensitive species is in or extends onto an area proposed for timber operations. When the California Department of Forestry is already familiar with the site, the Director, after consultation with the Department of Fish and Game, may waive this requirement.

(b) During timber operations, nest tree(s), designated perch tree(s), screening tree(s), and replacement tree(s), shall be left standing and unharmed except as otherwise provided in these following rules.

(c) Timber operations shall be planned and operated to commence as far as possible from occupied nest trees unless explained and justified by the RPF in the THP.

(d) When an occupied nest site of a listed bird species is discovered during timber operations, the timber operator shall protect the nest tree, screening trees, perch trees, and replacement trees and shall apply the provisions of subsections (b) and (c) above and of section 919.2 (939.2, 959.2), and shall immediately notify the Department of Fish and Game and the Department of Forestry and Fire Protection. An amendment that shall be considered a minor amendment to the timber harvesting plan shall be filed reflecting such additional protection as is agreed between the operator and the Director after consultation with the Department of Fish and Game.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583 and 4604, Public Resources Code; 14 CCR 670.5; and 50 CFR 17.11.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Amendment of subsection (d) filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of subsection (d) as it existed prior to 7–23–90 emergency amendment by operation of Government Code section 11346.1(f) (Register 91, No. 4).
4. Amendment of subsection (d) filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (d) as it existed before emergency amendment filed 11–21–91 by operation of Government Code section 11346.1(f) (Register 91, No. 16).

6. Amendment of subsection (d) filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–25–91 order transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
8. Renumbering of former section 919.2 to section 917.11 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
9. Renumbering and amendment of former section 919.6 to section 919.2 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
10. Editorial correction deleting former HISTORY NOTE 8 and renumbering remaining HISTORY NOTES (Register 95, No. 14).

§ 919.3. Specific Requirements for Protection of Nest Sites.

The following requirements shall apply to nest sites containing active nests and not to nest sites containing only abandoned nests.

(a) Buffer zones shall be established around all nest trees containing active nests. The buffer zones shall be designed to best protect the nest site and nesting birds from the effects of timber operations. In consultation with the Department of Fish and Game, and as approved by the Director, an RPF or supervised designee shall flag the location of the boundaries of the buffer zone, and the configuration of the buffer zone. Consultation with the Department of Fish and Game shall be required pursuant to 14 CCR 898. Consideration shall be given to the specific habitat requirements of the bird species involved when configuration and boundaries of the buffer zone are established.

(b) The size of the buffer zone for each species shall be as follows:

(1) For the Bald eagle and Peregrine falcon, the buffer zone shall be a minimum of ten acres in size. The Director may increase the buffer zone beyond 40 acres in size so that timber operations will not result in a "take" of either species. The Director shall develop the buffer zone in consultation with the Department of Fish and Game and the RPF.

(2) For the Golden eagle, the buffer zone shall be a minimum of eight acres in size.

(3) For the Great blue heron and Great egret, the buffer zone shall consist of the area within a 300–foot radius of a tree or trees containing a group of five or more active nests in close proximity as determined by the Department of Fish and Game.

(4) For the Northern goshawk, the buffer zone shall be a minimum of five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 20 acres when necessary to protect nesting birds.

(5) For the Osprey, the buffer zone may be up to five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 18 acres when necessary to protect nesting birds.

(c) The following year–round restrictions shall apply within the buffer zone.

(1) For the Bald eagle, no clearcutting is allowed within the buffer zone. Selection, commercial thinning, sanitation–salvage, and the shelterwood regeneration method, except for the removal step, are permitted if all trees are marked prior to preharvest inspection. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(2) For the Golden eagle, no clearcutting is allowed within the buffer zone. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(3) For the Great blue heron and Great egret, all nest trees containing active nests shall be left standing and unharmed.

(4) For the Northern goshawk, designated nest trees, screening trees, perch trees, and replacement trees shall be left standing and unharmed. Only the commercial thinning, sanitation–salvage, and selection regeneration methods are permitted in the buffer zone.

(5) For the Osprey, all designated nest trees, perch trees, screening trees, and replacement trees shall be left standing and unharmed. If the RPF believes that retention is not feasible, he may propose construction of an artificial nest structure as an alternative.

(6) For the Peregrine falcon, where timber provides part of the immediate nesting habitat, special cutting prescriptions may be required by the Director on an area up to ten acres in size immediately surrounding the nest. The cutting prescriptions shall protect the nesting habitat.

(d) Critical periods are established for each species and requirements shall apply during these critical periods as follows:

(1) For the Bald eagle, the critical period is January 15 until either August 15 or four weeks after fledgling, as determined by the Director. During this critical period, no timber operations are permitted within the buffer zone. Exceptions may be approved by the Director, after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(2) For the Golden eagle, the critical period is January 15 until April 15 for active nests, and is extended from April 15 until either September 1 or until the birds have fledged from occupied nests. During this critical period, hauling on existing roads that normally receive use during the critical period is permitted. Other timber operations are not permitted within the buffer zones.

(3) For the Great blue heron and Great egret, the critical period is February 15 until July 1 for coastal counties south of and including Marin County. For all other areas, the period is from March 15–July 15. During this critical period, timber operations within the buffer zone shall be staged with a gradual approach to the nest.

(4) For the Northern goshawk, the critical period is from March 15 until August 15. During this critical period, no timber operations are permitted; however, new road construction is permitted if the Director determines that there is no feasible alternative. Exceptions may be approved by the Director after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(5) For the Osprey, the critical period is March 1 to April 15 for active nests in coastal counties including Mendocino County and those south of it. This period is extended from April 15 until August 1 for occupied nests. For all other areas, the critical period is March 15 until May 1 for active nests, and is extended from May 1 to August 15 for occupied nests. During the critical period, at nest sites where Osprey have shown historical tolerance to disturbance, timber operations are permitted using a gradual approach to the nest, except that no cutting is permitted. Where Osprey are determined by the Director to be intolerant to timber operations, no timber operations are permitted within the buffer zone unless the Director determines that there are no feasible alternatives.

(6) For the Peregrine falcon, the critical period is February 1 until April 1 for active nests, and is extended until July 15 for occupied nests. During the critical period, no timber operations are permitted within the buffer zone. However, when the Director, after consultation with the Department of Fish and Game determines that Peregrines have shown a tolerance to hauling activity in the past, hauling on existing roads that normally receive use during the critical period within the buffer zone is permitted.

(e) The following requirements shall apply to helicopter logging during the critical period.

(1) For the Bald eagle, helicopter yarding within one–quarter mile radius of the nest tree is prohibited. Helicopter yarding between one–quarter and one–half mile of the nest tree is permitted when timber operations are conducted so that helicopter yarding gradually approaches the one–quarter mile radius limit.

(2) For the Golden eagle and Northern goshawk, helicopter yarding within one–quarter mile radius of the nest is prohibited.

(3) For the Osprey, helicopter yarding within one–quarter mile radius of the nest is prohibited between April 15 and June 15.

(4) For the Peregrine falcon, helicopter yarding is prohibited within one–half mile of the nest.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 919.7 to section 919.3 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 919.4. Non–listed Species.

Where significant adverse impacts to non–listed species are identified, the RPF and Director shall incorporate feasible practices to reduce impacts as described in 14 CCR 898.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 919.5. Alternatives.

The RPF may propose alternatives to the requirements of this chapter, and the Director may approve such alternatives provided all of the following conditions are met:

(a) The RPF develops the alternative in consultation with the Department of Fish and Game.

(b) The Director consults with the Department of Fish and Game and makes findings that the alternative conforms to (c), below, prior to approving the alternative.

(c) The alternative will provide protection for nesting birds and their nesting sites equal to or greater than the protection that would be afforded by the application of the normal rules set forth in this chapter.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Repealer of section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Renumbering and amendment of former section 919.8 to section 919.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 919.6. General Protection of Nest Sites.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Amendment of subsection (d) filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of subsection (d) as it existed prior to 7–23–90 emergency amendment by operation of Government Code section 11346.1(f) (Register 91, No. 4).
4. Amendment of subsection (d) filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (d) as it existed before emergency amendment filed 11–21–91 by operation of Government Code section 11346.1(f) (Register 91, No. 16).
6. Amendment of subsection (d) filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–25–91 order transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
8. Renumbering and amendment of former section 916.6 to section 919.2 filed 8–12–91; operation 9–11–91 (Register 92, No. 13).

§ 919.7. Specific Requirements for Protection of Nest Sites.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 919.7 to section 919.3 filed 8–12–91; operation 9–11–91 (Register 92, No. 13).

§ 919.8. Alternatives.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 919.8 to section 919.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 919.9. Northern Spotted Owl.

Every proposed timber harvesting plan, NTMP, conversion permit, Spotted Owl Resource Plan, or major amendment located in the range of the northern spotted owl shall follow one of the procedures required in subsections (a)–(g) below for the area within the THP boundary as shown on the THP map and also for adjacent areas as specified within this section. The submitter may choose any alternative (a)–(g) that meets the on–the–ground circumstances. The required information shall be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl.

When subparagraphs (a), (b), or (c) are used, the Director, prior to approval of a THP, shall consult with a state–employed biologist designated by the Department who is accepted by the Department of Fish and Game or the Fish and Wildlife Service as having sufficient knowledge and education to determine harm or harassment of the Northern Spotted Owl. The biologist shall make written recommendations regarding whether the retained habitat configuration and protection measures proposed in the THP will prevent a take of the owl.

The Department may designate independent biological consultants who can fulfill the requirements within subparagraph (a) of these rules. The plan submitter has the discretion whether to utilize a designated independent consultant under subparagraph (a). All other requirements under the Northern Spotted Owl rules specifying a designated biologist are to be fulfilled by a state–employed biologist. To be designated by the Department, the independent consultant must be accepted by either the Department of Fish and Game or the Fish and Wildlife Service. This acceptance requires the independent consultant to demonstrate, in the field, sufficient knowledge and education to recognize and analyze data from field conditions and present information which helps determine harm or harassment of the Northern Spotted Owl. The same educational and experience criteria utilized to designate state–employed biologists will be applied. When a designated independent consultant is used to fulfill the requirements of subparagraph (a), the independent consultant shall make written observations and recommendations regarding whether the retained habitat configuration and protection measures proposed in the THP will prevent a take of the owl.

In consultation with the state–employed designated biologist, the Director may adjust standards established by this section based on site specific circumstances in a manner which is consistent with information collected on owl behavior in California, and the prohibitions of the Federal Endangered Species Act.

(a) If the project proponent requests preliminary review of the proposed operation or Spotted Owl Resource Plan prior to filing, a designated biologist (either state–employed or an independent consultant) shall be assigned to evaluate whether the proposed operation would result in the taking of an individual northern spotted owl. This evaluation is preliminary to and separate from the final "take" determination to be made under Section 919.10 (939.10). In making that evaluation:

(1) The designated biologist shall apply the criteria set forth in section 919.10 or 939.10;

(2) The designated biologist may request that the submitter provide additional information which the designated biologist finds necessary to evaluate if a "take" would occur, provided that the designated biologist states the type of information needed, the purpose of the information, and the level of accuracy necessary to meet the stated purpose.

(3) If the designated biologist concludes that no prohibited taking would occur, the biologist shall inform the submitter as soon as practicable and shall document the decision and the information which was relied upon by the biologist in the above evaluation. Reference data shall be readily available for the Director's review upon request;

(4) If the designated biologist concludes that the proposed timber operation or Spotted Owl Resource Plan would result in a taking, he or she shall inform the submitter as soon as practicable and shall comply with sections 919.10(c)/939.10(c) within 10 working days of making this determination.

(5) Requests for prefiling consultation shall be handled in the order in which received.

(b) The RPF shall include the following information:

(1) On a planimetric or topographic map of a minimum scale of 1:24,000, provide the following:

(A) The location and acreage of owl habitat.

This information shall be shown for the area within the boundary both as it exists before and after timber operations. The Director shall determine if timber typing maps may qualify as showing owl habitat.

(B) Identify any adjoining owl habitat by type within .7 miles of the boundary.

(C) When mapping functional owl nesting, roosting, and foraging habitat, include additional information which helps define those areas such as: location of topography features, riparian vegetation, hardwood component, water, potential nest and roost sites, and potential suitable forage areas.

(D) All known owl observations, identified by location and visual or nonvisual confirmation within 1.3 miles of the boundary. This information shall be derived from the landowner's and RPF's personal knowledge, and from existing spotted owl data bases available from the California Department of Forestry and Fire Protection.

(2) Discussion on how functional characteristics of owl habitat will be protected in terms of the criteria stated within subsections (a) and (b) of sections 919.10 or 939.10.

(3) As adjacent landowners permit and from other available information, a discussion of adjacent owl habitat up to .7 mile from the proposed boundary and its importance relative to the owl habitat within the boundary.

(4) Describe any proposals for monitoring owl or owl habitat which are necessary to insure their protection. Monitoring is not required for approval.

(5) Discussion of any known owl surveys that have been conducted within 1.3 miles of the THP boundary. Include the dates, results and methodologies used if known.

(6) A proposed route that will acquaint the designated biologist and other reviewers with the important owl habitat.

(7) Attach aerial photos of the area, if available. (Aerial photos are not required).

(c) Where certification is made by the RPF and adequate records are kept showing that owl surveys were conducted sufficient to demonstrate the absence of owls from an area, the THP will be reviewed on a high priority basis. The THP shall contain verification that:

(1) The surveys have been conducted throughout the area within .7 miles of the boundary in accordance with USFWS approved protocols ("Guidelines for Surveying Proposed Management Activities That May Impact Northern Spotted Owls"; U.S. Fish and Wildlife Service; March 7, 1991).

(2) The surveys were conducted during the current or immediately preceding survey period as prescribed by the previously cited USFWS approved protocol.

(3) The surveys reveal no nest sites, activity centers or owl observations in the area surveyed; and

(4) The surveys reveal no activity centers, active nest sites or repeated observations indicating the presence of mates and/or young within 1.3 miles of the boundary based on a review of the landowner's and RPF's personal knowledge and the Department's spotted owl data base.

(d) If the plan submitter proposes to proceed under an "incidental taking" permit or any other permit covering the Northern spotted owl issued by the. U.S. Fish and Wildlife Service, the submitter shall supply a copy of the permit upon the Department's request.

(e) If the submitter proposes to proceed pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the RPF that the described or proposed management prescription is acceptable to the USFWS.

(f) If:

(1) the submitter's proposed operations were reviewed by a designated biologist under sections 919.9(a)/939.9(a); and

(2) the designated biologist recommended minimum modifications to the proposed operations which would be necessary to bring the impacts to a level at which no "take" would occur and the submitter has adopted those recommendations; and

(3) the proposed operations remain substantially the same as the operations which the designated biologist reviewed, the submitter shall provide a copy of the recommendations made by the designated biologist and the submitter shall explain how the proposed operations comply with those recommendations.

(g) Where a nest site or activity center has been located within the THP boundary or within 1.3 miles of that boundary, the RPF shall determine and document within the THP that the habitat described in (1)–(5) below will be retained after the proposed operations are completed:

(1) Within 500 feet of the active nest site or pair activity center the characteristics of functional nesting habitat must be maintained. No timber operations shall be conducted in this area during the breeding season unless reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. Timber operations may be conducted in this area outside the breeding season if appropriate measures are adopted to protect nesting habitat.

(2) Within 500–1000 feet of the active nest site or pair activity center, retain sufficient functional characteristics to support roosting and provide protection from predation and storms.

(3) 500 acres of owl habitat must be provided within a .7 mile radius of the active nest site or pair activity center, unless an alternative is reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. The 500 acres includes the habitat retained in subsections (1) and (2) above and should be as contiguous as possible. Less than 50% of the retained habitat should be under operation in any one year, unless reviewed by the Department of Fish and Game and approved by the Director as not constituting a take.

(4) 1336 total acres of owl habitat must be provided within 1.3 miles of each nest site or pair activity center, unless an alternative is reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. The 1336 acres includes the habitat retained within subsections (1)–(3) above.

(5) The shape of the areas established pursuant to subsections (1) and (2) shall be adjusted to conform to natural landscape attributes such as draws and streamcourses while retaining the total area required within subsections (1) and (2) above.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583, Public Resources Code; and 50 CFR 17.11.

HISTORY

1. New section filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 4).
3. New section filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 16).
5. New section filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3–25–91 order transmitted to OAL 4–26–91 including amendments to introductory language and subsections (a)(3),

(b)(1)(D)(2), (c), and (e), and deletion of subsection (h) transmitted to OAL 4–26–91 and filed 5–28–91 (Register 91, No. 28).

7. Amendment of second paragraph, new third paragraph, and amendment of fourth paragraph and subsection (a) filed 3–27–95; operative 3–27–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 13).
8. Amendment filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
9. Amendment of subsections (c) and (g) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 919.10. Take of Northern Spotted Owl.

The designated biologist and the Director shall apply the following criteria to the information provided by the plan submitter and obtained during the review period to make a finding as to whether the timber operations, as proposed, will "take" an individual northern spotted owl. The designated biologist shall use the best professional judgment in making that finding.

(a) The designated biologist shall determine that the proposed habitat modification would result in "harm" to an individual spotted owl if any of the following conditions exist:

(1) Feeding habits would be significantly impaired because prey base or ability to catch prey would be adversely altered;

(2) Breeding success would be significantly impaired because of a reduction in surrounding owl habitat before the young have had an opportunity to successfully disperse from their nesting site;

(3) Nesting behavior would be significantly impaired because the nest site or adjoining area up to 500 feet from the nest site would be adversely altered; or

(4) Sheltering (which includes roosting, feeding, and nesting) would be significantly impaired because the ability to escape predators, survive severe weather, or find appropriate microclimes would be adversely altered.

(b) The designated biologist and the Director shall determine that an individual northern spotted owl would be "harassed" by the proposed timber operations if there is a likelihood that any of the following conditions exist:

(1) Feeding habits would be significantly disrupted because the prey base or the ability to catch prey would be impaired;

(2) Breeding success would be significantly disrupted;

(3) Nesting behavior would be significantly disrupted because activities would be conducted within 500 feet of a nest site; or

(4) Sheltering (which includes roosting, nesting, or feeding) would be significantly disrupted because the ability to escape predators, survive severe weather, or find appropriate microclimes would be adversely altered.

(C) If the designated biologist concludes that the proposed operations will result in a taking of the owl, he/she shall provide the plan submitter with the following information:

(1) The reasons for the determination, including an analysis of the factors set forth in this section;

(2) The information which was relied upon and which was instrumental in making the determination; and

(3) Recommendations for minimum modifications to the proposed operations which would be necessary to bring the impacts to a level at which "take" would not occur.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4313, 4551.5, 4582.75 and 4583, Public Resources Code; 50 CFR 17.11.

HISTORY

1. New section filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 4).
3. New section filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 16).
5. New section filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3–25–91 order transmitted to OAL 4–26–91 including amendments to introductory language and subsection (b)(4) transmitted to OAL 4–26–91 and filed 5–28–91 (Register 91, No. 28).

§ 919.11. Marbled Murrelet Protective Measures.

Where there is evidence of an "active murrelet site" in or adjacent to the THP area, or where there is evidence of a potential impact to a murrelet, the Director shall consult with DFG as to whether the proposed THP will result in a "take" or "jeopardy" (pursuant to the California Endangered Species Act) of the murrelet before the Director may approve or disapprove a THP. Biological Assessments submitted with the THP that are prepared according to the Department of Fish and Game Guidelines for Consultation (Fish and Game Code Section 2090) shall be provided to the DFG during consultation. If DFG determines jeopardy or a take will occur as a result of operations proposed in the THP, the Director shall disapprove the THP unless the THP is accompanied by authorization by a wildlife agency acting within its authority under state or federal endangered species acts.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 2053, 2080.1, 2090–2097, 2830 and 2835, Fish and Game Code; Sections 4513 and 4551.5, Public Resources Code; and the federal Endangered Species Act of 1973, 16 U.S.C. et seq.

HISTORY

1. Renumbering and amendment of former section 919.14 to section 919.11 filed 5–19–92; operative 6–18–92 (Register 92, No. 26).
2. Amendment of section and NOTE filed 5–21–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 21).

§ 919.12. Sensitive Species Classification.

The Board of Forestry has the responsibility under the FPA to provide protection to all species occurring in the state's forestlands. The procedure to identify those species that warrant special protection during timber operations is described as follows:

(a) The public or public agencies may petition the Board to classify a species as a "Sensitive Species." For the Board to consider such a petition, it must contain a discussion of the following topics:

(1) Range and distributional status of the species which includes an assessment of occurrence in timberland as defined by the FPA and rules.

(2) Indices of population trends describing the abundance of the species.

(3) Biotic and abiotic factors affecting the population viability or status of the species. Specific attention should be given to factors related to forest management and harvesting. This should include threats to population and habitat viability, including direct, indirect, and cumulative effects from these and other threats.

(4) Habitat availability and trends that include, but are not limited to, an assessment of the following as appropriate:

A. Dependence on general habitat conditions altered by typical forest management activities and projected time for habitat recovery,

B. Dependence on special habitat elements adversely impacted by timber operations,

C. Habitat continuity and juxtaposition requirements as an evaluation of sensitivity to habitat fragmentation.

(5) Suggested feasible protective measures required to provide for species protection.

(6) Other information specific to the species proposed that the petitioner believes to be relevant in assisting the Board to evaluate the petition.

(7) Sources of information relied upon to complete the petition.

(8) Recommended forest practice rules to provide guidance to RPF's, LTO's, landowners and the Director on species protection.

(9) The potential economic impacts of classifying a species sensitive.

(b) The Board will consult with the U.S. Fish and Wildlife Service, the California Fish and Game Commission, the California Department of Fish and Game, and others as appropriate. After consultation, the Board shall classify a species as sensitive after a public hearing if it finds:

(1) The California population requires timberland as habitat for foraging, breeding, or shelter, and

(2) The California population is in decline or there is a threat from timber operations, and

(3) Continued timber operations under the current rules of the Board will result in a loss of the California population viability.

(c) The Board shall consult with the U.S. Fish and Wildlife Service, the California Department of Fish and Game, and others as appropriate. After consultation and a public hearing, the Board will declassify a species as sensitive if it no longer meets the criteria for classification.

(d) The Board shall consider, and when possible adopt, regulations using the best available scientific information to establish the feasible mitigations for protection of the species at the same time such species is classified sensitive.

(e) Where rules are not adopted for the protection of the species at the time of classification, the Board shall begin development of proposed regulations for protection of the species.

Within one year of the classification of a species as sensitive, the Board shall hold a hearing on proposed regulations to establish the protection standards for that species according to the best available scientific information.

NOTE: Authority cited: Sections 4551, 4552, 4553 and 4582, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4582, Public Resources Code.

HISTORY

1. New section filed 8–31–92; operative 9–30–92 (Register 92, No. 36).

§ 919.13. Marbled Murrelet Survey Requirements.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 6–27–91 as an emergency; operative 6–27–91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL by 10–24–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 11–1–91 as an emergency; operative 11–1–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–2–92 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 92, No. 39).

§ 919.14. Marbled Murrelet Protective Measures.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 6–27–91 as an emergency; operative 6–27–91 (Register 91, No. 41). A Certificate of Compliance must be transmitted to OAL by 10–24–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 11–1–91 as an emergency; operative 11–1–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–2–92 or emergency language will be repealed by operation of law on the following day.
3. Renumbering and amendment of former section 919.14 to section 919.11 filed 5–19–92; operative 6–18–92 (Register 92, No. 26).

§ 919.15. Mitigation of Wildlife Impacts.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 919.16. Late Succession Forest Stands.

(a) When late succession forest stands are proposed for harvesting and such harvest will significantly reduce the amount and distribution of late succession forest stands or their functional wildlife habitat value so that it constitutes a significant adverse impact on the environment as defined in Section 895.1, the RPF shall provide habitat structure information for such stands.

A statement of objectives over time shall be included for late succession forest stands on the ownership. The THP, SYP, or NTMP shall include a discussion of how the proposed harvesting will affect the existing functional wildlife habitat for species primarily associated with late succession forest stands in the plan or the planning watershed, as appropriate, including impacts on vegetation structure, connectivity, and fragmentation. The information needed to address this subsection shall include, but is not limited to:

(1) —A map(s) showing: A) late succession forest stands within the planning watershed and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands that are on the ownership, B) those stands which are currently proposed to be harvested, and C) known stands on other ownerships.

(2) —A list of fish, wildlife and listed species known to be primarily associated with the late succession forest stands in the planning watershed(s) compiled by the RPF or supervised designee using the "California Wildlife Habitat Relationships System" (WHR), the California Natural Diversity Database, and local knowledge of the planning watershed.

(3) —Description of functional wildlife habitat elements that are important for fish, wildlife and listed species primarily associated with late succession forest stands within the planning watershed(s).

(4) —A description of the structural characteristics for each late succession forest stand and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands within the planning watershed including a discussion of important functional wildlife habitat elements identified in (3). Methods used to develop the description, which may be an ocular estimate, shall also be described.

(5) —A description of the functional wildlife habitat objectives, such as anticipated long–term landscape patterns, stand structure for late succession forest stands and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands, and a discussion of anticipated recruitment procedures for important functional wildlife habitat elements. Coordination of functional wildlife habitat objectives on landscape features among ownerships within mixed–ownership planning watersheds is encouraged.

(6) —An analysis of the long–term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests.

(b) Where timber operations will result in long–term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests in a THP, SYP, NTMP or planning watershed, feasible mitigation measures to mitigate or avoid such long–term significant adverse effects shall be described and incorporated in the THP, SYP or NTMP. Where long–term significant adverse effects cannot be avoided or mitigated, the THP, SYP, or NTMP shall identify the measures that will be taken to reduce those remaining effects and provide reasons for overriding concerns pursuant to 14 CCR Section 898.1(g), including a discussion of the alternatives and mitigation considered.

(c) A THP, SYP, or NTMP submitter may request that the Director waive subsection (a) above. The Director, after conferring with review team agencies with jurisdiction, may waive subsection (a) above when substantial evidence is presented that would support a determination that post–harvest late succession forest stands or functional wildlife habitat will continually provide adequate structure and connectivity to avoid or mitigate long–term significant adverse effects on fish, wildlife, and listed plant species known to be primarily associated with late succession forest stands within the planning watersheds.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5, 4562.7 and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551.5, 4562.5, 5093.50, 21001(f) and 21080.5, Public Resources Code; Section 5650(c), Fish and Game Code; 16 USC 1532; 50 CFR 17.3; 50 CFR 17.11.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.

2. Amendment of subsection (a)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 919.17. Protection of Old Growth Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 919.18. Protection of Ancient Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

Article 10. Violations of Rules Prior to Changes

§ 920. Violations of Rules Prior to Changes.

Amendment, modification, or repeal of rules shall not, unless otherwise provided, bar action on prior violations of rules as they stood at the time of violation.

NOTE: Authority cited for Article 10 (Section 920): Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4583, Public Resources Code.

Article 11. Coastal Commission Special Treatment Areas

§ 921. Coastal Commission Special Treatment Areas.

The purpose of this article is to protect the natural and scenic qualities as reflected in the criteria and objectives for each of the Coastal Commission Special Treatment Areas designated and adopted by the California Coastal Commission on July 5, 1977, while at the same time allowing management and orderly harvesting of timber resources within these areas. In addition to the statutes and other regulations governing timber harvesting, the following practices are required when conducting timber operations in such Special Treatment Areas.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5 and 30417, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 921.1. Preliminary Field Work and Timber Harvesting Plans.

(a) The following preliminary field work shall be required in the Coastal Commission Special Treatment Areas and shall be completed prior to submission of the plan to the Director:

(1) When a boundary of a Coastal Commission Special Treatment Area is within or contiguous to a plan area, the boundary shall be clearly identified on the ground by the RPF preparing the plan or supervised designee, with paint, flagging, or other suitable means.

(2) All tractor roads and skid trails that require substantial soil displacement shall be clearly marked on the ground with flagging or other appropriate marking.

(3) The boundary of all sides and areas with visible evidence of slope instability which extend to the watercourse and lake protection zone shall be flagged or otherwise adequately marked on the ground.

(4) The following wildlife consideration shall be followed:

(A) Live trees, as designated on the ground by the Departments of Fish and Game or Forestry or the RPF or supervised designee with visible evidence of current use as nesting sites by hawks, owls, or waterfowl shall not be marked for cutting.

(5) In applying the rules, the RPF shall, when selecting feasible alternatives required by 14 CAC 898, follow the criteria and management objectives used by the Coastal Commission in selecting that area for special treatment. (See Title 14, California Administrative Code, Section 912.)

(b) The following shall be adhered to in submitting plans for Coastal Commission Special Treatment Areas.

(1) Plan maps shall be at a scale of at least 4 inches to the mile (6.3 cm per km).

(2) Plan maps must show the location of and identify the following: All log landings proposed to be used, and all main skid trails, all logging roads, all watercourses, lakes, marshes and boundaries of Coastal Commission Special Treatment Areas within or contiguous to the plan area.

(3) An initial inspection of the area in which timber operations are to be conducted shall be made within 10 days from the date of filing of the plan, or such longer period as may be mutually agreed upon by the Director and the person submitting the plan. The RPF who prepared the plan shall attend the initial inspection. The timber owner and timber operator or their agents should attend the initial inspections.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551.5, 4582 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).
3. Amendment of subsection (a)(5) filed 7–3–85; effective thirtieth day thereafter (Register 86, No. 27).
4. Amendment of subsections (a)(1) and (a)(4)(A) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
5. Editorial correction of subsection (a) (Register 97, No. 48).

§ 921.2. Exemptions from Timber Harvesting Plan Requirements.

To ensure that the protection necessary to maintain the integrity of Coastal Commission Special Treatment Areas is achieved, the following requirements shall apply to the timber operations exempt from filing of Timber Harvesting Plans under 14 CAC 1038.

(a) The requirements of 14 CAC 921.1(a) and (b) shall apply with the exception that, at the discretion of the Director, an initial inspection may not be required. Harvesting of Christmas trees are exempt from timber marking requirements.

(b) The Director shall acknowledge in writing, and within 10 days, acceptance or rejection of the notice of timber operations. Timber operations shall not commence until the Director's acceptance has been received by the person who filed the notice.

(c) The requirements of PRC 4585, Completion Report, and PRC 4587, Stocking Reports, shall apply to exempt operations within the Coastal Commission Special Treatment Areas.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551.5 and 30417, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).

§ 921.3. Silvicultural Methods.

The objective of this Section is to prescribe silvicultural methods that will protect the long–term productivity of soils and timberlands in Coastal Commission Special Treatment Areas and protect the natural and scenic qualities of these areas. The following silvicultural methods as prescribed below will be applied in Coastal Commission Special Treatment Areas. 14 CAC 913 through 913.6, defines these methods.

(a) Commercial Thinning or Selection Methods. When the commercial thinning or the selection silvicultural method is used the following standards are required:

(1) For an initial entry into an even–aged stand, leave a well distributed timber stand after cutting and logging operations have been completed on the cut area at least 40% by number of those trees 18 inches (45.7 cm) and more d.b.h. present prior to commencement of current timber operations and at least 50% by number of those over 12 inches (30.5 cm) d.b.h. but less than 18 inches (45.7 cm) or more d.b.h. All leave trees shall be thrifty coniferous trees which are free from substantial damage caused by timber operations, and leave trees shall have the characteristics of a "countable tree" as described in Section 4528(b). No conifer tree shall be cut which is more than 75 feet (22.86 m) from a leave tree 12 inches (30.5 cm) d.b.h. or larger located within the logging area. Average top stump diameter, outside bark, shall be considered 1 inch (2.5 cm) greater than d.b.h.

(2) For timber stands where more than one age class is present, leave at least 50% by number of those trees over 12 inches d.b.h. Leave trees and established conifer regeneration shall amount to 50% of the pre–existing tree crown canopy cover. All leave trees shall be thrifty coniferous trees which are free from substantial damage caused by timber operations, and leave trees shall have the characteristics of a "countable tree" described in Section 4528(b) Public Resources Code. No conifer tree shall be cut which is more than 75 feet from a 3 point countable tree within the logging area.

(3) A report of stocking as described in PRC 4587 shall be filed within six months following completion of work as described in the plan.

(b) Sanitation–Salvage Method. When the sanitation–salvage silivcultural method is used the following practices are required:

(1) Restrictions on time periods for subsequent timber operations shall not apply to the sanitation–salvage silvicultural method.

(2) A determined effort shall be made to regenerate any cut area during the first planting season following log removal. Necessary site preparation, planting or seeding shall be completed within the first planting season following logging, except where unusual and adverse weather conditions require extending site preparation and planting into the following planting season. Deficiencies in stocking shall be corrected by planting annually at least three times if necessary to meet the stocking standards in 14 CAC 921.4.

(3) Where the result of the cutting would have the effect of a clearcut all of the restrictions in this section pertaining to the use of clearcuts shall apply, except for 1) areas which are currently suffering severe damage due to insects or disease and the removal of the entire affected area is deemed necessary by a forest pathologist or forest entomologist and agreed to by the Director to prevent the spread of the disease or insects, or 2) except for areas which have recently been burned over and the RPF determined recovery of the affected area is unlikely.

(c) Clearcutting Method. The clearcutting method provides for harvesting of the entire existing timber stand in one harvest in an area. Every reasonable effort shall be made by the RPF to use silvicultural methods other than clearcutting to protect the natural and scenic values in the Coastal Commission Special Treatment Areas. The clearcutting method is not authorized for Special Treatment Areas in the Southern Subdistrict of the Coast Forest District.

(1) The clearcutting method may be used when justified and explained in the plan and found in conformance by the Director for one or more of the following reasons:

(A) Leave trees would be subject to severe damage from sunburn, saltburn, and/or windthrow.

(B) Conifer stand improvement necessitates the clearing of a stand of hardwoods.

(C) Leave trees would prevent regeneration of the principal conifer species.

(D) Old growth stands where 70% or more of the countable trees over 36 inches (91.4 cm) d.b.h. are more than 200 years old.

(E) Timber stands where trees are infected with insects or diseases, and there is significant risk for substantial loss of standing timber or timber growth.

(2) Clearcut areas shall not exceed 10 acres (4.047 ha) in size, but may be enlarged to not more than 15 acres (6.070 ha) when explained and justified in the plan, and when found in conformance with the rules of the Board. Exceptions to the 10 acre (4.047 ha) size limit may be proposed by the RPF preparing the plan when in his or her judgment the result will be overall reduction of soil erosion due to logging and road construction, or when it is necessary to include "long corners" to take advantage of topography for a more natural logging unit.

(3) Clearcut areas of 10 acres or larger regardless of ownership shall be separated by a logical logging unit not less than 300 feet (91.44 m) in width between the clearcut areas. Except for the sanitation–salvage, commercial thinning, and selection silvicultural method, no other harvesting shall take place in the unit adjacent to the clearcut areas until a 50% crown cover of conifer tree species has been attained in the clearcut areas. Contiguous clearcuts may occur without regard to ownership only when the total combined acreage in the area clearcut is no more than ten (10) acres.

(4) Straight boundaries and a quadrilateral appearance should be avoided in defining and logging the area to be clearcut. The outline of the clearcut area should, where possible, be in accordance aesthetically with natural pattern and features of the topography.

(5) The area to be clearcut must be clearly defined on the ground prior to initial inspection so the Department can readily determine if the full intent of the regulations will be complied with.

(6) No area previously cut under any other silvicultural method, except the sanitation–salvage method, shall be clearcut until 10 years have elapsed.

(7) Regeneration after clearcutting shall be obtained by using conifer trees or seed appropriate to the site. Site preparation and the planting of seedlings and/or seeding shall be completed within the first planting season following logging except where unusual and adverse weather conditions require extending site preparation and planting into the following planting season. Deficiencies in stocking shall be corrected by planting annually, if necessary. Stocking requirements shall be met within 5 years after completion of timber operations.

(d) Rehabilitation Cutting. Rehabilitation cutting may be applied to stands where the primary forest management objective is to reestablish full conifer stocking on lands where brush and hardwoods are the predominate species. Areas harvested for rehabilitation purposes must be significantly understocked with conifers prior to the proposed harvest. The Director may request that a report of stocking be submitted by the RPF prior to approval of the plan. This report will be requested when it cannot be mutually resolved on the ground that the area is significantly understocked. Restrictions applicable to clearcutting in 14 CAC 921.3(c) shall apply to rehabilitation cutting. Leave trees shall be marked in areas harvested for rehabilitation purposes.

(e) Recutting of Logging Areas. Timber operations for removal of trees may only be repeated on a logging area within less than 10 years after completion of a previous timber operation if minimum stocking standards have been met, the reasons for the operation are justified and explained in the plan, and the scenic and/or natural qualities of a stand would be enhanced by lighter or more frequent tree removal. In no instance shall stocking be reduced below the standards provided in 14 CAC 921.4 nor shall more than 60% by numbers of those trees 18 inches (45.7 cm) and more d.b.h. and no more than 50% by numbers of those trees over 12 inches (30.5 cm) d.b.h. but less than 18 inches (45.7 cm) d.b.h. be removed within any one 10 year period.

On timber operations in which cutting has occurred within 10 years preceding the current operations, stumps which are the result of cutting trees within the preceding 10 years shall be counted as trees cut during the current operation in determining percent of trees cut.

Timber operations conducted under the Sanitation–Salvage Silvicultural Method, and the harvesting of minor forest products and incidental vegetation are exempt from the above provisions of this Section.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551.5, 4561 and 30417, Public Resources Code.

History
1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).

§ 921.4. Stocking Requirements.

The stocking standards for understocked timberlands and substantially damaged timberlands as provided for by 14 CAC 1080 through 1081.1 and 1085 through 1085.6 are not applicable in Coastal Commission Special Treatment Areas in the Coast Forest District. After completion of timber operations one of the following stocking standards must be met:

(a) Basal Area. The average residual basal area, measured in stems 1 inch (2.5 cm) or larger in diameter at least 125 square feet per acre (28.69 m^2 per ha) on Site I lands, at least 100 square feet per acre (22.96 m^2 per ha) on Site II and Site III lands and at least 75 square feet per acre (17.22 m^2 per ha) on Site IV and V lands, or

(b) Point Count. The area contains an average point count as specified below:

(1) On Site I and II lands, the area contains an average point count of 450 per acre (1111.9 per ha) to be computed as follows:

(A) 450 countable trees per acre (1111.9 per ha) not more than 4 inches (10.2 cm) d.b.h.; each tree to count as 1 towards meeting stocking requirements.

(B) 150 countable trees per acre (370.6 per ha) over 4 inches (10.2 cm) d.b.h. and not more than 12 inches (30.5 cm) d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 75 countable trees per acre (185.3 per ha) over 12 inches (30.5 cm) d.b.h.; each tree to count as 6 toward meeting stocking requirements.

(2) On Site III, IV, and V lands the area contains an average point count of 300 per acre (741.3 per ha) to be computed as follows:

(A) 300 countable trees per acre (741.3 per ha) not more than 4 inches (10.2 cm) d.b.h.; each tree to count as 1 toward meeting stocking requirements.

(B) 100 countable trees per acre (247.1 per ha) over 4 inches (10.2 cm) d.b.h. and not more than 12 inches (30.5 cm) d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 50 countable trees per acre (123.5 per ha) over 12 inches (30.5 cm) d.b.h.; each tree to count as 6 toward meeting stocking requirements.

Redwood root crown sprouts will be counted using the average stump diameter 1 foot (.305 m) above average ground level of the original stump from which the redwood root crown sprouts originate, counting 1 sprout for each 1 foot (.305 m) of stump diameter to a maximum of 6 per stump.

Site classification shall be determined by the RPF who prepared the plan.

Rock outcroppings, meadows, wet areas, or other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5 and 30417, Public Resources Code.

History
1. Amendment filed 8–10–83; effective thirtieth day thereafter (Register 83, No. 37).

§ 921.5. Logging Practices.

The following logging practices shall be adhered to:

(a) Tractor Logging. Tractor logging and tractor preparation of tree layouts shall not be permitted on slopes averaging over 50% where the Erosion Hazard Rating is high or extreme and 60% where the Erosion Hazard Rating is low or moderate, unless it can be shown from past experience on the ground that tractor logging or other types of skidding equipment will cause less disturbance than would result from a feasible alternative method.

(b) Roads. Rules contained in 14 CAC 923.2 through subsection (f) shall be adhered to with the following special requirements.

(1) Roads shall be single lane, not to exceed 16 feet in width and generally the traveled surface shall be no more than 12 feet (3.67 m) in width, except where alignment, safety, and equipment necessary to conduct the operation requires additional width. Deviations shall be explained and justified in the plan.

(2) Waste organic material such as uprooted stumps, cull logs, accumulations of limbs and branches, or nonmerchantable trees shall not be buried in the main body of road fills. Such solid waste material may be used to secure the toe of a fill. Except for prepared crossings, including necessary approaches, sidecast or fill material shall not be placed in the watercourse protection zone unless explained in the plan.

(3) Roads shall not be constructed through slide areas or areas with visible evidence of slope instability unless the alignment is the best available alternative and special design features are incorporated in the plan. There shall be provisions in the plan to maintain the design features or provisions to maintain or improve the stability of the area after completion of road use.

(4) Roads, landings, cuts and fills shall be screened from direct view to the extent feasible by leaving screen trees and other vegetation between the disturbed areas and public areas utilized by substantial numbers of viewers.

(c) Soil disturbance, other than that incident to necessary road maintenance, whether with tractor or by cable means, shall not occur under excessively wet ground conditions that could result in substantial soil compaction and erosion.

(d) Notwithstanding the requirements of 14 CCR 1040, if in construction, rock outcroppings, springs and other physical factors require a change in roads, landings and skid trail location, the location can be changed with the concurrence of an RPF, the operator and the Director's representative provided that such changes in location constitute minor deviations; that RPF shall provide written confirmation of such minor deviations which shall become a part of the plan. All changes in location constituting substantial deviations shall be submitted to the Director as amendments to the plan.

(e) Felling Practices. Up to 10% of the trees that are proposed for cutting may be substituted 1 for 1 with those proposed to be left uncut provided that the leave tree proportion, size class, distribution and general forest appearance of the residual stand as approved in the preliminary field work is preserved.

Justification for the substitution standard shall be based on unavoidable tree damage, safety factors, lean of trees, location of obstructions or roads or openings insufficient to accommodate felled trees.

NOTE: Authority cited: Sections 4551 and 4562.5, Public Resources Code. Reference: Sections 4551.5, 4562.5, 4562.7 and 30417, Public Resources Code.

History
1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment of subsections (a) and (b) filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).
3. Amendment of subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 921.6. Hazard Reduction.

(a) Lopping. Except in the southern subdistrict, to reduce fire hazards, maintain soil fertility, reduce erosion, and improve visual appearance, all slash and debris created by the current operations and within 300 feet of public roads and watercourses open to the public shall be lopped and scattered, chipped, or crushed, prior to April 1st of the year following its creation, so that no material generally remains more than 30 inches (76.2 cm) above the ground.

As an exception to the above requirements after creation of slash and debris, the RPF may propose and, with the concurrence of the Director's representative, delete those areas within 300 feet not visible from roads or watercourses when such requirements are not necessary to reduce fire hazards, to maintain soil fertility, to reduce erosion and to improve visual appearance.

(b) Burning. Broadcast burning shall be prohibited on lands harvested under the commercial thinning and selection silvicultural methods in Coastal Zone Special Treatment Areas. Broadcast burning may be allowed for site preparation purposes in accordance with 14 CAC 917.4 on lands harvested under the clearcut, rehabilitation or sanitation–salvage

methods when a prescribed burning plan is submitted as part of the Timber Harvesting Plan which explains and justifies broadcast burning in the Coastal Commission Special Treatment Areas. A determined effort shall be made to protect the surface organic horizon of the soil during the course of any permitted broadcast burning operations.

(c) Snags. All snags within the Watercourse and Lake Protection Zone and within 100 feet (30.48 m) of meadow edges shall be left standing with the following exceptions:

(1) When felling is required for fire or safety reasons, as specified by the rules or CAL–OSHA regulations, or when necessary in sanitation–salvage operations.

(2) When a snag of commercial value is marked for felling by an RPF or supervised designee after an initial preharvest inspection and consultation with the Department of Fish and Game and the timber owner.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 451.5, 4562 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment of subsection (c) filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
3. Amendment of subsection (c)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 921.7. Watercourse and Lake Protection.

Watercourse and lakeside vegetation shall be protected and remain standing to the degree necessary to protect scenic and natural qualities and protect the beneficial uses of water. In addition to the requirements of 14 CAC 916 through 916.9, Coastal Commission Special Treatment Area Watercourse and Lake Protection Zones adjacent to clearcuts or rehabilitation cutting shall be at least 150 feet on each side of Class I or II waters.

NOTE: Authority cited: Sections 4551, 4553 and 4562.7, Public Resources Code. Reference: Sections 4551.5, 4562.7 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).

§ 921.8. Buffer Zones Within the Coastal Zone.

The following additional rules shall apply to buffer zones within Coastal Scenic View Corridors and adjacent to publicly owned preserves and recreation areas as defined and/or designated by the Coastal Commission on July 5, 1977.

The buffer zone adjacent to designated Coastal highways shall be a 200 foot (60.96 m) wide band running parallel to the first line of trees nearest the road on appropriate side(s) of the road as designated. In no place shall the buffer zone extend more than 350 feet (106.68 m) from the shoulder of the road. The buffer zone also shall include those forested areas within the Coastal Zone within 200 feet (60.96 m) of all publicly owned preserves and recreation areas including national, state, regional, county, and municipal parks. Said distances shall be measured along the surface of the ground.

(a) The clear–cutting or rehabilitation silvicultural method is prohibited within the designated buffer zones, and a well distributed stand of trees shall be left within said buffer zones upon completion of timber operations, except under exceptional circumstances. Such exceptions shall be explained and justified in the plan and found in conformance by the Director when the proposed exceptions conform to the goals outlined in 14 CAC 921.

(b) Logging roads, tractor roads, and skid trails and landings shall be screened from direct view to the extent feasible by leaving trees and vegetation between the disturbed area and public areas where the disturbance would be visible to substantial numbers of viewers.

§ 921.9. Alternatives.

The RPF may propose alternatives to the requirements of this article on a site specific basis. The RPF must explain and justify the proposed alternative in the THP. Alternative measures stated in the plan shall be so written as to provide clear, enforceable standards for the guidance of the timber operator. The Director may approve such alternatives provided the alternative practice will achieve equal protection for each of the goals of Section 921 and protection at least equal to that which would result from using measures stated in Section 921.1–921.8. The Director shall not accept for inclusion in a THP any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CAC 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the intent of the Act and rules and the agencies participated in the review of the plan, including any on–the–ground inspection.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551.5 and 30417, Public Resources Code.

HISTORY

1. New section filed 11–15–85; effective thirtieth day thereafter (Register 85, No. 46).

Article 12. Logging Roads and Landings

§ 923. Logging Roads and Landings.

All logging roads and landings in the logging area shall be planned, located, constructed, reconstructed, used, and maintained in a manner which: is consistent with long–term enhancement and maintenance of the forest resource; best accommodates appropriate yarding systems and economic feasibility; minimizes damage to soil resources and fish and wildlife habitat; and prevents degradation of the quality and beneficial uses of water. The provisions of this article shall be applied in a manner which complies with this standard.

Factors that shall be considered when selecting feasible alternatives (see 14 CCR 897 and 898) shall include, but are not limited to, the following:

(a) Use of existing roads whenever feasible.

(b) Use of systematic road layout patterns to minimize total mileage.

(c) Planned to fit topography to minimize disturbance to the natural features of the site.

(d) Avoidance of routes near the bottoms of steep and narrow canyons, through marshes and wet meadows, on unstable areas, and near watercourses or near existing nesting sites of threatened or endangered bird species.

(e) Minimization of the number of watercourse crossings.

(f) Location of roads on natural benches, flatter slopes and areas of stable soils to minimize effects on watercourses.

(g) Use of logging systems which will reduce excavation or placement of fills on unstable areas.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4562.5, Public Resources Code. Reference: Sections 4512, 4551.5, 4562.5 and 4562.7, Public Resources Code; California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
2. Amendment of first paragraph and subsections (d) and (g) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 923.1. Planning for Roads and Landings.

The following standards for logging roads and landings shall be adhered to:

(a) All logging roads shall be located and classified on the THP map as permanent, seasonal, or temporary. Road failures on existing roads which will be reconstructed shall also be located on the THP map. In addition to the requirements of 14 CCR 1034(v), the probable location of those landings which require substantial excavation or which exceed one quarter acre in size, shall be shown on the THP map.

(b) New logging roads shall be planned in accordance with their classification and maintenance requirements.

(c) Logging roads and landings shall be planned and located, when feasible, to avoid unstable areas. The Director shall approve an exception if those areas are unavoidable, and site–specific measures to minimize

slope instability due to construction are described and justified in the THP.

(d) Where roads and landings will be located across 100 feet or more of lineal distance on any slopes over 65% or on slopes over 50% which are within 100 feet of the boundary of a WLPZ, measures to minimize movement of soil and the discharge of concentrated surface runoff shall be incorporated in the THP. The Director may waive inclusion of such measures where the RPF can show that slope depressions, drainage ways, and other natural retention and detention features are sufficient to control overland transport of eroded material. The Director may require end–hauling of material from areas within 100 feet of the boundary of a WLPZ to a stable location if end–hauling is feasible and is necessary to protect water quality. The Director shall require maintenance provisions in the THP for drainage structures and facilities provided that such maintenance is feasible and necessary to keep roadbeds and fills stable.

(e) New logging roads shall not exceed a grade of 15% except that pitches of up to 20% shall be allowed not to exceed 500 continuous feet (152.4 m). These percentages and distances may be exceeded only where it can be explained and justified in the THP that there is no other feasible access for harvesting of timber or where in the Northern or Southern Districts use of a gradient in excess of 20% will serve to reduce soil disturbance.

(f) Roads and landings shall be planned so that an adequate number of drainage facilities and structures are installed to minimize erosions on roadbeds, landing surfaces, sidecast and fills.

(g) Unless exceptions are explained and justified in the THP, general planning requirements for roads shall include:

(1) Logging roads shall be planned to a single–lane width compatible with the largest type of equipment used in the harvesting operation with turnouts at reasonable intervals.

(2) Roads shall be planned to achieve as close a balance between cut volume and fill volume as is feasible.

(3) When roads must be planned so that they are insloped and ditched on the uphill side, drainage shall be provided by use of an adequate number of ditch drains.

(h) Road construction shall be planned to stay out of Watercourse and Lake Protection Zones. When it is a better alternative for protection of water quality or other forest resources, or when such roads are the only feasible access to timber, exceptions may be explained and justified in the THP and shall be agreed to by the Director if they meet the requirements of this subsection.

(i) The location of all logging roads to be constructed shall be flagged or otherwise identified on the ground before submission of a THP or major amendment. Exceptions may be explained and justified in the THP and agreed to by the Director if flagging is unnecessary as a substantial aid to examining (1) compatibility between road location and yarding and silvicultural systems, or (2) possible significant adverse effects of road location on water quality, soil productivity, wildlife habitat, or other special features of the area.

(j) If logging roads will be used from the period of October 15 to May 1, hauling shall not occur when saturated soil conditions exist on the road.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551 and 4551.5, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of subsections (a), (c) and (d) filed 2–11–91; operative 2–13–91 (Register 91, No. 14).
2. New subsection (j) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 923.2. Road Construction.

Logging roads shall be constructed or reconstructed in accordance with the following requirements or as proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this article.

(a) Logging roads shall be constructed in accordance with the approved THP. If a change in designation of road classification is subsequently made, the change shall be reported in accordance with 14 CCR 1039 or 1040, as appropriate.

(b) Where a road section which is greater than 100 feet in length crosses slopes greater than 65 percent, placement of fill is prohibited and placement of sidecast shall be minimized to the degree feasible. The Director may approve an exception where site specific measures to minimize slope instability, soil erosion, and the discharge of concentrated surface runoff are described and justified in the THP.

(c) On slopes greater than 50 percent, where the length of road section is greater than 100 feet, and the road is more than 15 feet wide (as measured from the base of the cut slope to the outside of the berm or shoulder of the road) and the fill is more than 4 feet in vertical height at the road shoulder for the entire 100 feet the road shall be constructed on a bench that is excavated at the proposed toe of the compacted fill and the fill shall be compacted. The Director may approve exceptions to this requirement where on a site–specific basis if the RPF has described and justified an alternative practice that will provide equal protection to water quality and prevention of soil erosion.

(d) Fills, including through fills across watercourses shall be constructed in a manner to minimize erosion of fill slopes using techniques such as insloping through–fill approaches, waterbars, berms, rock armoring of fill slopes, or other suitable methods.

(e) Through fills shall be constructed in approximately one foot lifts.

(f) On slopes greater than 35 percent, the organic layer of the soil shall be substantially disturbed or removed prior to fill placement. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the fill will be stabilized.

(g) Excess material from road construction and reconstruction shall be deposited and stabilized in a manner or in areas where downstream beneficial uses of water will not be adversely affected.

(h) Drainage structures and facilities shall be of sufficient size, number and location to carry runoff water off of roadbeds, landings and fill slopes. Drainage structures or facilities shall be installed so as to minimize erosion, to ensure proper functioning, and to maintain or restore the natural drainage pattern. Permanent watercourse crossings and associated fills and approaches shall be constructed where feasible to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become plugged.

(i) Where there is evidence that soil and other debris is likely to significantly reduce culvert capacity below design flow, oversize culverts, trash racks, or similar devices shall be installed in a manner that minimizes culvert blockage.

(j) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, and unmerchantable trees, shall not be buried in road fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of fills to restrain excavated soil from moving downslope.

(k) Logging roads shall be constructed without overhanging banks.

(*l*) Any tree over 12 inches (30.5 cm) d.b.h. with more than 25 percent of the root surface exposed by road construction, shall be felled concurrently with the timber operations.

(m) Sidecast or fill material extending more than 20 feet (6.1 m) in slope distance from the outside edge of the roadbed which has access to a watercourse or lake which is protected by a WLPZ shall be seeded, planted, mulched, removed, or treated as specified in the THP, to adequately reduce soil erosion.

(n) All culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with the construction and reconstruction of logging roads. Other permanent drainage structures shall be installed no later than October 15. For construction and reconstruction of roads after October 15, drainage structures shall be installed concurrently with the activity.

(o) Drainage structures and drainage facilities on logging roads shall not discharge on erodible fill or other erodible material unless suitable

energy dissipators are used. Energy dissipators suitable for use with waterbreaks are described in 14 CCR 914.6(f).

(p) Where roads do not have permanent and adequate drainage, the specifications of section 914.6 shall be followed.

(q) Drainage facilities shall be in place and functional by October 15. An exception is that waterbreaks do not need to be constructed on roads in use after October 15 provided that all such waterbreaks are installed prior to the start of rain that generates overland flow.

(r) No road construction shall occur under saturated soil conditions, except that construction may occur on isolated wet spots arising from localized ground water such as springs, provided measures are taken to prevent material from significantly damaging water quality.

(s) Completed road construction shall be drained by outsloping, waterbreaks and/or cross-draining before October 15. If road construction takes place from October 15 to May 1, roads shall be adequately drained concurrent with construction operations.

(t) Roads to be used for log hauling during the winter period shall be, where necessary, surfaced with rock in depth and quantity sufficient to maintain a stable road surface throughout the period of use. Exceptions may be proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this subsection.

(u) Slash and other debris from road construction shall not be bunched against residual trees which are required for silvicultural or wildlife purposes, nor shall it be placed in locations where it could be discharged into Class I or II watercourses.

(v) Road construction activities in the WLPZ, except for stream crossings or as specified in the THP, shall be prohibited.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of first paragraph and subsections (a), (b), (h), (m), (n), (o), (q) and (v), and new subsections (c), (f), (i), and renumbering filed 2-11-91; operative 3-13-91 (Register 91, No. 14).
2. Amendment of subsection (c) and NOTE filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
3. Amendment of subsection (s) filed 12-1-98; operative 1-1-99 (Register 98, No. 49).

§ 923.3. Watercourse Crossings.

Watercourse crossing drainage structures on logging roads shall be planned, constructed, reconstructed, and maintained or removed, according to the following standards. Exceptions may be provided through application of Fish and Game Code Sections 1601 and 1603 and shall be included in the THP.

(a) The location of all new permanent watercourse crossing drainage structures and temporary crossings located within the WLPZ shall be shown on the THP map. If the structure is a culvert intended for permanent use, the minimum diameter of the culvert shall be specified in the plan. Extra culverts beyond those shown in the THP map may be installed as necessary.

(b) The number of crossings shall be kept to a feasible minimum.

(c) Drainage structures on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and shall be fully described in the plan in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) When watercourse crossings, other drainage structures, and associated fills are removed the following standards shall apply:

(1) Fills shall be excavated to form a channel that is as close as feasible to the natural watercourse grade and orientation, and that is wider than the natural channel.

(2) The excavated material and any resulting cut bank shall be sloped back from the channel and stabilized to prevent slumping and to minimize soil erosion. Where needed, this material shall be stabilized by seeding, mulching, rock armoring, or other suitable treatment.

(e) All permanent watercourse crossings that are constructed or reconstructed shall accommodate the estimated 100-year flood flow, including debris and sediment loads.

(f) Permanent watercourse crossings and associated fills and approaches shall be constructed or maintained to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed. The RPF may propose an exception where explained in the THP and shown on the THP map and justified how the protection provided by the proposed practice is at least equal to the protection provided by the standard rule.

(g) Any new permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload to form a continuous bed through the culvert and shall require an analysis and specifications demonstrating conformance with the intent of this section and subsection.

(h) The amendments to 14 CCR §§ 923.3 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 21004, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 130.2(q); and California Case Law: *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New subsection (d) filed 12-20-89; operative 2-1-90 (Register 90, No. 3).
2. Amendment of subsection (a) and new subsection (e) filed 9-23-91; operative 10-23-91 (Register 92, No. 25).
3. Amendment of first paragraph and subsections (c) and (d)(1), new subsections (e), (g) and (h), subsection relettering, and amendment of NOTE filed 5-31-2000; operative 7-1-2000 (Register 2000, No. 22).
4. Amendment of subsection (h) filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (h) filed 11-20-2001; operative 1-1-2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph filed 7-12-2002; operative 1-1-2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (h) filed 12-1-2003; operative 1-1-2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (h) filed 9-20-2006; operative 10-20-2006 (Register 2006, No. 38).
9. Amendment of subsection (h) filed 10-24-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 923.4. Road Maintenance.

Logging roads, landings, and associated drainage structures used in a timber operation shall be maintained in a manner which minimizes concentration of runoff, soil erosion, and slope instability and which prevents degradation of the quality and beneficial uses of water during timber operations and throughout the prescribed maintenance period. In addition those roads which are used in connection with stocking activities shall be maintained throughout their use even if this is beyond the prescribed maintenance period.

(a) The prescribed maintenance period for erosion controls on permanent and seasonal roads and associated landings and drainage structures which are not abandoned in accordance with 14 CCR 923.8 shall be at least one year. The Director may prescribe a maintenance period extending up to three years in accordance with 14 CCR 1050.

(b) Upon completion of timber operations, temporary roads and associated landings shall be abandoned in accordance with 14 CCR 923.8.

(c) Waterbreaks shall be maintained as specified in 14 CCR 914.6.

(d) Unless partially blocked to create a temporary water source, watercourse crossing facilities and drainage structures, where feasible, shall be kept open to the unrestricted passage of water. Where needed, trash racks or similar devices shall be installed at culvert inlets in a manner which minimizes culvert blockage. Temporary blockages shall be removed by November 15.

(e) Before the beginning of the winter period, all roadside berms shall be removed from logging roads or breached, except where needed to facilitate erosion control.

(f) Drainage structures, if not adequate to carry water from the fifty-year flood level, shall be removed in accordance with 14 CCR 923.3(d) by the first day of the winter period, before the flow of water exceeds their

capacity if operations are conducted during the winter period, or by the end of timber operations whichever occurs first. Properly functioning drainage structures on roads that existed before timber operations need not be removed. An RPF may utilize an alternative practice, such as breaching of fill, if the practice is approved by the Director as providing greater or equal protection to water quality as removal of the drainage structure.

(g) Temporary roads shall be blocked or otherwise closed to normal vehicular traffic before the winter period.

(h) During timber operations, road running surfaces in the logging area shall be treated as necessary to prevent excessive loss of road surface materials by, but not limited to, rocking, watering, chemically treating, asphalting or oiling.

(i) Soil stabilization treatments on road or landing cuts, fills, or sidecast shall be installed or renewed,when such treatment could minimize surface erosion which threatens the beneficial uses of water.

(j) Drainage ditches shall be maintained to allow free flow of water and to minimize soil erosion.

(k) Action shall be taken to prevent failures of cut, fill, or sidecase slopes from discharging materials into watercourses or lakes in quantities deleterious to the quality or beneficial uses of water.

(*l*) Each drainage structure and any appurtenant trash rack shall be maintained and repaired as needed to prevent blockage and to provide adequate carrying capacity. Where not present, new trash racks shall be installed if there is evidence that woody debris is likely to significantly reduce flow through a drainage structure.

(m) Inlet and outlet structures, additional drainage structures (including ditch drains) and other features to provide adequate capacity and to minimize erosion of road and landing fill and sidecast to minimize soil erosion and to minimize slope instability shall be repaired, replaced, or installed wherever such maintenance is needed to protect the quality and beneficial uses of water.

(n) Permanent watercourse crossings and associated approaches shall be maintained to prevent diversion of stream overflow down the road should the drainage structure become plugged. Corrective action shall be taken before the completion of timber operations or the drainage structure shall be removed in accordance with 14 CCR section 923.3 (d).

(o) Except for emergencies and maintenance needed to protect water quality, use of heavy equipment for maintenance is prohibited during wet weather where roads or landings are within a WLPZ.

(p) The Director may approve an exception to a requirement set forth in subsections (b) through (o) above when such exceptions are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4561.7, and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsections (c), (d), (m) and (o) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
3. Amendment of subsection (h) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
4. Amendment of subsection (f) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 923.5. Landing Construction.

Landings shall be constructed according to the following standards:

(a) On slopes greater than 65 percent, no fill shall be placed and sidecast shall be minimized to the degree feasible. The Director may approve an exception if, site specific measures to minimize slope instability, soil erosion, and discharge of concentrated surface runoff are described and justified in the THP.

(b) On slopes greater than 50 percent, fills greater than 4 feet in vertical height at the outside shoulder of the landing shall be:

(1) constructed on a bench that is excavated at the proposed toe of the fill and is wide enough to compact the first lift, and

(2) compacted in approximately 1 foot lift from the toe to the finished grade. The RPF or supervised designee shall flag the location of this bench or the RPF shall provide a description of the bench location (narrative or drawing) in the THP for fills meeting the above criteria, where the length of landing section is greater than 100 feet. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the landing will be stabilized.

(c) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, or unmerchantable trees, shall not be buried in landing fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of landing fills to restrain excavated soil from moving downslope.

(d) Constructed landings shall be the minimum in width, size, and number consistent with the yarding and loading system to be used. Landings shall be no larger than one–half acre (.202 ha) unless explained and justified in the THP.

(e) No landing construction shall occur under saturated soil condition.

(f) The following specifications shall be met upon completion of timber operations for the year or prior to October 15, whichever occurs first:

(1) Overhanging or unstable concentrations of slash, woody debris and soil along the downslope edge or face of the landings shall be removed or stabilized when they are located on slopes over 65 percent or on slopes over 50 percent within 100 feet of a WLPZ.

(2) Any obstructed ditches and culverts shall be cleaned.

(3) Landings shall be sloped or ditched to prevent water from accumulating on the landings. Discharge points shall be located and designed to reduce erosion.

(4) Sidecast or fill material extending more than 20 feet in slope distance from the outside edge of the landing and which has access to a watercourse or lake shall be seeded, planted, mulched, removed or treated as specified in the THP to adequately reduce soil erosion.

(5) Sidecast or fill material extending across a watercourse shall be removed in accordance with standards for watercourse crossing removal set forth in 14 CCR 923.3(d).

(g) On slopes greater than 35 percent, the organic layer of the soil shall substantially removed prior to fill placement.

(h) When landings are constructed after October 15 they shall be adequately drained concurrent with construction operations and shall meet the requirements of (f)(1) through (f)(4) of this subsection upon completion of operations at that landing.

(i) The RPF may propose and the Director may approve waiver of requirements in (f)(1) through (f)(4) of this subsection if the Director finds they are not necessary to minimize erosion or prevent damage to downstream beneficial uses. The Director may also approve an exception to the October 15th date for treatment of slash and debris, including the practice of burning.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Deletion of former subsection (a); addition of new subsections (a), (b), (f)(5) and (i); amendment of subsections (f)(1), (f)(3), (f)(4), (h) and (i); and renumbering filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Amendment of subsection (b) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 923.6. Conduct of Operations on Roads and Landings.

Routine use and maintenance of roads and landings shall not take place when, due to general wet conditions, equipment cannot operate under its own power. Operations may take place when roads and landings are generally firm and easily passable or during hard frozen conditions. Isolated wet spots on these roads or landings shall be rocked or otherwise treated to permit passage. However, operations and maintenance shall not occur when sediment discharged from landings or roads will reach watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

This section shall not be construed to prohibit activities undertaken to protect the road or to reduce erosion.

NOTE: Authority cited: Sections 4551, 4551.5, 4453, and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 923.7. Licensed Timber Operator Responsibility for Roads and Landings.

The licensed timber operator who is responsible for the implementation or execution of the plan shall not be responsible for the construction and maintenance of roads and landings, unless the licensed timber operator is employed for that purpose.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 923.8. Planned Abandonment of Roads, Watercourse Crossings, and Landings.

Abandonment of roads, watercourse crossings and landings shall be planned and conducted in a manner which provides for permanent maintenance–free drainage, minimizes concentration of runoff, soil erosion and slope instability, prevents unnecessary damage to soil resources, promotes regeneration, and protects the quality and beneficial uses of water. General abandonment procedures shall be applied in a manner which satisfies this standard and include the following:

(a) Blockage of roads so that standard production four wheel–drive highway vehicles cannot pass the point of closure at the time of abandonment.

(b) Stabilization of exposed soil on cuts, fills, or sidecast where deleterious quantities of eroded surface soils may be transported into a watercourse.

(c) Grading or shaping of road and landing surfaces to provide dispersal of water flow.

(d) Pulling or shaping of fills or sidecast where necessary to prevent discharge of materials into watercourses due to failure of cuts, fills, or sidecast.

(e) Removal of watercourse crossings, other drainage structures, and associated fills in accordance with 14 CCR 923.3 (d). Where it is not feasible to remove drainage structures and associated fills, the fill shall be excavated to provide an overflow channel which will minimize erosion of fill and prevent diversion of overflow along the road should the drainage structure become plugged.

The Director may approve an exception to a requirement set forth in (b) through (e) above when such exceptions are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code.

HISTORY

1. New section filed 12–20–89; operative 2–1–90 (Register 90, No. 3).

§ 923.9. Roads and Landings in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon. In watersheds with coho salmon, the standards listed under 923.9.1 and 923.9.2 shall apply:

(a) Where logging road or landing construction or reconstruction is proposed, the plan shall state the locations of and specifications for road or landing abandonment or other mitigation measures to minimize the adverse effects of long–term site occupancy of the transportation system within the watershed.

(b) Unless prohibited by existing contracts with the U.S.D.A. Forest Service or other federal agency, new and reconstructed logging roads shall be no wider than a single–lane compatible with the largest type of equipment specified for use on the road, with adequate turnouts provided as required for safety. The maximum width of these roads shall be specified in the plan. These roads shall be outsloped where feasible and drained with water breaks or rolling dips (where the road grade is inclined at 7 percent or less), in conformance with other applicable Forest Practice Rules.

(c) The following shall apply on slopes greater than 50%:

(1) Specific provisions of construction shall be identified and described for all new roads.

(2) Where cutbank stability is not an issue, roads may be constructed as a full–benched cut (no fill). Spoils not utilized in road construction shall be disposed of in stable areas with less than 30 percent slope and outside of any WLPZ, EEZ, or ELZ.

(3) Alternatively, roads may be constructed with balanced cuts and fills if properly engineered, or fills may be removed with the slopes recontoured prior to the winter period.

(d) In addition to the provisions listed under 14 CCR 923.1(e), all permanent or seasonal logging roads with a grade of 15% or greater that extends 500 continuous feet or more shall have specific erosion control measures stated in the plan.

(e) Where situations exist that elevate risks to the values set forth in 14 CCR 916.2(a), (e.g., road networks are remote, the landscape is unstable, water conveyance features historically have a high failure rate, culvert fills are large) drainage structures and erosion control features shall be oversized, low maintenance, or reinforced, or they shall be removed before the completion of the timber operation. The method of analysis and the design for crossing protection shall be included in the plan.

(f) The provisions of 14 CCR 923.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(g) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
2. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
8. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 923.9.1. Measures for Roads and Landings in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watersheds with coho salmon:

(a) Where logging road or landing construction or reconstruction is proposed, the plan shall state the locations of and specifications for road or landing abandonment or other mitigation measures to minimize the adverse effects of long-term site occupancy of the transportation system within the watershed.

(b) Unless prohibited by existing contracts with the U.S.D.A. Forest Service or other federal agency, new and reconstructed logging roads shall be no wider than a single-lane compatible with the largest type of equipment specified for use on the road, with adequate turnouts provided as required for safety. The maximum width of these roads shall be specified in the plan. These roads shall be outsloped where feasible and drained with water breaks or rolling dips (where the road grade is inclined at 7 percent or less), in conformance with other applicable Forest Practice Rules.

(c) Logging Road Watercourse Crossing Drainage structures on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and shall be fully described in the plan in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) Any new permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload to form a continuous bed through the culvert and shall require an analysis and specifications demonstrating conformance with the intent of this section and subsection.

(e) The following shall apply on slopes greater than 50%:

(1) Specific provisions of construction shall be identified and described for all new roads.

(2) Where cutbank stability is not an issue, roads may be constructed as a full-benched cut (no fill). Spoils not utilized in road construction shall be disposed of in stable areas with less than 30 percent slope and outside of any WLPZ, EEZ, or ELZ.

(3) Alternatively, roads may be constructed with balanced cuts and fills if properly engineered, or fills may be removed with the slopes recontoured prior to the winter period.

(f) In addition to the provisions listed under 14 CCR 923.1(e), all permanent or seasonal logging roads with a grade of 15% or greater that extends 500 continuous feet or more shall have specific erosion control measures stated in the plan.

(g) Where situations exist that elevate risks to the values set forth in 14 CCR 916.2(a), (e.g., road networks are remote, the landscape is unstable, water conveyance features historically have a high failure rate, culvert fills are large) drainage structures and erosion control features shall be oversized, low maintenance, or reinforced, or they shall be removed before the completion of the timber operation. The method of analysis and the design for crossing protection shall be included in the plan.

(h) Tractor Road Crossing facilities on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and for unrestricted passage of water. Such crossing facilities shall be fully described in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(i) The operational provisions of 14 CCR §§ 923.9.1 and 923.9.2 shall not apply to a plan under which the incidental take from timber operations of coho salmon is already authorized pursuant to the following:

(1) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(2) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(3) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG.

(j) The operational provisions of 14 CCR §§ 923.9.1 and 923.9.2 shall not apply to a plan that specifies project revisions, guidelines, or take avoidance measures pursuant to a memorandum of understanding or a planning agreement entered into between the plan submitter and DFG, which DFG has determined will avoid take of Coho Salmon.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 amd 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

§ 923.9.2. Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon. *[Effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective]*

(a) The measures to facilitate incidental take authorization for roads and landings in watersheds with coho salmon are intended to streamline and facilitate the process of obtaining incidental take permits for state-listed coho salmon from DFG for timber operations under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.).

(b) The scope of application of the minimization and mitigation measures for roads and landings in watersheds with coho salmon is as follows:

(1) In addition to all other District Forest Practice Rules, in any watershed with coho salmon, subsections (c) through (q) shall apply to all timber operations where DFG determines that take will, or is likely to result from such proposed timber operations, unless an incidental take of coho salmon is already authorized as specified under 14 CCR § 923.9.1(h) or (i).

(c) An assessment of road surface and drainage conditions for all road segments within the plan area and appurtenant to proposed operations shall be included in the plan.

(1) The assessment shall contain a list of site-specific, field inventory information including proposed treatment of existing or potential sediment sources for all crossings, ditch relief culverts, road surfaces, road cuts, road fills, landings, turnouts and inboard ditches.

(A) Field inventory information shall be obtained by an RPF or supervised designee while traversing the road segments.

(2) The assessment shall be subject to approval by the Director, with written concurrence by DFG. Additional field inventory, work sites, and/or alternative treatments may be required.

(3) The results of the road assessment shall be used to, construct, reconstruct, or decommission road segments prior to filing a work completion report. Maintenance needs identified during and after the road assessment shall be addressed as soon as is feasible.

(d) Within WLPZs, any new road or landing construction, reconstruction, new watercourse crossings, use of Class I fords or opening of old roads (except for the purpose of decommissioning) will be subject to approval by the Director, with written concurrence by DFG. The Director will only approve such practices where protection for aquatic habitat provided by proposed practices is at least equal to the protection provided by the use of alternate routes or locations outside of the WLPZ.

(e) The guidelines and performance standards for road decommissioning methods described in the California Salmonid Stream Habitat Restoration Manual, 1998, 3rd edition; pages X-53 through X-59 (published by State of California, Resources Agency, California Department of Fish and Game) shall be followed.

(f) The following design features shall be included in the maintenance, construction, reconstruction, or decommissioning of roads, except where site-specific alternatives are explained, justified, and approved by the Director, with written concurrence by DFG. The Director may only approve alternatives where the consequences for aquatic habitat are no

greater than would result from the standard measures. Except for maintenance needs that arise from October 15 to June 1, all work described below shall be completed before October 15 in the year that work begins.

(1) Road surfaces shall be outsloped with rolling dips, wherever feasible.

(2) All road segments shall be hydrologically disconnected, to the extent feasible, from watercourses and lakes by site specific application of the following: outsloping, rocking, installation of rolling dips, cross drains, and/or waterbars, except where site–specific alternatives are explained and justified in the plan, and approved by the Director, with written concurrence by DFG. All of these features shall drain to stable sediment filter strips.

(3) Crossings and associated fills shall be removed or reconstructed where there is evidence of failure potential or sediment delivery to Class I, II, or III watercourses and lakes.

(4) Culverts shall be replaced or removed if they are crushed, perforated, piping, separated, not adequate to carry water from the fifty–year flood level, located in unstable fill, or causing erosion that may be expected to deliver sediment to Class I, II, or III watercourses and lakes. Replaced culverts shall be installed at or as close to the original stream grade and slope as feasible.

(5) Each road approach to a watercourse crossing shall be treated to create and maintain a stable operating surface, and to avoid the generation of fines during use, in accordance with subsection (A) through (F) below. The road approach encompasses either of the following areas, whichever is less:

(i) the area from the watercourse channel to the nearest drainage facility, but not less than 50 feet; or

(ii) the area from the watercourse channel to the first high point on the road where road drainage flows away from the watercourse.

(A) Road surfaces on the following shall consist of high–quality, durable, compacted rock or paving:

(i) permanent roads,

(ii) seasonal roads crossing Class I watercourses,

(iii) roads used for hauling (logs, rock, heavy equipment) from October 15 to June 1.

(B) Road surfaces on the following shall be treated with either: rock, slash, seed and straw mulch, seed and stabilized straw, or seed and slash:

(i) all seasonal roads used for hauling in the current year,

(ii) all seasonal roads used from October 15 to June 1 for purposes other than hauling,

(C) Approaches to temporary crossings shall be rocked as needed after crossing removal to avoid rutting or pumping fines during use.

(D) Ditches exhibiting downcutting along the following shall be lined with high–quality, durable rock:

(i) permanent roads,

(ii) seasonal roads crossing Class I watercourses,

(iii) roads used for hauling from October 15 to June 1.

(E) Ditches along the following shall be treated to prevent scour:

(i) seasonal roads used for hauling in the current year,

(ii) seasonal roads used from October 15 to June 1 for purposes other than hauling.

(F) Bare soil on associated fill slopes, shoulders and cuts shall be treated to minimize erosion.

(6) Sediment discharge from unstable or eroding cutbanks, fillslopes and landing fills will be prevented by pulling, buttressing, or other means and by installing and maintaining effective erosion control materials.

(7) Bridges (including associated fill, rip rap, and abutments) and bridge approaches showing evidence of failure potential or sediment delivery to Class I, II, or III watercourses and lakes shall be repaired, replaced, or removed.

(g) Erosion control materials shall be applied in sufficient quantity prior to the onset of measurable precipitation with re–application as needed to avoid any visible increase in surface erosion or turbidity in Class I, II or III receiving watercourses and lakes.

(h) All roads in Class I WLPZs shall exhibit a rocked or paved stable operating surface. The surface shall consist of high quality, durable, compacted rock, or paving. The road surface and base shall be maintained to avoid generation of fines during use.

(i)(1) No road or landing construction, reconstruction, or decommissioning shall be undertaken from October 15th to May 15th, or at any time outside this period when saturated soil conditions exist, except as provided in subsection (2) or (3).

(2) No road or landing construction, reconstruction, or decommissioning shall be undertaken from October 15th to June 1st, or at any time outside this period when saturated soil conditions exist within (i) all planning watersheds that drain into the Mattole watershed, (ii) all planning watersheds wholly or partially contained within Del Norte County, and (iii) the following specified planning watersheds in Humboldt County; where average May rainfall exceeds three inches.

CALWATER 2.2 Planning Watershed	*ID Number*	*Coho Status*	*Acres*
McGarvey Creek	1105.110806	Present	13442.2
May Creek	1107.100201	Present	11242.8
Lost Man Creek	1107.100104	Present	12704.5
Skunk Cabbage Creek	1107.100203	Present	4855.1
McArthur Creek	1107.100103	Present	6814.1
McDonald Creek	1108.100002	Present	23879.8
Bond Creek	1107.100102	Present	8200.5
Tarup Creek	1105.110703	Present	12429.2
Pitcher Creek	1108.100001	Present	13179.4
Maple Creek	1108.100003	Present	16841.5
Ah Pah Creek	1105.110702	Present	10771.8
Bridge Creek	1107.100101	Present	15055.9

(3) The RPF may propose site–specific exceptions that are explained and justified in the plan, and approved by the Director, with written concurrence by DFG. The Director will only approve exceptions where the protection provided for aquatic habitat by the proposed practices is at least equal to the protection provided by the above time period or conditions. Access without specific approval by the Director is allowed to correct emergency, road–related problems demanding immediate action.

(j) Use of unpaved roads shall cease when precipitation is sufficient to generate overland flow off the road surface, use of any portion of the road results in rutting of the road surface, or a stable operating surface can not be maintained.

(k)(1) Resumption of road use shall only occur when there is a stable operating surface.

(2) Resumption of road or landing construction or reconstruction, shall not occur until the soil conditions allow a stable operating surface to be developed.

(*l*)(1) All roads within the plan area and appurtenant to proposed operations shall be inspected

(A) by the LTO at least twice annually — once between June 1st and October 15th and at least once after October 15th following the first storm event producing bankfull stage — prior to completion of operations;

(B) by the timberland owner during the same time period for the remainder of the prescribed maintenance period.

(2) The inspection shall be started as soon as conditions permit access (in accordance with 14 CCR § 923.9.2(k)) to ensure that drainage structures and facilities are functioning to hydrologically disconnect the road prism from waters.

(3) Inspection results and follow up corrective measures shall be documented and shall be provided to CDF and DFG.

(m) Decommissioned roads shall be inspected following the first storm event producing bankfull stage after decommissioning and again prior to filing the completion report. The purpose of the inspection will be to verify the effectiveness of treatments in preventing sediment discharges to waters and to ensure treatments are functioning to restore natural drainage and hillslope stability. If treatments are found to be ineffective prior to the end of the prescribed maintenance period, further treatments shall be applied if the volume of sediment prevented from entering a channel by additional treatments is greater than that incurred by re-entering the site.

(n) During road inspection and maintenance, measures shall be employed to ensure the following: waterbars fully capture run-off from road surfaces and discharge it without gully formation or sediment delivery to waters; culverts (including crossdrains) are not occluded by debris; inboard ditches are not downcutting or scouring; cutbank erosion is minimized, and the fine sediment present on road surfaces is prevented from delivery to Class I, II, or III watercourses and lakes.

(o) Routine corrective work that prevents diversion of water from a watercourse or ditch or helps maintain a stable operating surface (e.g., repairing inboard ditches, cross drains, water bars, road surface and fill, unblocking of culverts) shall be performed as soon as possible, regardless of the time of year. Vehicle access for routine corrective work shall only be permitted in accordance with 14 CCR § 923.9.2(k). Other maintenance needs of lower priority shall be undertaken between June 1st and October 15th.

(p) Forest floor discharge sites below the outlets of drainage facilities on all roads within the plan area and appurtenant to proposed operations shall be inspected by the LTO for evidence of sediment delivery to Class I, II, or III watercourses and lakes at least twice annually; once between June 1 and October 15, and at least once after October 15 following the first storm event producing bankfull stage discharges prior to filing the notice of completion report. If evidence of sediment delivery is present, additional cross drains, waterbars, or rolling dips shall be installed to reduce the discharge volume to the site.

(q) Grading of road surfaces shall occur only when necessary to achieve a uniform, stable, and well-drained operating surface. Inboard ditches shall be graded only when they are blocked or lack adequate inside ditch hydraulic capacity, or driver safety is a concern. Where feasible, blading the segment of ditch between the watercourse and first drainage facility shall be avoided.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

Article 13. County Rules

§ 924. County Rules Within the Southern Subdistrict of the Coast Forest District.

In lieu of 14 CAC 1032.7 subsections (c), (e), (f), (g), and (h)(1) and 1037, the rules contained in 924.1 through 924.5 shall apply in any county for which rules have been adopted pursuant to PRC 4516.5.

NOTE: Authority cited: Section 4516.5, 4551 and 4551.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 7-5-84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 924.1. Plan Submittal and Notice of Intent.

(a) The plan submitter shall prepare and submit to the Director, with the plan, a Notice of Intent to Harvest Timber as described in 14 CAC 1032.7(d).

(b) The plan submitters shall furnish to the Department at the time of submission of the plan the names and addresses of all property owners within 300 feet of the exterior boundaries of assessor's parcels upon

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which a plan has been submitted, and the names and addresses of property owners with property fronting or bordering that portion of the haul route lying between the plan area and the nearest public road. The list shall be compiled from the latest equalized assessment roll of the county or a list provided by a title insurance company.

(1) The plan submitter shall submit business size envelopes stamped with first class postage properly addressed to the property owners identified in (b). These will be used by the Department for mailing the Notice of Filing.

(c) The plan submitter shall mail copies of the Notice of Intent to all names in (b) prior to plan submission. At the time of plan submission, the plan submitter shall certify in writing that this procedure has been followed.

(d) For plan amendments, the submitter of the amendment shall certify in writing at the time the amendment is submitted that copies of a new Notice of Intent have been mailed to:

(1) All property owners not previously noticed under subsection (b) who, because of the plan amendment, would be required to receive the notice provided for in subsection (b).

(2) All property owners previously noticed under subsection (b) when there is a change in silvicultural method.

NOTE: Authority cited: Sections 4516.5, 4551, 4551.5, 21080 and 21092, Public Resources Code; *NRDC* v. *Arcata National Corp.* (1976), 59 Cal. Ap. 3d 959; *Horn v. Ventura County* (1979), 24 Cal 3d 605. Reference: Sections 4516.5, 4551, 4581, 4582, 4582.5, 4592, 21080 and 21092, Public Resources Code.

HISTORY

1. New section filed 7–5–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 924.2. Plan Filing.

A plan found by the Director to be accurate, complete and in proper order shall be filed on the 10th day following the date of its receipt by the Department. When the Director finds a plan inaccurate, incomplete, or otherwise not in proper order, the plan shall be returned to the submitter with written specifications of the deficiencies.

NOTE: Authority cited: Sections 4516.5, 4551, 4551.5, 4552, 4582.7 and 21080.5, Public Resources Code; *NRDC v. Arcata National Corp.* (1976), 50 Cal. Ap. 3d 959. Reference: Sections 4516.5, 4581, 4582.5, 4582.6, 4582.75, 4583, 4592 and 21092, Public Resources Code.

HISTORY

1. New section filed 7–5–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 924.3. Preharvest Inspection.

On or before the date the plan is filed, the Director shall determine if a preharvest inspection is necessary. A preharvest inspection shall be conducted on all plans for which a public hearing is to be held.

NOTE: Authority cited: Sections 4516.5, 4551, 4551.5, 4552, 4582.7 and 21080.5, Public Resources Code; *NRDC v. Arcata National Corp.* (1976), 50 Cal. Ap. 3d 959. Reference: Sections 4516.5, 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 5–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 924.4. Notice of Filing.

In addition to those items required by 14 CAC 1037.1, the following shall apply:

(a) The Notice of Filing shall contain:

(1) The date, time and location of the public hearing, when applicable.

(2) The Director shall include the date, time and location of the review team meeting if it is known.

(b) Within two working days of the date the plan is filed, the Director shall send copies of the Notice of Filing to:

(1) All property owners listed in 14 CAC 924.1(b).

(2) A newspaper of general distribution in the area.

NOTE: Authority cited: Sections 4516.5, 4551, 4551.5, 4552, 4582.4, 4582.6 and 21080.5, Public Resources Code; *NRDC v. Arcata National Corp.* (1976), 59 Cal. Ap. 3d 959. Reference: Sections 4516.5, 4581, 4582, 4582.5, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 7–5–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 924.5. Agency and Public Review.

In addition to the requirements of 14 CAC 1037.3, the following shall apply: The Director shall send a copy of the filed plan to any local public water agency that makes written request for it and the appropriate local school district.

NOTE: Authority cited: Sections 4516.5, 4551 and 4552, Public Resources Code. Reference: Sections 4516.5, 4582.4 and 4582.6, Public Resources Code.

HISTORY

1. New section filed 7–5–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 28).

§ 925. Santa Clara County Rules.

In addition to forest practice rules applying in the Coast Forest District and Southern Subdistrict of the Coast Forest District, rules contained in 925.1 to 925.10 shall apply within the boundaries of Santa Clara County. These rules are for all of Santa Clara County, including that portion in the Southern Forest District. Where the general rules conflict with Santa Clara County rules, the Santa Clara County rules shall apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New Article 13 (Sections 925–925.10) filed 9–30–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 40).

§ 925.1. Winter Period.

The winter period for Santa Clara County shall be October 15 through April 15.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.2. Plan Submittal and Notice of Intent.

14 CAC 1032.7 subsections (c), (e), (f), (g), and (h)(1), shall not apply in Santa Clara County. In lieu of those subsections, the following shall apply:

(a) The plan submitter shall prepare and submit to the Director, with the plan, a Notice of Intent to Harvest Timber as described in 14 CAC 1032.7(d).

(b) The plan submitter shall furnish to the Department at the time of submission of the plan the names and addresses of all property owners within 300 feet of the exterior boundaries of assessor's parcels upon which a plan has been submitted, and the names and addresses of property owners with property fronting or bordering that portion of the haul route lying between the plan area and the nearest public road. The list shall be compiled from the latest equalized assessment roll of the county or a list provided by a title insurance company.

(c) The plan submitter shall mail copies of the Notice of Intent to all names in (b) prior to plan submission. At the time of plan submission, the plan submitter shall certify in writing that this procedure has been followed.

(d) For plan amendments, the submitter of the amendment shall certify in writing at the time the amendment is submitted that copies of a new Notice of Intent have been mailed to:

(1) All property owners not previously noticed under subsection (b) who, because of the plan amendment, would be required to receive the notice provided for in subsection (b).

(2) All property owners previously noticed under subsection (b) when there is a change in silvicultural method.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.3. Plan Distribution.

Within two working days of the date of the receipt of the plan, the Director shall transmit copies of the plan to:

(a) The local school district within which the plan is located.

(b) The Santa Clara Valley Water District.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.4. Contents of the Plan.

14 CCR 1034, subsection (g) and that portion of (x) pertaining to map size shall not apply in Santa Clara County (all of subsections (x)(1) through (x)(14) shall apply). In lieu of those subsections, the following shall apply:

(a) A description of the plan area within which timber operations are to be conducted. The description shall include the following:

(1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s),

(2) township, range, and section number(s),

(3) county name(s),

(4) CALWATER 2.2 planning watershed number(s),

(5) approximate acreage, and

(6) assessor's parcel number(s) for the assessor's parcels within which a plan is submitted.

(b) The estimated number of logging truck loads to be removed and the approximate number of daily trips.

(c) The following information shall be clearly provided on a reproducible 1″ = 500′ topographic map showing 40 foot contour intervals, provided such maps are available from the county at nominal cost. Additional maps may be required to show specific details, and may be planimetric. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See district rules for the appropriate minimum mapping acreages.

(1) The location of scenic roads as designated by the County General Plan or in another document officially adopted by the county.

(2) Location of all structures (including mobile homes or trailers) currently maintained for human habitation within 200 feet as measured along the surface of the ground from the boundary of the plan area.

(d) On timber operations requiring submission of a plan, all routes to be used for removing forest products from the plan area to the mill or county line shall be shown on a road map submitted with the plan. A proposed change in the use of public roads that are part of the haul route shall be presumed to be a substantial deviation unless the plan submitter requests that the proposed change be considered a minor deviation in accordance with the procedures set forth in 14 CAC 1036 and 1040 and the Director so determines. The Director shall consult with County Transportation Agency before giving approval.

(e) A statement shall be prepared indicating the proposed type, quantity, purpose and method of application of any chemicals listed as restricted by the State Department of Food and Agriculture that are to be used.

NOTE: Authority cited: Sections 4516.5 and 4551, Public Resources Code. Reference: Sections 4516.5, 4551 and 4553, Public Resources Code.

HISTORY

1. Repealer of subsection (a), new subsections (a)–(a)(6) and amendment of NOTE filed 11-21-2000; operative 1-1-2001 (Register 2000, No. 47).

§ 925.5. Tractor Yarding.

In addition to 14 CAC 914.2, the following shall apply in Santa Clara County.

Prior to submittal of a plan, the location of proposed constructed tractor roads on slopes over 50% shall be intervisibly flagged on the ground.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.6. Flagging.

In addition to other flagging requirements in Subchapter 3 of Title 14 CAC, the Director, where necessary to protect adjoining properties, may require flagging of approximate property lines on the site where any truck road, tractor road or harvest area is proposed within 100 feet of a property line.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.7. Log Hauling.

(a) Log hauling on public roads is not permitted on Saturdays, Sundays, or on those days which are nationally designated legal holidays.

(b) Log hauling on public roads may be restricted or not permitted by the Director during commute hours or during school busing hours in order to prevent a serious hazard to traffic flow and safety or to prevent hazardous conditions that would endanger school children.

(c) During log hauling on public roads, the timber operator may be required by the Director to post special traffic signs and/or flagmen where determined to be necessary to prevent a hazard to traffic.

(d) Any new access for the use of logging trucks to Highway 17 shall not be constructed until the Director has received approval for such construction from the State Department of Transportation and has consulted with the County Transportation Agency. A request for newly constructed access must be accompanied by evidence that such access will not adversely impact traffic flow and safety on the highway.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.8. Public Road Buffer Zone.

All logging roads, tractor roads, and landings located within 200 feet, as measured along the surface of the ground from the edge of the traveled surface of a public road, shall be screened from direct public view to the extent feasible by leaving trees and vegetation between disturbed areas and public roads. If trees are to be harvested in this buffer zone, the proposed harvesting shall be identified in the plan and the trees to be cut or left shall be marked before the preharvest inspection, if such an inspection is to be made.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.9. Public Road Protection.

All proposed construction activities for logging roads and associated drainage structures, tractor roads, or other activities involving significant earth movement within 200 feet of a public road shall be described in the plan. The construction of logging roads and associated drainage structures, tractor roads, or other activities involving significant earth movement within 200 feet of a public road is prohibited if the Director has determined that the activities will significantly increase the maintenance costs of the public road or result in damage to the public road which will significantly restrict the use of the public road.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.10. Hours of Work.

Within 300 feet of any occupied dwelling, the operation of power equipment, except licensed highway vehicles, shall be restricted to the hours between 7:00 a.m. and 7:00 p.m., and shall be prohibited on Saturdays, Sundays and nationally designated legal holidays. An exception to this rule may be granted by the Director where he/she has found that no disturbance will result to the occupants of the dwelling from the use of such equipment.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 925.11. Performance Bonding.

When hauling logs pursuant to a THP, the LTO shall provide for the repair of any damage to a county road that is willfully or negligently caused by the LTO's log hauling operations, and shall provide for the repair of any damage caused by the LTO's log hauling operations to appurtenant structures, including, but not limited to, guard rails, signs, traffic signals, culverts, curbs and similar facilities. If necessary to ensure compliance with this section, the county may request, and the Department, upon such request, may require the timber operator or responsible party to post adequate financial security to restore paved or unpaved county roads and appurtenant structures which are damaged by log hauling operations. The request for posting of financial security shall be made to the Department during the THP review procedure and no later than five days before the Director's decision date. The timber operator or responsible party shall post a certificate of deposit, certificate of insurance or performance bond, or other financial security in favor of the Department in a reasonable amount set by the Director, not to exceed $5,000 per mile of county road used or $50,000, whichever is less and subject to provisions of division 3, part I, chapter 1, article 8, section 11110 through 11113 of the Government Code. Such cash deposit or other acceptable

financial security shall cover a period not to exceed the effective period of the plan.

When a form of financial security is required, logging trucks shall not use the county roads until the required security is posted with the Department. The Director shall release the bond or equivalent to the principal of the security upon completion of log hauling operations and compliance with the requirements of this section. If and when repairs are necessary, the Director shall request the operator to provide for making the repairs. If the repairs are not made the Department may take corrective action and may order the bond, or equivalent, forfeited in an amount not to exceed actual damage. When a bond or equivalent has been posted, the Department shall provide the county with a copy of the Work Completion Report. The county shall advise the Department in writing within 30 days of its receipt of notification of completion of hauling operations or the Work Completion Report if damage has occurred repairs need to be made. If the county fails to notify the Director within 30 days, the bond or surety shall be released.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 9–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 36).
2. Repealer and new section filed 8–8–90; operative 9–7–90 (Register 90, No. 39).

§ 926. Santa Cruz County Rules.

In addition to forest practice rules applying in the Coast Forest District and Southern Subdistrict of the Coast Forest District, rules contained in 926.1 through 926.19 shall apply within the boundaries of Santa Cruz County. Where the general rules conflict with Santa Cruz County rules, the Santa Cruz County rules shall apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.1. Registered Professional Forester (RPF) Advice.

The provisions of 14 CCR 913.8(b)(5) shall apply when timber operations are conducted in accordance with 14 CCR 926.25.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.2. Field Review and Timber Operator Certification.

Subsequent to plan approval, but prior to commencement of timber operations, the RPF responsible for preparing the plan, the RPF who will advise the timber operator during timber operations (if different), and the timber operator shall meet in the field to review the specifics of the plan. The Director may attend and participate in such meeting, and shall be given advance notice of the meeting by the plan submitter. After such meeting and prior to commencement of timber operations, or upon the filing of any subsequent major amendment to the plan, the licensed timber operator shall execute and file with the Department a written certification that such timber operator or a supervised designee familiar with on–site conditions actively participated in a field review, is familiar with all state and local rules applicable to the proposed timber operation including without limitation the requirements of Section 1035.2 and 1035.3, understands the plan or such major amendment and each of the conditions that have been placed upon the plan or such major amendment by the Department as part of the review process, and is familiar with, and acknowledges the responsibility to communicate this information to those persons hired to carry out the proposed timber operation under his/her direction. The term "supervised designee" means any representative whose activities are controlled by the LTO in the same manner that an RPF would control the activities of a "supervised designee" as defined in 14 CCR 895.1.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment of section heading and section filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.3. Plan Submittal and Notice of Intent.

14 CCR 1032.7, subsections (c), (e), (f), and (g), shall not apply in Santa Cruz County. In lieu of those subsections, the following shall apply:

(a) The plan submitter shall prepare and submit to the Director, with the plan, a Notice of Intent to Harvest Timber as described in 14 CCR 1032.7(d) which shall additionally include the following:

(1) A statement that the approximate property lines have been flagged for review where truck roads, tractor roads or harvest areas are within 100 feet of the property line.

(2) In the event helicopter yarding is proposed, the Notice of Intent will include a map that clearly identifies the areas within the proposed timber harvest plan area that are proposed for helicopter operations, including helicopter log landing and service area sites and a statement about the approximate duration of helicopter yarding activities.

(b) The plan submitter shall furnish to the Department at the time of submission of the plan, the names and addresses of all property owners within 300 ft. of the exterior boundaries of assessor's parcels upon which a plan has been submitted, the names and addresses of property owners with property fronting or bordering that portion of the haul route lying between the plan area and the nearest public road, and the addresses of all private road association members. "Private road association" as used in this section and all other rules specific to Santa Cruz County shall mean those road associations appearing on a list maintained by the County and provided to the Director which are either a County Service Area which maintains any private road or any other private road association that has recorded by–laws or other organizing instruments recorded in the official records of Santa Cruz County from which it can be ascertained the assessor parcel numbers of the properties owned by the members. If helicopter yarding is proposed, the list shall also include the names and addresses of property owners with property located within three thousand (3,000) feet of any location in the proposed timber harvest area in which logs are to be picked up, carried, or landed, or helicopters are to use for servicing. It is the intent of the notice provisions of this paragraph to direct the notice to both owners and residents of properties lying within the 3,000 foot notice area; accordingly if any property owner to be noticed by mail on a proposed helicopter yarding has a mailing address located outside of the three thousand foot notice area and such property owner's property within such area has a street address within such area, the list shall also contain the street address of the property within the three thousand (3,000) foot radius, and shall list the addresses at such property as "Occupant." The list shall be compiled from the latest equalized assessment roll of the county or a list provided by a title insurance company. Any list prepared for noticing an operation with helicopter yarding shall be deemed accurate provided that it contains accurate information regarding at least 95% of the property owners and situs addresses entitled to notice under these Rules based upon the County Tax Assessor's records.

(c) The plan submitter shall mail copies of the Notice of Intent to all property owners and members of those private road associations on the list provided by the County identified pursuant to (b) at least 10 days prior to plan submission and at this time shall post a copy of the Notice of Intent including a map as described in 14 CCR 1032.7(d)(8) at a conspicuous location on the private road where a majority of the road association members can view the notice and, if helicopter yarding is proposed, at a minimum of one conspicuous location every half mile on all public roads within a 2 mile radius of the proposed area of operations. The posted Notice of Intent shall be on colored paper or identified with colored flagging so as to be easily visible to the public. The plan submitter shall further mail the Notice of Intent to:

(1) All members of the Board of Supervisors in whose district any timber operation is proposed;

(2) The local school district;

(3) Any local publicly–owned water district or community water system which maintains any water production or water storage facility downstream from any location within which any timber operation is proposed. At the time of plan submission, the plan submitter shall certify to the Director in writing that this procedure has been followed.

(d) The plan submitter shall have the Notice of Intent published in a newspaper of general circulation in the area, concurrently with the submission of the plan to the Director. Proof of publication of notice shall be provided to the Director prior to his/her determination made pursuant to 14 CCR 1037.6.

(e) For plan amendments, the submitter of the amendment shall certify in writing at the time the amendment is submitted that copies of a new Notice of Intent have been mailed to:

(1) All property owners not previously noticed under subsection (b) who, because of the plan amendment, would be required to receive the notice provided in subsection (b).

(2) All property owners previously noticed under subsection (b) when there is a change in silvicultural method.

(f) The plan submitter shall include with the mailed Notice of Intent sent to the persons identified above, other than members of the Board of Supervisors, local school district or publicly–owned water district or community water systems, any available printed general information material that has been jointly approved by the County of Santa Cruz and the Department, describing the review process and the rights of adjacent landowners and other neighbors under applicable rules, ordinances or statutes.

(g) The RPF shall simultaneously file with the Department any notice of deviation given to the plan submitter or landowner required under Public Resources Code section 4583.2.

(h) In the event the Director shall approve a timber harvest plan which provides in whole or in part for helicopter yarding and where such harvest operations are not commenced within the same harvest season in which the plan is approved, the plan submitter shall, not less than 14 days prior to the estimated commencement of helicopter operations and not more than 28 days prior to the estimated commencement of such operations:

(1) Mail a notice to all persons previously notified of the Notice of Intent of the original application or any amendment under (b) above, providing notice of the fact that the helicopter yarding was approved, containing a map showing the location of the harvest areas, landing area, and service area approved in the Plan, the hours of operation, the estimated starting date of helicopter yarding activities, the estimated completion date, and any conditions placed on the helicopter yarding activity by the Director as part of the approval; and

(2) Post a copy of the notice at a minimum of one conspicuous location every half mile on all public roads within a 2 mile radius of the proposed area of operations. The posted notice shall be on colored paper or identified with colored flagging so as to be easily visible to the public.

(3) The plan submitter shall further mail the notice to those persons identified in 14 CCR 926.3(c)(1), (2).

(4) Prior to commencement of helicopter operations, the plan submitter shall certify to the Director in writing that these procedures have been followed.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.4. *Preharvest Inspection Report.*

Following any preharvest inspection, the Forest Practice Officer who conducted the inspection shall make a written report on the plan, indicating whether the plan, as proposed, conforms to the requirements of the Forest Practice Act and Board rules, and further stating whether the feasibility analysis required by 14 CAC 898 has properly responded to the issues identified in that section. A copy of this Preharvest Inspection Report shall be provided to review team members and advisors, and shall be made available for public information as a public record.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.5. Additional Information After Preharvest Inspection.

When the Director determines, based upon field inspection of the plan area, that additional information is necessary in order that the Review Team may conduct the review prescribed by 14 CAC 1037.5(b), the RPF who prepared the plan shall be responsible for supplying such additional information. Additional information shall be limited to information regarding those items specified in 14 CAC 1034, Contents of Plan.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Sections 4516.5 and 4582.6, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).

§ 926.6. Public Water Agency Representative.

In the case of any timber operation proposed to be carried out in an area which serves as a watershed for any publicly–owned water purveyor, the Director shall request a representative of such water purveyor to assist the Department as an advisor in the review process, pursuant to the provisions of 14 CAC 1037.5; such water purveyor representative shall be permitted to participate in all review team meetings.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Sections 4516.5 and 4582.6, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.7. Review Team Field Review.

Any review team member may, on request, accompany the Department as an advisor to the Department, on any field review the Department conducts prior to approval of the plan. A member of the review team shall have five working days following the date of the review team meeting in which to file any notice of non–concurrence provided for in 14 CCR 1037.5(e).

When a proposed timber harvest area is adjacent to a residential neighborhood; when the only access to the proposed timber harvest area is through neighboring property; or when multi–owner private road(s) are to be used for hauling; the residents of the adjacent neighborhood or the owners of the private road(s) may designate one person as their representative to attend the pre–harvest inspection and all Review Team field inspections and meetings that are scheduled. The Director and plan submitter shall be provided with written notice of the designated representative's name, address and telephone number. Such person may only enter the property of the landowner where the harvest is proposed with the consent of the landowner. Such person shall be entitled to receive advance notice of the time and place of the pre–harvest inspection and Review Team field reviews, may make inquiries of the review team members, but shall not be a member of the Review Team.

NOTE: Authority cited: 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.8. Fuelwood Operations.

Notwithstanding 14 CAC 1038(b), the harvest of fuelwood in operations where more than three acres are proposed to be harvested, shall be carried out in accordance with the provisions of 14 CAC 1038–1038.1. In addition, for purposes of 14 CAC 1038, minimum impact means:

(a) No new road construction;

(b) No road reconstruction that involves substantial change in the original road prism;

(c) No timber operations on slopes in excess of 60%;

(d) No timber operations in special treatment areas;

(e) No timber operations within watercourse and lake protection zones;

(f) No timber operations on unstable soils;

(g) No timber operations within 500 feet on an active nesting site of rare or endangered bird species;

(h) No timber operations on areas with high or extreme erosion hazard rating;

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(i) The harvest area must be immediately stocked; and

(j) Timber operations are limited to 45 days unless an approved plan is obtained.

Fuelwood operations that cannot be harvested pursuant to 14 CAC 1038–1038.1 will require a plan pursuant to 14 CAC 913.8(b).

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.9. Hours of Work.

(a) Except as provided in paragraph (b) below, the operation of chainsaws and other power–driven equipment shall be restricted to the hours between 7:00 a.m. and 7:00 p.m., and shall be prohibited on Saturdays, Sundays, and nationally designated legal holidays. An exception to this rule may be granted by the Director where s/he has found that no disturbance will result from the use of such equipment.

(b) Within 300 feet of any occupied legal dwelling, the operation of chain saws and all other power equipment, except licensed highway vehicles, shall be restricted to the hours between 8:00 a.m. and 6:00 p.m., and shall be prohibited on Saturdays, Sundays and nationally designated legal holidays. The Director may grant an exception to allow operations between 7:00 a.m. and 7:00 p.m. within 300 feet of residences if a determination of no disturbance can be made based upon the occupant(s) agreement to a written request submitted by the RPF to the Director before plan approval.

(c) When it is anticipated that there will be staging of licensed vehicles outside the plan submitter's property between the hours of 9:00 p.m. and 7:00 a.m., the RPF shall provide an operating plan which reduces noise impacts to nearby residences.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment of subsections (a) and (b) and new subsection (c) filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.10. Log Hauling.

(a) Log hauling on public roads is not permitted on Saturdays, Sundays, or on those days which are nationally designated legal holidays.

(b) Log hauling on public roads, or private roads may be restricted or not permitted by the Director during commute hours or during school busing hours when necessary to prevent a serious hazard to traffic flow and safety or to prevent hazardous conditions that would endanger public safety.

(c) During log hauling on public roads, or on private roads the timber operator may be required by the Director to post special traffic signs and/or flagpersons where determined to be necessary to prevent a hazard to traffic.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment of subsections (b) and (c) filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.11. Flagging of Property Lines.

The RPF or his/her supervised designee shall, prior to plan submission to the Department, flag the approximate property lines of the timberland owners parcel on the site where any truck road, tractor road or harvest area is proposed within 100 feet of a property line.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.12. Soil.

The process of constructing or reconstructing truck roads, tractor roads, tractor trails, and landings shall not cause soil to be deposited on property owned by others, except with the consent of the property owner.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.13. Performance Bonding.

When hauling logs pursuant to a THP, the LTO shall provide for the repair of any damage to a county road that is willfully or negligently caused by the LTO's log hauling operations, or to a private road that is caused by the LTO's log hauling operations, and shall provide for the repair of any damage caused by the LTO's log hauling operations to appurtenant structures including, but not limited to, guard rails, signs, traffic signals, culverts, curbs and similar facilities. If necessary to ensure compliance with this section, the county, owner(s)/easement holder(s) of private road or private road association may request, and the Department, upon such request, may require the timber operator or responsible party to post adequate financial security to restore paved or unpaved county or private roads and appurtenant structures which are damaged by log hauling operations. The request for posting of financial security shall be made to the Department during the THP review procedure and no later than five days before the Director's decision date. The timber operator or responsible party shall post a certificate of deposit, certificate of insurance or performance bond, or other financial security in favor of the Department in a reasonable amount set by the Director, not to exceed $5,000 per mile of road used or $50,000, whichever is less and subject to provisions of Division 3, Part I, Chapter 1, Article 8, Sections 11110 through 11113 of the Government Code. Such cash deposit or other acceptable financial security shall cover a period not to exceed the effective period of the plan.

When a form of financial security is required, logging trucks shall not use the roads until the required security is posted with the Department. The Director shall release the bond or equivalent to the principal of the security upon completion of log hauling operations and compliance with the requirements of this section. If and when repairs are necessary, the Director shall request the operator to provide for making the repairs. If the repairs are not made, the Department may take corrective action and may order the bond, or equivalent, forfeited in an amount not to exceed actual damage. When a bond or equivalent has been posted, the Department shall provide the county with a copy of the Work Completion Report. The county shall advise the Department in writing within 30 days of its receipt of notification of completion of hauling operations or the Work Completion Report if damage has occurred repairs need to be made. If the county fails to notify the Director within 30 days, the bond or surety shall be released.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Repealer and new section filed 8–8–90; operative 9–7–90 (Register 90, No. 39).
3. Amendment of section and NOTE filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.14. Biotic Resources.

In addition to the requirements of 14 CAC 1034(w), the plan shall identify local unique plant and animal species as identified in the Santa Cruz County General Plan.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.15. Road Construction.

Whenever new road construction is proposed and the plan submitter owns or controls any property contiguous to the parcel or parcels on

which timber operations are proposed, and such contiguous property contains timberland, the RPF shall include a map and explanation of how the new road is integrated into the existing or proposed truck road and associated transportation system, for all the contiguous property owned or controlled by the plan submitter on which timberland is found. Such proposed integrated truck road and associated transportation system shall be reviewed in connection with review of the proposed plan, and the plan shall be modified, if necessary, to assure that the approved plan will be compatible and consistent with timber operations on the contiguous property.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.16. Flagging.

The location of proposed truck roads, constructed tractor roads, landings, and watercourse crossings shall be designated on the plan map and shall be located in the field with flagging. Such flagging shall occur prior to the preharvest inspection if one is to be conducted. Flagging for truck roads and constructed tractor roads will be intervisible along the proposed alignments.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.17. Abandonment of Roads and Landings.

When an existing truck road, tractor road, or landing is located in an area in which it could not be newly constructed in conformance with these rules, then, where feasible, such road or landing shall be abandoned, stabilized, revegetated, and restricted from vehicular use, unless the use of such road or landing would produce less environmental impact than the use of a new road or landing constructed in accordance with these rules.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.18. Winter Period.

The winter period for Santa Cruz County shall be October 15 through April 15.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).

§ 926.19. Erosion Control Maintenance.

The plan submitter shall maintain all drainage structures, drainage facilities and gating or other devices to prevent access required by these rules in effective working condition throughout one winter period after completion of timber operations unless other stricter measures are required under the Forest Practice Rules. Skid trails, landings and work areas shall be reseeded, mulched or protected by compacting slash and debris from harvest operation. The Director may require further measures to prevent unnecessary damage to road surfaces from unauthorized use and to protect the quality and beneficial uses of water. The County representative responsible for review of timber harvests shall receive advanced notice and may attend the work completion inspection with the Department to review erosion control measures. A work completion report may not be filed until this requirement has been met.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 13).
2. Amendment filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.20. Soquel Creek Watershed.

NOTE: Authority cited: Sections 4516.5, 4551 and 4551.5, Public Resources Code. Reference: Sections 4516.5, 4551.5, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 11–7–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 45).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 926.21. Exemptions from Timber Harvesting Plan Requirements [Santa Cruz County].

The following requirements shall apply to timber operations conducted on ownerships of timberland of less than three acres pursuant to 14 CCR 1038(c).

a. The notice of exemption submitted to the Director pursuant to 14 CCR 1038.1 shall be accompanied by a planimetric or topographic map that clearly shows the location of and identifies the following features within the plan area:

1. log landing proposed to be used,
2. tractor roads on slopes over 50 percent,
3. logging roads,
4. watercourses, lakes, marshes, springs, and seeps,
5. structures, including mobile homes and trailers, currently maintained for human habitation within 200 feet, as measured along the surface of the ground, from the boundary of the plan area.

b. In addition, the following information shall be provided:

1. The approximate number of trees to be cut,
2. Assessor's Parcel Number covering the plan area,
3. Zoning designation covering the plan area,
4. Expected dates of commencement and completion.

c. Within 5 working days of receipt, CDF shall determine whether the exemption is complete and accurate. If it is found to be complete and accurate, CDF shall send a copy with a Notice of Acceptance to both the county and the applicant. Operations pursuant to the Exemption may not commence for ten working days from the date of the Notice of Acceptance in order to provide the County with an opportunity to (1) review the proposed operation, and (2) notify the submitter of applicable county regulations prior to the onset of operations. The Notice of Acceptance shall include the following statements:

1. An explanation that both the state and county have regulatory authority over timber harvest operations on ownerships of timberland of less than three acres.
2. An explanation that the Director's acceptance only relates to compliance with the rules of the State Board of Forestry.
3. Recommendation that the submitter should consult with the Santa Cruz Planning Department before proceeding.
4. Notification that proceeding without consulting with the County Planning Department could result in violation of county ordinances.
5. Notification that operations pursuant to the Exemption may not commence for ten working days to facilitate review of this operation by the county. The earliest date on which operations may commence shall be clearly stated in the Notice of Acceptance.

d. If the Exemption is determined to be incomplete, a CDF shall return the exemption to the applicant with a cover letter explaining the deficiencies.

NOTE: Authority cited: Sections 4516.5 and 4551, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 8–10–93; operative 8–10–93 (Register 93, No. 33).

§ 926.23. Contents of Plan.

In addition to 14 CCR 1034 the following shall apply in Santa Cruz County:

(a) When log hauling is proposed over non–appurtenant private roads, the RPF shall provide:

(1) Information substantiating the timber owner's legal right to access or use said private road(s).

(2) A statement as to the estimated number of total logging truck loads to be removed and the approximate number of haul days and location of proposed logging truck staging areas.

(3) A statement as to how obligations to maintain the road shall be satisfied commensurate with use.

(4) Specific measures which provide for the safe use of the road, such as flag persons, signage, pilot cars and hours of restriction.

(5) Videotape, photograph or other means of documentation for noting the existing conditions of the road.

(b) The RPF shall provide a map showing the location of the flagged property boundaries along with any documentation that substantiates the property line.

(c) The description of the plan area shall include the County Assessor Parcel Number(s) for those parcel(s) within which timber operations are to be conducted.

(d) The RPF shall include within the notice to the landowner section of the plan the following statement: "Section 16.22.030 of the County Code states that any road or bridge constructed pursuant to a Timber Harvest Permit issued by the State of California, if used to serve purposes other than forest management activities shall be considered new and shall be subject to all County design standards and applicable policies including County grading and bridge permits."

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 926.25. Special Harvesting Methods.

In addition to 14 CCR 913.8 subsection (a), the harvesting limitation, re–entry period and leave tree standards shall be modified as follows:

(a) The cutting standards are as follows:

(1) For areas where the proposed harvest rate is 51–60% of the trees greater than 45.7 cm (18 in.) d.b.h., the minimum re–entry period shall be 14 years.

(2) For areas where the proposed harvest is 50% or less of the trees greater than 45.7 cm (18 in.) d.b.h., a 10 year re–entry period shall apply.

(3) Regardless of re–entry period, no more than 40% of the trees greater than 35.6 cm. (14 in.) and less than 45.7 cm (18 in.) d.b.h. shall be harvested.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 7–1–99; operative 1–1–2000 (Register 99, No. 27).

§ 927. Marin County Rules.

In addition to forest practice rules applying in the Coast Forest District and Southern subdistrict of the Coast Forest District, rules contained in 927.1 through 927.17 shall apply within the boundaries of Marin County. Where the general rules conflict with Marin County rules, the Marin County rules shall apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).
2. Amendment filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.1. Winter Period.

The winter period for Marin County shall be October 1 through April 15.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).

§ 927.2. Contents of Plan.

All of subsections (x)(1) through (x)(14) of 14 CCR 1034 shall apply in Marin County. Subsection (g) and that portion of (x) pertaining to map size shall not apply and in lieu of those subsections, the following shall apply:

(a) A description of the plan area within which timber operations are to be conducted. The description shall include the following:

(1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s),

(2) township, range, and section number(s),

(3) county name(s),

(4) CALWATER 2.2 planning watershed number(s),

(5) approximate acreage, and

(6) assessor's parcel number(s) for the assessor's parcels within which a plan is submitted.

(b) The estimated number of logging truck loads to be removed and the approximate number of daily trips.

(c) The following information shall be clearly provided on a reproducible 1″ = 500′ topographic map showing 40 foot contour intervals, provided such maps are available from the county at nominal cost. (Nominal cost for the purposes of this subsection shall not exceed $10.) If this map is not available, the map requirement in 14 CAC 1034 (x) shall apply. Additional maps may be required to show specific details, and may be planimetric. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See district rules for the appropriate minimum mapping acreage.

(1) Location of Marin County Recreation Corridor (CRC), scenic corridors, conservation zones, as identified in the Marin Countywide Plan of April, 1982 and special treatment areas designated by the County General Plan of 1982 or in any other document officially adopted by the county.

(2) Location of all structures (including mobile homes or trailers) currently maintained for human habitation within 200 feet as measured along the surface of the ground from the boundary of the plan area.

(d) On timber operations requiring submission of a plan, all routes to be used for removing forest products from the plan area to the mill or county line shall be shown on a road map submitted with the plan. A proposed change in the use of public roads that are part of the haul route shall be presumed to be a substantial deviation unless the plan submitter requests that the proposed change be considered a minor deviation in accordance with the procedure set forth in 14 CAC 1036 and 1040 and the Director so determines. The Director shall consult with County Transportation District before giving approval. The plan shall identify the location of schools along the haul route and shall specify their hours of operation.

(e) Plan maps must show the location of and identify the following: all log landings proposed to be used, and all main tractor roads on slopes over 50 percent, all logging roads, all watercourses, lakes, and marshes and boundaries of the CRC within or contiguous to the plan area.

(f) A statement shall be prepared indicting the proposed type, quantity, purpose and method of application of any chemicals listed as restricted by the State Department of Food and Agriculture that are to be used.

(g) The plan shall include a brief statement describing any additional proposed uses for the land in addition to timber harvesting (e.g., a residential or commercial development) for a period of five years.

(h) Whenever new road construction is proposed and the plan submitter owns or controls any property contiguous to the parcel or parcels on which timber operations are proposed, and such contiguous property contains timberland, the RPF shall include a map and explanation of how the new road is integrated into the existing or proposed truck road and associated transportation system, for all the contiguous property owned or controlled by the plan submitter on which timberland is found. Such proposed integrated truck road and associated transportation system shall be reviewed in connection with review of the proposed plan, and the plan shall be modified, if necessary, to assure that the approved plan will

be compatible and consistent with timber operations on the contiguous property.

(i) The THP shall include a plan for safe access to a public roadway from the site of operations. The plan submitter shall be required to consult with County officials in designing the access plan, and shall attach to the THP a County encroachment permit if one has been approved.

(j) The plan submitter shall identify any publicly owned water purveyor within the drainage and indicate on the plan whether a watershed protection agreement with any publicly owned water purveyor has been obtained for the proposed operation and append any such agreement to the plan. Any such agreement shall be appended for information purposes only. If no such agreement has been reached with the water purveyor, the plan submitter shall attach any previous correspondence to and from the water purveyor concerning the proposed timber operation.

(k) If a road or landing to be constructed or improved as part of the proposed timber operation is planned to be used to serve or facilitate a residential or commercial development, the plan submitter shall obtain a grading permit from the county and attach any such permit to the plan, for information purposes only.

NOTE: Authority cited: Sections 4516.5 and 4551, Public Resources Code. Reference: Sections 4516.5, 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).
2. Amendment filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.
3. Reinstatement of section as it existed prior to emergency amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
4. Amendment filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).
5. Repealer of subsection (a), new subsections (a)–(a)(6) and amendment of NOTE filed 11–21–2000; operative 1–1–2001 (Register 2000, No. 47).

§ 927.3. Tractor Yarding.

In addition to 14 CAC 914.2, the following shall apply in Marin County:

Prior to submittal of a plan, the approximate location of proposed constructed tractor roads on slopes over 50% shall be intervisibly flagged on the ground.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).

§ 927.4. Flagging.

In addition to flagging requirements in Subchapter 3 of Title 14 CAC, the Director, where necessary to protect adjoining properties, may require flagging of approximate property lines on the site where any truck road, tractor road or harvest area is proposed within 100 feet of a property line.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).

§ 927.5. Log Hauling.

(a) Log hauling on public roads is not permitted on Saturdays, Sundays, or on those days which are nationally designated holidays.

(b) Log hauling on public roads shall be restricted or not permitted by the Director during commute hours or during school busing hours if necessary to prevent a significant hazard to traffic flow and safety or to prevent hazardous conditions that would endanger public safety.

(c) During log hauling on public roads, the timber operator may be required by the Director to post special traffic signs and/or flagpersons where determined to be necessary to prevent a hazard to traffic.

(d) Any new access for the use of logging trucks on Highway 1 shall not be constructed until the Director has received approval for such construction from the State Department of Transportation and has consulted with the County Transportation District. A request for newly constructed access must be accompanied by evidence that such access will not adversely affect traffic flow and safety on the highway.

(e) Where road width will not permit passage of a logging truck and another oncoming vehicle, and adequate turnouts are not present, the Director may require the use of pilot cars equipped with warning signs and flashing lights to guide logging trucks on public roads.

(f) Within 300 feet of any occupied dwelling, the operation of power equipment, including chain saws, except licensed highway vehicles, shall be restricted to the hours between 7:00 a.m. and 7:00 p.m., and shall be prohibited on Saturdays, Sundays, and nationally designated legal holidays. Where, because of unusual ground condition or very close proximity of occupied dwellings or special circumstances related thereto, the Director determines that a need exists for further restrictions, he/she may increase the distance and may limit the hours to not less than 8:00 a.m. to 5:00 p.m. An exception to this rule may be granted by the Director where he/she has found that no disturbance will result to the occupants of the dwelling from the use of such equipment.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).
2. New subsection (f) filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.
3. Reinstatement of section as it existed prior to emergency subsection filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
4. Amendment filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.6. Public Road Buffer Zone.

All logging roads, tractor roads, and landings located within 200 feet, as measured along the surface of the ground from the edge of the traveled surface of a public road, shall be screened from direct public view to the extent feasible by leaving trees and vegetation between disturbed areas and public roads. If trees are to be harvested in this buffer zone, the proposed harvesting shall be identified in the plan and the trees to be cut or left shall be marked before the preharvest inspection, if such an inspection is to be made.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Section 11346.2(d) (Register 84, No. 9).

§ 927.7. Timber Harvesting Plans.

(a) An initial inspection of the area in which timber operations are to be conducted shall be made within 10 days from the date of filing of the plan, or such longer period as may be mutually agreed upon by the Director and the person submitting the plan. The RPF who prepared the plan shall attend the initial inspection.

(b) In the case of any timber operation proposed to be carried out in an area which serves as a watershed for any publicly owned water purveyor, the Director shall request a representative of such water purveyor to assist the Department as a advisor in the review process, pursuant to the provision of 14 CAC 1037.5; such water purveyor representative shall be permitted to participate in all review team meetings.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).
2. Renumbering and amendment of former Section 927.8 to Section 927.7 and renumbering and amendment of former Section 927.9 to Section 927.8 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certifi-

cate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.

3. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).

4. Repealer of former Section 927.7 and renumbering and amendment of former Section 927.8 to Section 927.7 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.8. Exemptions from Timber Harvesting Plan Requirements.

To ensure that the protection necessary to maintain the integrity of the resources of the County are achieved, the following requirements shall apply to the timber operations exempt from filing of Timber Harvesting Plans under 14 CAC 1038.

(a) The requirements of 14 CAC 927.7(a) and (b), and 927.2(c) and (e) shall apply with the following exceptions:

(1) pursuant to PRC 4582.7, an initial inspection may not be required;

(2) a written plan is not required although a plan map must accompany the notice of timber operations. Harvesting of Christmas trees is exempt from timber marking requirements.

(b) The expected dates of commencement and completion shall be stated in the notice of timber operations.

(c) The Director shall acknowledge in writing and within 10 days, acceptance or rejection of the notice of timber operations. The Director shall consult with the Marin County Planning Director before acceptance. Timber operations shall not commence until the Director's acceptance has been received by the person who filed the notice.

(d) Exempt operations shall be limited to the calendar year of acceptance.

(e) The requirements of PRC 4585, Completion Report, and PRC 4587, Stocking Reports, shall apply to exempt operations within the County.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).

2. Renumbering and amendment of former Section 927.9 to Section 927.8 and renumbering and amendment of former Section 927.10 to Section 927.9 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.

3. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).

4. Renumbering and amendment of former Section 927.8 to Section 927.7, and renumbering and amendment of former Section 927.9 to Section 927.8 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.9. Silvicultural Methods and Intermediate Treatments.

The objective of this section is to prescribe silvicultural methods and treatments that will protect the long–term productivity of soils and timberlands and protect the natural and scenic qualities of the County. The following silvicultural methods and treatments as prescribed below will be applied in the County. 14 CAC 913 through 913.6 defines these methods and treatments.

(a) Commercial Thinning Intermediate Treatment or the Selection Method. When the commercial thinning treatment or the selection silvicultural method is used, the following standards are required.

(1) Leave a well distributed timber stand after cutting and logging operations have been completed on the cut area. Leave at least 40 percent by number of those trees 18 inches or more d.b.h. which were present prior to commencement of current timber operations and at least 50 percent by number of those over 12 inches d.b.h. but less than 18 inches or more d.b.h. Leave trees 18 inches or more d.b.h. shall be dominant or co–dominant in crown class prior to timber harvesting or have crowns typical of such dominant or co–dominant trees. All leave trees shall be thrifty coniferous trees which are free from substantial damage caused by timber operations. No conifer tree shall be cut which is more than 75 feet from a leave tree 12 inches d.b.h. or larger located within the logging area. Average top stump diameter, outside bark, shall be considered 1 inch greater than d.b.h.

(2) Immediately following completion of timber operations, stocking must meet or exceed stocking standards of 14 CAC 927.10.

(3) A report of stocking as described in PRC 4587 shall be filed within six months following completion of work as described in the plan.

(b) Sanitation–Salvage Treatment. When the sanitation–salvage treatment is used, the following practices are required:

(1) Restrictions on time periods for subsequent timber operations shall not apply to the sanitation–salvage treatment.

(2) An effort shall be made to regenerate any cut area during the first planting season following log removal. Necessary site preparation, planting, or seeding shall be completed within the first planting season following logging, except where unusual or adverse weather conditions require extending site preparation and planting into the following planting season. Deficiencies in stocking shall be corrected by planting annually at least three times if necessary to meet the stocking standards in 14 CAC 927.10.

(c) Clearcutting Method. The clearcutting method is not authorized for the County.

(d) Recutting of Logging Areas. Timber operations for removal of trees may only be repeated on a logging area within less than ten years after completion of a previous timber operation if minimum standards have been met, the reasons for the operation are justified and explained in the plan, and the scenic and/or natural qualities of a stand would be enhanced by lighter or more frequent tree removal. In no instance shall stocking be reduced below the standards provided in 14 CAC 927.10 nor shall more than 60 percent by numbers of those trees 18 inches and more d.b.h. and no more than 50 percent by numbers of those trees over 12 inches d.b.h. but less than 18 inches d.b.h. be removed within any one 10–year period.

On timber operations in which cutting has occurred within 10 years preceding the current operations, stumps which are the result of cutting trees within the preceding 10 years shall be counted as trees cut during the current operation in determining percent of trees cut. Timber operations conducted under the Sanitation–Salvage Treatment, and the harvesting of minor forest products and incidental vegetation are exempt from the above provision of this section.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).

2. Renumbering and amendment of former Section 927.10 to Section 927.9 and renumbering and amendment of former Section 927.11 to Section 927.10 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.

3. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).

4. Renumbering of former Section 927.9 to Section 927.8, and renumbering and amendment of former Section 927.10 to Section 927.9 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.10. Stocking Requirements.

The stocking standards for understocked timberlands and substantially damaged timberlands as provided for by 14 CAC 1080 through 1081.1 and 1085 through 1085.6 are not applicable in the County. After completion of timber operations one of the following stocking standards must be met:

(a) Basal Area. The average residual basal area, measured in stems 1 inch or larger in diameter shall be at least 125 square feet per acre on Site I lands, at least 100 square feet per acre on Site II and Site III lands and at least 75 square feet per acre on Site IV and V lands, or

(b) Point Count. The area contains an average point count as specified below:

(1) On Site I and II lands, the area contains an average point count of 450 per acre to be computed as follows:

(A) 450 countable trees per acre not more than 4 inches d.b.h.; each tree to count as 1 towards meeting stocking requirements.

(B) 150 countable trees per acre over 4 inches d.b.h. and not more than 12 inches d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 75 countable trees per acre over 12 inches d.b.h.; each tree to count as 6 toward meeting stocking requirements.

(2) On Site III, IV and V lands the area contains an average point count of 300 per acre to be computed as follows:

(A) 300 countable trees per acre not more than 4 inches d.b.h.; each tree to count as 1 toward meeting stocking requirements.

(B) 100 countable trees per acre over 4 inches d.b.h. and not more than 12 inches d.b.h.; each tree to count as 3 towards meeting stocking requirements.

(C) 50 countable trees per acre over 12 inches d.b.h.; each tree to count as 6 toward meeting stocking requirements.

Redwood root crown sprouts will be counted using the average stump diameter 1 foot above average ground level of the original stump from which the redwood root crown sprouts originate, counting 1 sprout for each 1 foot of stump diameter to a maximum of 6 per stump.

Site classification shall be determined by the forester (RPF) who prepared the plan.

Rock outcroppings, meadows, wet areas, or other areas not normally bearing timber shall not be considered as requiring stocking and are exempt from such provisions.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 3–2–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 9).
2. Renumbering and amendment of former Section 927.11 to Section 927.10 and renumbering and amendment of former Section 927.12 to Section 927.11 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84.
3. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
4. Renumbering and amendment of former Section 927.10 to Section 927.9, and renumbering and amendment of former Section 927.11 to Section 927.10 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.11. Logging Practices.

The following logging practices shall be adhered to:

(a) Roads. Rules contained in 14 CAC 923 through 923.2 shall be adhered to with the following special requirements.

(1) Roads shall be single lane, and generally the traveled surface shall be no more than 12 feet in width, except where alignment, safety, and equipment necessary to conduct the operation requires additional width. Deviations shall be explained and justified in the plan.

(2) Roads, landings, cuts, and fills shall be screened from direct view to the extent feasible by leaving screen trees and other vegetation between the disturbed areas and public areas utilized by substantial numbers of viewers.

(b) Soil disturbance, other than that incident to necessary road maintenance, whether with tractor or by cable means, shall not occur under excessively wet ground conditions that could result in substantial soil compaction and erosion.

(c) Notwithstanding the requirements of 14 CAC 1040, if in construction rock outcroppings, springs, and other physical factors require a change in roads, landings, and tractor road locations, the location can be changed with the concurrence of the RPF, the operator, and the Director's representative, provided that such changes in location constitute minor deviations. The RPF shall provide written confirmation of such minor deviations which shall become a part of the plan. All changes in location constituting substantial deviations shall be submitted to the Director as amendments to the plan.

(d) Felling Practices. Up to 10 percent of the trees that are proposed for cutting may be substituted 1 for 1 with those proposed to be left uncut provided that the leave tree proportion, size class, distribution, and general forest appearance of the residual stand as approved in the preliminary field work is preserved.

Justification for the substitution standard shall be based on unavoidable tree damage, safety factors, lean of trees, location of obstructions or roads or openings insufficient to accommodate felled trees.

(e) The process of constructing or reconstructing truck roads, tractor roads, and landings shall not cause soil to be deposited on property owned by others, except with the consent of the property owner.

(f) The plan submitter shall maintain all drainage structures and drainage facilities required by these rules in effective working condition throughout one winter period after completion of timber operations. A work completion report may not be filed until this requirement has been met.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 927.12 to Section 927.11 and new Section 927.12 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–8. For prior history, see Register 84, No. 9.
2. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
3. Renumbering and amendment of former Section 927.11 to Section 927.10, and renumbering and amendment of former Section 927.12 to Section 927.11 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.12. Hazard Reduction.

(a) Burning. Broadcast burning shall be prohibited on lands harvested under the commercial thinning treatment and selection silvicultural methods in the County. Broadcast burning may be allowed for site preparation purposes in accordance with 14 CAC 917.4 on lands harvested under the sanitation–salvage treatment when a prescribed burning plan is submitted as part of the Timber Harvesting Plan which explains and justifies broadcast burning in the County.

An effort shall be made to protect the surface organic horizon of the soil during the course of any permitted broadcast burning operations.

(b) Snags. All snags within the Watercourse and Lake Protection Zone and within 100 feet of meadow edges shall be left standing with the following exceptions:

(1) When felling is required for fire or safety reasons (CAL–OSHA regulations, 8 CAC 6259) or when necessary in sanitation–salvage operations.

(2) When a snag of commercial value is marked for felling by the RPF after an initial preharvest inspection and consultation with the Department of Fish and Game and the timber owner.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 927.13 to Section 927.14 and new Section 927.13 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84. For prior history, see Register 84, No. 9.
2. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
3. Renumbering and amendment of former Section 927.12 to Section 927.11, and renumbering and amendment of former Section 927.13 to Section 927.12 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.13. Buffer Zones Within the CRC.

The following additional rules shall apply to buffer zones within Marin County Recreation Corridor.

The buffer zone adjacent to designated coastal highways shall be a 200 foot wide band running parallel to the first line of trees nearest the road on appropriate side(s) of the road as designated. In no place shall the buffer zone extend more than 350 feet from the shoulder of the road.

A buffer zone of 200 feet shall also run adjacent to all publicly owned preserves and recreation areas including national, state, regional, county, and municipal parks. Said distance shall be measured along the surface of the ground.

Logging roads, tractor roads, and skid trails and landings shall be screened from direct view to the extent feasible by leaving trees and vegetation between the disturbed area and vista points that would attract viewers.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 927.14 to Section 927.15 and renumbering and amendment of former Section 927.13 to Section 927.14 filed 5–24–84; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84. For prior history, see Register 84, No. 9.
2. Reinstatement of section as it existed prior to emergency renumbering and amendment filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42).
3. Renumbering and amendment of former Section 927.13 to Section 927.12, and renumbering of former Section 927.14 to Section 927.13 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.14. Notice of Intent and Filing.

In addition to 14 CAC 924.1(b) and 924.4(b) the Notice of Intent and Filing of THP applications shall be provided to the appropriate publicly owned water purveyor and to any school district or private school on the haul route excluding those portions of Highway 101.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. Renumbering of former Section 927.14 to Section 927.13 and new Section 927.14 filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.15. Review Team Meetings.

In addition to 14 CAC 1037.5, the following provisions shall govern public participation in the review of timber harvesting plans in Marin County:

(a) A written response by the Department of Forestry to issues raised that are pertinent to the THP in question shall be made available to the public before the final approval or disapproval of the THP. The issues raised must be received by the Department before the date for decision on the THP and may be either oral or written.

(b) Review team recommendations shall be made available at the CDF or county planning department office for public comment prior to the final decision.

(c) Any review team member and any qualified technical expert designated by a review team member may, on request, accompany the Department as a advisor to the Department, on any field review the Department conducts prior to approval of the plan.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. Renumbering of former Section 927.14 to Section 927.15 filed 5–24–84 as an emergency; effective upon filing (Register 84, No. 24). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–21–84. For prior history, see Register 84, No. 9.
2. Reinstatement of section as it existed prior to emergency renumbering filed 5–24–84 by operation of Government Code Section 11346.1(f) (Register 84, No. 42). See Section 927.14.
3. New section filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 927.16. Registered Professional Forester (RPF) Advice.

The provisions of 14 CAC 913.8(b)(5) shall apply when timber operations are conducted in Marin County.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22). For history of former section, see Register 84, Nos. 42 and 24.

§ 927.17. Decisions on Winter Operations.

The Director may prohibit any activity in the winter period that presents an unacceptable risk of significant degradation to the soil and water resources.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–31–85; effective thirtieth day thereafter (Register 85, No. 22). For history of former section, see Register 84, Nos. 42 and 24.

§ 928. San Mateo County Rules.

In addition to forest practice rules applying in the Coast Forest District and Southern subdistrict of the Coast Forest District, rules contained in 928.1 through 928.8 shall apply within the boundaries of San Mateo County. Where the general rules conflict with San Mateo County rules, the San Mateo County rules shall apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.1. Definitions.

The following definitions shall apply in San Mateo County:

(a) "Haul Route" means all routes to be used for removing forest products from the plan area to the mill or county line.

(b) "Encroachment" means any point at which logging trucks enter onto or exit from a public road, whether the encroachment is newly constructed or not.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.2. Contents of Plan.

In addition to 14 CAC 1034, the following shall apply:

(a) The estimated number of logging truck loads to be removed and the approximate number of daily trips.

(b) In addition to 14 CAC 1034(x), the following information shall be clearly provided on the map:

(1) The location of scenic roads as designated by the County General Plan or in any other document officially adopted by the county.

(2) Location of all structures (including mobile homes or trailers) currently maintained for human habitation within 200 feet as measured along the surface of the ground from the boundary of the plan area.

(3) Location of existing and proposed firebreaks.

(c) On timber operations requiring submission of a plan, all routes and encroachments onto county roads to be used for removing forest products from the plan area to the mill or county line shall be shown on a road map submitted with the plan. The Director shall consult with the County Transportation Agency before giving approval.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.3. Flagging.

(a) In addition to 14 CAC 914.2, the following shall apply in San Mateo County:

Prior to submittal of a plan, the approximate location of proposed constructed tractor roads on slopes over 50% shall be intervisibly flagged on the ground.

(b) In addition to other flagging requirements in subchapter 3 of Title 14 CAC, the Director, where necessary to protect adjoining properties, shall require flagging of approximate property lines on the site where any truck road, tractor road or harvest area is proposed within 100 feet of a property line, unless explained and justified in the plan and approved by the Director.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.4. Performance Bonding.

When hauling logs pursuant to a THP, the LTO shall provide for the repair of any damage to a county road that is willfully or negligently caused by the LTO's log hauling operations, and shall provide for the repair of any damage caused by the LTO's log hauling operations to appurtenant structures including, but not limited to, guard rails, signs, traffic signals, culverts, curbs and similar facilities. If necessary to ensure compliance with this section, the county may request, and the Department, upon such request, may require the timber operator or responsible party to post adequate financial security to restore paved or unpaved county roads and appurtenant structures which are damaged by log hauling operations. The request for posting of financial security shall be made to the Department during the THP review procedure and no later than five days before the Director's decision date. The timber operator or responsible party shall post a certificate of deposit, certificate of insurance or performance bond, or other financial security in favor of the Department in a reasonable amount set by the Director, not to exceed $5,000 per mile of county road used or $50,000, whichever is less and subject to provisions of division 3, part I, chapter 1, article 8, section 11110 through 11113 of the Government Code. Such cash deposit or other acceptable financial security shall cover a period not to exceed the effective period of the plan.

When a form of financial security is required, logging trucks shall not use the county roads until the required security is posted with the Department. The Director shall release the bond or equivalent to the principal of the security upon completion of log hauling operations and compliance with the requirements of this section. If and when repairs are necessary, the Director shall request the operator to provide for making the repairs. If the repairs are not made the Department may take corrective action and may order the bond, or equivalent, forfeited in an amount not to exceed actual damage. When a bond or equivalent has been posted, the Department shall provide the county with a copy of the Work Completion Report. The county shall advise the Department in writing within 30 days of its receipt of notification of completion of hauling operations or the Work Completion Report if damage has occurred repairs need to be made. If the county fails to notify the Director within 30 days, the bond or surety shall be released.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
2. Repealer and new section filed 8–8–90; operative 9–7–90 (Register 90, No. 39).

§ 928.5. Hours of Work.

Within 300 feet of any occupied dwelling, the operation of power equipment, including chain saws, except licensed highway vehicles, shall be restricted to the hours between 7:00 a.m. and 7:00 p.m., and shall be prohibited on Saturdays, Sundays and nationally designated legal holidays. Where, because of unusual ground conditions or very close proximity of occupied dwellings or special circumstances related thereto, the Director determines that a need exists for further restrictions, he/she may increase the distance and may limit the hours to not less than 8:00 a.m. to 5:00 p.m. An exception to this rule may be granted by the Director where he/she has found that no disturbance will result to the occupants of the dwelling from the use of such equipment.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.6. Log Hauling.

(a) Log hauling on public roads is not permitted on Saturdays, Sundays, or on those days which are nationally designated legal holidays.

(b) Log hauling on public roads may be restricted or not permitted by the Director during commute hours or during school busing hours in order to prevent a serious hazard to traffic flow and safety or to prevent hazardous conditions that would endanger public safety.

(c) During log hauling on public roads, the timber operator may be required by the Director to post special traffic signs and/or flagpersons where determined to be necessary to prevent a hazard to traffic.

(d) Where road width will not permit passage of a logging truck and another oncoming vehicle, and adequate turnouts are not present, the Director may require the use of pilot cars equipped with warning signs and flashing lights to guide logging trucks on public roads.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.7. Cutting Practices.

(a) Prior to submission of the plan to the Director, all timber proposed for harvest shall be clearly marked with paint at points approximately 4–1/2 feet above the ground and at ground level, except where the Director believes that a sample marking of 20% of the area up to a maximum of five acres would be adequate for plan evaluation.

(b) Where a sample marking has been used, the balance of the timber to be cut, except for hardwoods, shall be marked under the direct supervision of the Forester (RPF) who prepared the plan prior to the time of cutting.

(c) Up to 10% of the trees that are proposed for cutting may be substituted one for one with those proposed to be left uncut provided that the leave tree proportion, size class, distribution and general forest appearance of the residual stand as approved in the preliminary field work is preserved.

Justification for the substitution standard shall be based on unavoidable tree damage, safety factors, lean of trees, location of obstructions or roads or openings insufficient to accommodate felled trees.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).

§ 928.8. Erosion Control Maintenance.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY
1. New section filed 1–30–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 5).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

Article 14. Archaeological and Historical Resource Protection

§ 929. Statement of Purpose.

The purpose of this article is to:

(a) ensure that the significant archaeological and historical sites within the site survey area are adequately identified and protected,

(b) to provide direction to RPFs preparing THPs (which includes all forms of THPs including, but not limited to, Modified THPs and Nonindustrial Timber Management Plans (NTMPs), Program Timber Harvesting Plans (PTHPs)), Notice of Emergency Timber Operations (Emergency Notices), and any Exemption Notices pursuant to 14CCR Sections 1038 and 1104.1,

(c) provide direction to the timber operator conducting timber operations,

(d) provide direction to the Department of Forestry and Fire Protection in its review, approval and inspection programs.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of article heading, section and NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsection (b) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 929.1. Plan, and Emergency Notice Preparation.

(a) Preparing a plan.

Prior to submitting a plan, the RPF, or the RPF's supervised designee:

(1) Shall conduct an archaeological records check at the appropriate Information Center. A previously–conducted archaeological records check for the property may be used to satisfy this requirement if it covers the entire area proposed for timber operations and if it meets the definition of "current archaeological records check" in 14 CCR § 895.1.

(2) Shall provide written notification to Native Americans of the preparation of a plan. The primary purpose for this notification is to provide Native Americans an opportunity to disclose the existence of any Native American archaeological or cultural sites that are potentially within or adjacent to the site survey area, and the opportunity to comment on the plan. The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director. The remainder of the 10–day waiting period is waived when all Native Americans required to be informed respond in less than 10 days. This notice shall contain the following attachments or items of information:

(A) A request for information concerning the potential existence of any Native American archaeological or cultural sites within the plan boundaries.

(B) Information concerning the location of the plan including:

1. A general location map that, at a minimum, shows the travel route from the nearest community or well–known landmark to the plan area.

2. A copied segment of the titled USGS (if available) or equivalent map(s) that displays the approximate boundary of the plan area, and includes a map legend and a scale.

3. A description of the plan location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well–known landmark.

(C) A statement that all replies, comments, questions, or other information submitted by Native Americans as a result of this notice be directed to the RPF. The name, address, and phone number of the RPF shall be provided.

(D) Information concerning the available time for response. Indicate that the RPF is requesting a response within ten days from the date of the notice so the information can be incorporated into the plan when initially submitted to the Director. Provide the estimated date the plan will be submitted to Director. Provide the following statement: "The earliest possible date the Director may approve the plan is 16 calendar days after it is submitted to Director, although typically, the plan is reviewed for at least 45 calendar days following plan submittal before the Director approves the plan."

(E) A statement that the Native American groups may participate in the plan review process by submitting written comments to the Director before close of public comment period.

(F) A statement that locations of sites disclosed will be kept confidential.

(G) A statement that a Confidential Archaeological Addendum (CAA) will be prepared for the plan and a copy of pertinent information contained within the CAA may, at the discretion of the Director, be obtained from the Director.

(3) Shall provide a professional archaeologist or a person with archaeological training (in accordance with 14 CCR § 929.4), to conduct a field survey for archaeological and historical sites within the site survey area. Previous archaeological surveys within the site survey area may also be used to partially or entirely satisfy this requirement.

(4) Shall ensure that research is conducted prior to the field survey, including review of appropriate literature and contacting knowledgeable individual, concerning potential archaeological or historical sites occurring on the property.

(b) Provide Notification to Native Americans if a Native American Archaeological or Cultural Site is located within the plan. On a plan that contains a Native American archaeological or cultural site as defined in 14 CCR § 895.1 the RPF or the RPF's supervised designee shall:

(1) provide a written notice to Native Americans informing them of the presence of Native American cultural resources within the site survey area. This notification shall include:

(A) The RPF's name, address, and telephone number.

(B) The name, number, or other designator of the plan.

(C) A list of all known Native American archaeological or cultural sites located within the site survey area, including a name, number or other designator and brief description of each site.

(D) A brief discussion of how each site shall be protected or avoided.

(E) The address and phone number of the appropriate CDF office to contact as well as a statement that written comments may be submitted to Director for consideration prior to the close of public comment.

(F) The estimated earliest date the Director may approve the plan.

(2) submit a copy of all letters sent pursuant to 14 CCR § 929.1(b)(1) to the Director. The Director shall allow a minimum of 15 days from the date of the notification letter for receipt of responses to notices sent pursuant to 14 CCR § 929.1(b)(1) prior to the close of public comment.

(c) Submitting a Confidential Archaeological Addendum for a plan.

The RPF shall include the following information in a Confidential Archaeological Addendum with the proposed plan:

(1) Administrative Information which is not confidential and may be released to the public. This includes:

(A) The name, affiliation, address, and phone number of the archaeological surveyor.

(B) The name, affiliation, address, and phone number of the RPF, if different than the archaeological surveyor.

(C) The plan name ascribed by the RPF, plan number (if known), type, and approximate acreage.

(D) The county, legal description, and name of USGS 7.5′ Quad(s) within which the project is located.

(E) The date the CAA was completed.

(F) The name of the author of the CAA.

(G) The signature of the RPF or archaeological surveyor.

(2) Archaeological Records Check Information. A copy of the records check and written reply (including mapped information) from the Information Center shall be attached, or a justification as to why that is not possible shall be included.

(A) If the records check request and written reply from the Information Center are attached, no additional information is required.

(B) If the records check request and written reply from the Information Center are not attached, the following information shall be included:

(1) Justification why records check request and written reply could not be attached.

(2) The date the records check was conducted at the Information Center.

(3) The Information Center File Number.

(4) Summary of records check results discussing whether or not archaeological or historical sites are known or suspected to exist within the site survey area and whether or not the site survey area has a previous archaeological investigation on record.

(3) Results of notification to Native Americans pursuant to 14 CCR § 929.1(a)(2)(B). This shall include:

(A) An example of a notification letter and project maps submitted to Native American contacts.

(B) Copies of any written responses received from Native American contacts.

(C) A list of the individuals or groups that were provided written notification and the date of the Native American Contact List being used.

(D) Date the notification was sent.

(E) Results of the information request, specifically addressing the results of information received from the NAHC, if those results have been received.

(4) Results of notification to Native Americans of the existence of a Native American archaeological or cultural site on the plan, if required, pursuant to 14 CCR § 929.1(b).

(5) A list of the research done prior to field survey. This list shall include literature reviewed and persons contacted in addition to the required archaeological records check with Information Center and Native Americans, and a summary of the results of this research.

(6) Information on the current or previous archaeological surveyor(s), which is not confidential. This shall include:

(A) the name of the current archaeological surveyors and an indication of whether or not the person either meets the specifications of a professional archaeologist as defined in 14 CCR § 895.1 or meets the requirements specified in 14 CCR § 929.4.

(B) the name of any previous archaeological surveyors, if known.

(7) Description of archaeological survey methods and procedures including survey strategy, time spent conducting archaeological field survey, the date or dates the survey was conducted, survey coverage intensity, and ground visibility or other limitations.

(8) A list and description of all archaeological or historical sites identified within the site survey area including information on the site(s) size, type, and condition. The designations used in this listing of sites found shall be consistently used throughout the CAA.

(9) An Archaeological Coverage Map or maps prepared in accordance with the specifications identified in the definition of an Archaeological Coverage Map in 14 CCR § 895.1.

(10) A preliminary determination of significance of identified archaeological and historical sites, if damaging effects from timber operations cannot be avoided. This determination shall be based upon the criteria for a significant archaeological or historical site listed in 14 CCR § 895.1.

(11) Description of any specific enforceable protection measures to be implemented both within the site boundaries and within 100 feet of the site boundaries.

(12) Information concerning the proposed on–site meeting between the RPF or supervised designee familiar with on–site conditions and the LTO to discuss protection of archaeological and historical resources, if required, pursuant to 14 CCR § 929.2(b).

(13) Information concerning site recording requirements pursuant to 14 CCR § 929.1(d) and (g).

(14) Other applicable information, if any, concerning the archaeological survey for this project.

(15) List of attachments to the CAA.

(d) Site Records.

Upon submission of a plan, the RPF or the RPF's supervised designee shall submit completed site records for each site proposed to be a significant archaeological or historical site in a manner consistent with the recording standards identified in the State Office of Historical Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(e) Emergency Notice of 3 Acres Or More.

(1) Prior to submitting an Emergency Notice of three acres or more, the RPF:

(A) Shall ensure that an archaeological field survey is, or has been previously conducted by a professional archaeologist or person with archaeological training (pursuant to 14 CCR § 929.4) within the site survey area.

(2) Prior to submitting an Emergency Notice of three acres or more, the RPF or the RPF's supervised designee:

(A) Shall complete a current archaeological records check. This check may be conducted by telephone. If the Information Center is unable to provide the information within three business days following receipt of an RPF's request for an Emergency Notice records check, the records check requirement is waived.

(B) Shall submit a Confidential Archaeological Letter that includes the information required by 14 CCR § 929.1(c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 929.1(g) and 929.5.

(C) Shall send a copy of the Emergency Notice to Native Americans.

(f) Emergency Notice of Less Than 3 Acres.

(1) Prior to submitting an Emergency Notice of less than three acres, the RPF or the RPF's supervised designee shall:

(A) Conduct an archaeological survey for said area to determine whether it contains any significant archaeological sites using the criteria for a significant archaeological or historical site defined in 14 CCR § 895.1.

(B) Send a copy of the Notice to Native Americans.

(2) An archaeological records check, Confidential Archaeological Addendum, or Confidential Archaeological Letter, is not required.

(3) No timber operations shall occur within the boundaries of any significant archaeological or historical sites as determined by the RPF or the RPF's supervised designee.

(g) Submitting Archaeological and Historical Information to Information Centers.

Within 30 days following the Director's approval of a plan or acceptance of an Emergency Notice of three acres or larger, the Director shall send to the appropriate Information Center of the California Historical Resource Information System the following information provided by the RPF:

(1) a complete Confidential Archaeological Addendum which includes all changes and additions required in the plan review process and which identifies the plan number, or, for Emergency Notices of three acres or larger, a Confidential Archaeological Letter.

(2) two copies each of any completed archaeological or historical site records for:

(A) archaeological sites determined to be significant, or

(B) sites that a person elects to record, but for which no determination of significance has been made.

The records shall be completed by a person who satisfies the requirements specified in 14 CCR § 929.4 in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(3) The RPF or supervised designee shall ensure that the site records are completed in the manner specified in subsection (2).

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section and NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and section filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 929.2. Protection Measures for Plans and Emergency Notices 3 Acres and Larger.

(a)(1) The RPF shall describe in the separate Confidential Archaeological Addendum or Letter, measures to be taken to mitigate or avoid substantial adverse change to any known significant archaeological or historical sites.

(2) The RPF may propose, and the Director may agree to, site specific protection measures for any identified archaeological or historical site without evaluating the significance of the site. These proposed protection measures shall be designed to ensure protection of such archaeological

and historical sites from damaging effects. Avoidance of activities which will cause damaging effects is a preferred protection measure.

(b) The RPF or supervised designee familiar with on–site conditions shall meet with the LTO prior to the start of timber operations at each archaeological or historical site that is described in the plan or notice that requires avoidance or other protection measures and do the following:

(1) show the LTO the location, extent and boundaries of each archaeological or historical site requiring protection,

(2) discuss with the LTO the protection measures,

(3) apprise the LTO of the confidentiality requirements for any information concerning the physical location of archaeological or historical sites.

(c) If the RPF or supervised designee is unable to perform the duties in 14 CCR § 929.2(b), the RPF shall:

(1) explain the reasons in the emergency notice, plan, or as a minor amendment to the plan,

(2)(A) meet with the plan submitter, timberland owner, or their authorized agent, and review in the field, the items described in 14 CCR § 929.2(b),

(B) if the plan submitter, timberland owner, or their authorized agent will not comply with the RPF's or RPF's supervised designee's request for a meeting, the RPF shall notify the Director.

(3) except for an emergency notice, notify the plan submitter in writing that it is the plan submitter's responsibility to transfer the information in 14 CCR § 929.2(b) to the LTO per 1035(h),

(4) notify the Director in writing.

(d) The LTO shall not conduct timber operations within the boundaries of any archaeological or historical site identified in the CAA unless such operations are described in the CAA and made part of the plan approved by the Director.

(e) In the event that the CAA authorizes limited timber operations within the boundaries of archaeological or historical sites identified in the plan, the LTO and the RPF, if so stated in the plan, shall be responsible for ensuring that specific protection measures and timber operations are conducted in the manner described in the CAA.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21001, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading, repealer and new section, and amendment of NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and subsections (b), (c) and (c)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section heading and subsections (c), (c)(2) and (c)(3) and new subsections (d)–(e) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 929.3. Post Review Site Discovery.

If a person discovers a potentially significant archaeological or historical site after a plan, Emergency Notice, or Exemption is accepted by the Director, the following procedures apply:

(a) The person who made the discovery shall immediately notify the Director, LTO, RPF, or timberland owner of record.

(b) The person first notified in (a) shall immediately notify the remaining parties in (a).

(c) No timber operations shall occur within 100 feet of the identified boundaries of the new site until the plan submitter proposes, and the Director agrees to, protection measures pursuant to 14 CCR § 929.2.

(d) A minor deviation shall be filed to the plan. The minimum information provided shall include:

(1) A statement that the information is confidential.

(2) The mapped location of the site.

(3) A description of the site.

(4) Protection measures, and

(5) Site records, if site records are required pursuant to 14 CCR §§ 929.1(g)(2)(b) and 929.5.

(e) Upon receipt, the Director shall immediately provide the proposed minor deviation or portions of the minor deviation, to Native Americans when Native American archaeological or cultural sites are involved.

NOTE: Authority cited: Sections 4551, 4551.5, 4583.2 and 4591.1, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph and subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section and NOTE filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 929.4. Archaeological Training Requirements.

To meet the requirement of 14 CCR § 929.1, archaeological surveys of a plan or Emergency Notice areas for archaeological or historical sites shall be conducted only by a professional archaeologist or a person who has attended a training program approved by the Director within five years prior to submission of the plan or Emergency Notice. The training program must meet the following standards:

(a) The course shall use education materials approved by the Director which address the current regulations and procedures for the identification, recordation, and protection of archaeological and historical resources during timber operations.

(b) The course may require that the applicant demonstrate, in the field, and in a final written examination, the ability to conduct a record search, perform field identification, complete an archaeological site record, and to identify appropriate mitigation and protection measures for archaeological or historical sites covered in the course.

(c) The Director shall issue verification to all students that satisfactorily complete the training course.

(d) Following an individual's successful completion of an archaeological training course approved by the Director, he or she may enroll in a refresher training course, approved by the Director, to renew a 5–year archaeological training certification.

(e) The Director may conduct the archaeological training courses (in addition to or in–lieu of approving programs conducted by others) at least annually.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of first paragraph and subsections (a) and (b), new subsections (b) and (c), and subsection relettering filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of first paragraph and subsection (c) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 929.5. Site Recording.

The Director shall ensure that all archaeological or historical sites determined to be significant and located within the site survey area on plans, or Emergency Notices are recorded by the RPF or supervised designee in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference. The recording may also be done by a professional archaeologist or any person who has successfully completed appropriate training which is afforded or approved by the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 929.6. Protection of Sites During Timber Operations.

No person, except as otherwise permitted by law, who is involved in timber operations shall excavate, collect artifacts from, vandalize or loot archaeological or historical sites located within the THP, Emergency Notice or Exemption boundary.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 929.7. Determination of Significance.

(a) A determination of significance shall be made for an identified archaeological or historical site within the site survey area on a THP, or Emergency Notice by a person who satifies the requirements specified in 14 CCR 929.4 if damaging effects from timber operations cannot be avoided.

(b) The determination of significance shall:

(1) Be based upon criteria defined for significant archaeological or historical sites in 14 CCR 895.1

(2) Utilize any information provided by Native Americans, archaeological, historical or ethnographic data pertinent to the region and to the cultural resource, and the physical characteristics of the archaeological or historical site.

(c) If required by subsection (a), a preliminary determination of significance shall be made by the RPF or the RPF's supervised designee and provided in the Confidential Archaeological Addendum.

(d) Where the Director determines that timber operations may cause a substantial adverse change to a significant archaeological or historical site and the RPF and the Director cannot agree upon protection measures, a professional archaeologist provided by the THP submitter shall make a survey and prepare a report on the potentially affected site or sites and the potential impacts of the proposed timber operations. The part of the report that relates to archaeological sites is confidential. This report, if it discusses impacts on Native American archaeological sites, shall be provided by the Director to Native American and the NAHC. This report shall contain recommendations for mitigation, the elimination of impacts, or for the reduction of impacts to avoid or prevent substantial adverse change to significant archaeological or historical resources. The report shall meet the standards of the Preservation Planning Bulletin, Number 4, December 1989 (Office of Historic Preservation), entitled Archaeological Resource Management Reports (ARMR): Recommended Contents and Format. The Director shall make the final determination of significance and substantial adverse change based on advice of a professional archaeologist.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsections (a), (c) and (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Subchapter 5. Northern Forest District Rules*

*Regulations adopted by Board of Forestry.

Article 1. Introduction

§ 931. Statement of Purpose.

The purpose of these rules is to establish district forest practice rules and to establish standards in accordance with the policies set forth in Articles 1 and 4 of the Z'berg–Nejedly Forest Practice Act of 1973 (Sections 4511–4517 and 4551–4555 incl. of the Public Resources Code). Rules promulgated herein apply only to timberlands.

NOTE: Authority cited: Sections 740, 4531 and 4551, Public Resources Code. Reference: Sections 4512, 4513, 4531 and 4551.5, Public Resources Code.

HISTORY

1. Repealer of Subchapter 5 (Sections 931–940, not consecutive) and new Subchapter 5 (Sections 931–940, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For history of former Subchapter 5, see Register 78, Nos. 10 and 3; 76, Nos. 30 and 27; and 75, No. 30.
2. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

Article 2. Ratings and Standards

§ 932. Definitions of Terms.

NOTE: Authority cited: (Sections 932–932.7, not consecutive); Sections 4551, 4553, 4561.5, 4561.6, 4562 and 4562.5, Public Resources Code. Reference: Sections 4551.5, 4561, 4561.6, 4562 and 4562.7, Public Resources Code.

HISTORY

1. Amendment filed 9–9–88; operative 10–9–88 (Register 88, No. 38).
2. Amendment of definition of "Commercial species" adding coast redwood in Group A filed 5–9–91; operative 6–8–91 (Register 91, No. 26).
3. Amendment of "Commercial species" to include Pacific Yew filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
4. Repealer of "Lake," "Seed Tree," "Tractor roads and skid trails," and "Waterbreaks" filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
5. Pacific Yew under "Commercial species" repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
6. Editorial correction of HISTORY 2 (Register 95, No. 41).
7. Amendment of article heading, relocation of definitions in former section 932 to section 895.1 and repealer of section 932 filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 932.5. Procedure for Estimating Surface Soil Erosion Hazard Rating.

A proposed plan shall show the estimated erosion hazard ratings of the plan area, by areas, down to 20 acres (8.1 ha) if such a breakdown will change the estimated erosion hazard of the individual areas.

To estimate the erosion hazard rating of any plan or portion thereof, the RPF or supervised designee shall follow the procedures and requirements contained in Board Technical Rule Addendum #1, dated February 1, 1990. Appropriate weights for the factors in the Estimated Surface Soil Erosion Hazard, Form I, in the Addendum shall be calculated and the factors shall be summed to give the rating. A copy of the calculations from Form I shall be attached to the timber harvesting plan. A copy of the Board Technical Rule Addendum #1 can be obtained from the State Board of Forestry at the Resources Building, 1416 9th Street, Room 1506–14, Sacramento, CA 95814.

NOTE: Authority cited: Sections 4551 and 4562.5, Public Resources Code. Reference: Section 4562.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 7–2–82; designated effective 1–1–83 (Register 82, No. 27.)
2. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 932.7. Resource Conservation Standards for Minimum Stocking.

The following resource conservation standards constitute minimum acceptable stocking in the Northern Forest District after timber operations have been completed.

(a) Rock outcroppings, meadows, wet areas, or other areas not normally bearing commercial species shall not be considered as requiring stocking and are exempt from such provisions.

(b) An area on which timber operations have taken place shall be classified as acceptably stocked if either of the standards set forth in (1) or (2) below are met within five (5) years after completion of timber operations unless otherwise specified in the rules.

(1) An area contains an average point count of 300 per acre on Site I, II and III lands or 150 on Site IV and V lands, to be computed as follows:

(A) Each countable tree [Ref. PRC § 4528(b)] which is not more than 4 inches d.b.h. counts 1 point.

(B) Each countable tree over 4 inches and not more than 12 inches d.b.h. counts 3 points.

(C) Each countable tree over 12 inches d.b.h. counts 6 points.

(D) Sprouts over 1 foot in height will be counted, counting one sprout for each 6 inches or part thereof of stump diameter to a maximum of 4 per stump.

(2) The average residual basal area, measured in stems 1 inch or larger in diameter is at least 85 square feet per acre on Site I lands, and 50 square feet per acre on lands of Site II classification or lower. Site classification shall be determined by the RPF who prepared the plan.

(3) To the extent basal area standards are specified in the rules in excess of 14 CCR § 932.7(b)(2), up to 15 square feet of basal area of those standards higher than the minimum may be met by counting snags, and decadent or deformed trees of value to wildlife in the following sizes:

(A) 30 inches or greater dbh and 50 feet or greater in height on site I and II lands;

(B) 24 inches or greater dbh and 30 feet or greater in height on site III lands; and

(C) 20 inches or greater dbh and 20 feet or greater in height on site IV and V lands.

(c) The substitution provided for in 14 CCR § 932.7(b)(3) may only be done when the potential spread of insects and diseases will not have a significantly adverse impact on long term productivity or forest health.

(d) The resource conservation standards of the rules may be met with Group A and/or B commercial species. The percentage of the stocking requirements met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The site occupancy provided by Group A species shall not be reduced relative to Group B species. When considering site occupancy, the Director shall consider the potential long term effects of relative site occupancy of Group A species versus Group B species as a result of harvest. if Group A species will likely recapture the site after harvest, Group B species do not need to be reduced. The time frames for recapturing the site shall be consistent with achieving MSP. The Director may prohibit the use of Group A and/or B commercial species which are non-indigenous or are not physiologically suited to the area involved. Exceptions may be approved by the Director if the THP provides the following information and those exceptions are agreed to by the timberland owner:

(1) Explain and justify with clear and convincing evidence how using Group A nonindigenous, or Group B species to meet the resource conservation standards will meet the intent of the Forest Practice Act as described in PRC § 4513. The discussion shall include:

(A) the management objectives of the post-harvest stand;

(B) a description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage can be measured by using point-count, basal area, stocked plot, or other method agreed to by the Director.

(C) the percentage of the post-harvest stocking to be met with Group B species. Post harvest percentages will be determined on the basis of stocked plots. Only the methods provided by 14 CCR §§ 1070-1075 shall be used in determining if the standards of PRC § 4561 have been met.

(D) a description of what will constitute a countable tree, as defined by PRC § 4528 for a Group B species and how such a tree will meet the management objectives of the post-harvest stand.

The Director, after an initial inspection pursuant to PRC § 4604 shall approve use of Group B species, as exceptions to the pre-harvest basal area percentage standard, if in his judgement the intent of the Act will be met, and there will not be an immediate significant and long-term harm to the natural resources of the state.

NOTE: Authority cited: Sections 4551, 4553 and 4561.1, Public Resources Code. Reference: Sections 4561 and 4561.1, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 12-2-82 (Register 82, No. 49).
2. Editorial correction filed 8-29-84; effective thirtieth day thereafter (Register 84, No. 35).
3. Amendment filed 9-9-88; operative 10-9-88 (Register 88, No. 38).
4. Amendment of subsections (c)-(c)(1) filed 1-7-94; operative 3-1-94 (Register 94, No. 1).
5. Amendment of subsection (c) filed 5-16-94; operative 5-16-94 (Register 94, No. 20).
6. Amendment of subsections (b)(1)(A)-(B), new subsection (b)(3)-(c) and subsection relettering filed 11-14-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
7. Change without regulatory effect amending subsections (b)(3) and (c) filed 11-25-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 48).

§ 932.9. Cumulative Impacts Assessment Checklist.

STATE OF CALIFORNIA
BOARD OF FORESTRY
CUMULATIVE IMPACTS ASSESSMENT

(1) Do the assessment area(s) of resources that may be affected by the proposed project contain any past, present, or reasonably foreseeable probable future projects?

Yes____ No____

If the answer is yes, identify the project(s) and affected resource subject(s).

(2) Are there any continuing, significant adverse impacts from past land use activities that may add to the impacts of the proposed project?

Yes____ No____

If the answer is yes, identify the activities, describing their location, impacts and affected resource subject(s).

(3) Will the proposed project, as presented, in combination with past, present, and reasonably foreseeable probable future projects identified in items (1) and (2) above, have a reasonable potential to cause or add to significant cumulative impacts in any of the following resource subjects?

	Yes after mitigation (a)	No after mitigation (b)	No reasonably potential significant effects (c)
1. Watershed	_____	_____	_____
2. Soil Productivity	_____	_____	_____
3. Biological	_____	_____	_____
4. Recreation	_____	_____	_____
5. Visual	_____	_____	_____
6. Traffic	_____	_____	_____
7. Other	_____	_____	_____

a) Yes, means that potential significant adverse cumulative impacts are left after application of the forest practice rules and mitigations or alternatives proposed by the plan submitter.

b) No after mitigation means that any potential for the proposed timber operation to cause or add to significant adverse cumulative impacts by itself or in combination with other projects has been reduced to insignificance or avoided by mitigation measures or alternatives proposed in the THP and application of the forest practice rules.

c) No reasonably potential significant cumulative effects means that the operations proposed under the THP do not have a reasonable potential to join with the impacts of any other project to cause, add to, or constitute significant adverse cumulative impacts.

(4) If column (a) is checked in (3) above describe why the expected impacts cannot be feasibly mitigated or avoided and what mitigation measures or alternatives were considered to reach this determination. If column (b) is checked in (3) above describe what mitigation measures have been selected which will substantially reduce or avoid reasonably potential significant cumulative impacts except for those mitigation measures or alternatives mandated by application of the rules of the Board of Forestry.

(5) Provide a brief description of the assessment area used for each resource subject.

(6) List and briefly describe the individuals, organizations, and records consulted in the assessment of cumulative impacts for each resource subject. Records of the information used in the assessment shall be provided to the Director upon request.

BOARD OF FORESTRY
TECHNICAL RULE ADDENDUM NO. 2
CUMULATIVE IMPACTS ASSESSMENT

Introduction

The purpose of this addendum is to guide the assessment of cumulative impacts as required in 14 CCR 898 and 1034 that may occur as a result of proposed timber operations. This assessment shall include evaluation of both on–site and off–site interactions of proposed project activities with the impacts of past and reasonably foreseeable future projects.

In conducting an assessment, the RPF must distinguish between on–site impacts that are mitigated by application of the Forest Practice Rules and the interactions of proposed activities (which may not be significant when considered alone) with impacts of past and reasonably foreseeable future projects.

Resource subjects to be considered in the assessment of cumulative impacts are described in the Appendix.

The RPF preparing a THP shall conduct an assessment based on information that is reasonably available before submission of the THP. RPFs are expected to submit sufficient information to support their findings if significant issues are raised during the Department's review of the THP.

Information used in the assessment of cumulative impacts may be supplemented during the THP review period. Agencies participating in plan review may provide input into the cumulative impacts assessment based upon their area of expertise. Agencies should support their recommendations with documentation.

The Department, as lead agency, shall make the final determination regarding assessment sufficiency and the presence or absence of significant cumulative impacts. This determination shall be based on a review of all sources of information provided and developed during review of the Timber Harvesting Plan.

Identification of Resource Areas

The RPF shall establish and briefly describe the geographic assessment area within or surrounding the plan for each resource subject to be assessed and shall briefly explain the rationale for establishing the resource area. This shall be a narrative description and shall be shown on a map where a map adds clarity to the assessment.

Identification of Information Sources

The RPF shall list and briefly describe the individuals, organizations, and records used as sources of information in the assessment of cumulative impacts, including references for listed records and the names, affiliations, addresses, and phone numbers of specific individuals contacted. Records of information used in the assessment shall be provided to the Director upon request.

Common sources of information for cumulative effects assessment are identified below. Sources to be used will depend upon the complexity of individual situations and the amount of information available from other plans. Sources not listed below may have to be consulted based on individual circumstances. Not all sources of information need to be consulted for every THP.

1. Consultation with Experts and Organizations:

(a) County Planning Department; (b) Biologists;
(c) Geologists; (d) Soil Scientists;
(e) Hydrologists; (f) Federal Agencies;
(g) State Agencies; (h) Public and private utilities.

2. Records Examined:

(a) Soil Maps; (b) Geology Maps;
(c) Aerial Photographs; (d) Natural Diversity Data Base;
(e) THP Records; (f) Special Environmental Reports;
(g) Basin Plans; (h) Fire History Maps;
(i) Relevant Federal Agency Documents or Plans

As provided in Section 898 of the rules, the RPF or supervised designee and the plan submitter must consult information sources that are reasonably available.

Past and Future Activities

Past and future projects included in the cumulative impacts assessment shall be described as follows:

A. Identify and briefly describe the location of past and reasonably foreseeable probable future projects as defined in 14 CCR § 895.1 within described resource assessment areas. Include a map or maps and associated legend(s) clearly depicting the following information:

1. Township and Range numbers and Section lines.

2. Boundary of the planning watershed(s) within which the plan area is located along with the CALWATER 2.2 identification number.

3. Location and boundaries of past, present and reasonably foreseeable probable future timber harvesting projects on land owned or controlled by the timberland owner of the proposed timber harvest within the planning watershed(s) depicted in section (2) above. For purposes of this section, past projects shall be limited to those projects submitted within ten years prior to submission of the THP.

4. Silvicultural methods for each of the timber harvesting projects depicted in section (3) above. Each specific silvicultural method must be clearly delineated on the map(s), and associated THP number referenced in the legend or an annotated list. In addition, shading, hatching, or labeling shall be used which clearly differentiates silvicultural methods into one of the four categories outlined in Table 1.

5. A north arrow and scale bar (or scale text).

6. Source(s) of geographical information.

The map scale shall be large enough to clearly represent one planning watershed per page or of a scale not less than 1:63,360. Planning watersheds with densely situated or overlapping harvest units, or those which are large or irregular in size, may require multiple maps to achieve clarity. Map(s) shall be reproducible on black & white copiers, and submitted on an 8 1/2 x 11 page(s).

Table 1

Silvicultural Category	*Silvicultural Method*
Evenaged Management 14 CCR § 933.1	Clearcutting, Seed Tree Seed Step, Seed Tree Removal Step, Shelterwood Preparatory Step, Shelterwood Seed Step, Shelterwood Removal Step
Unevenaged Management 14 CCR § 933.2	Selection, Group Selection, Transition
Intermediate Treatments 14 CCR § 933.3	Commercial Thinning, Sanitation–Salvage
Special Prescriptions and Other Management 14 CCR § 933.4	Special Treatment Area Prescriptions, Rehabilitation of Understocked Area Prescription, Fuelbreak/Defensible Space, Southern Subdistrict Special Harvesting Method (14 CCR § 913.8), Variable Retention, Conversion

Alternative Prescriptions shall be put into the category within which the most nearly appropriate or feasible silvicultural method in the Forest Practice Rules is found pursuant to 14 CCR § 933.6(b)(3).

B. Identify and give the location and description of any known, continuing significant environmental problems caused by past projects as defined in 14 CCR § 895.1. The RPF who prepares the plan or supervised designee shall obtain information from plan submitters (timberland or timber owner), and from appropriate agencies, landowners, and individuals about past, and future land management activities and shall consider past experience, if any, in the assessment area related to past impacts and the impacts of the proposed operations, rates of recovery, and land uses.

A poll of adjacent land owners is encouraged and may be required by the Director to determine such activities and significant adverse environmental problems on adjacent ownerships.

Appendix

Technical Rule Addendum #2

In evaluating cumulative impacts, the RPF shall consider the factors set forth herein.

A. Watershed Resources

Cumulative Watershed Effects (CWEs) occur within and near bodies of water or significant wet areas, where individual impacts are combined to produce an effect that is greater than any of the individual impacts acting alone. Factors to consider in the evaluation of cumulative watershed impacts are listed below.

1. Impacts to watershed resources within the Watershed Assessment Area (WWA) shall be evaluated based on significant on–site and off–site cumulative effects on beneficial uses of water, as defined and listed in applicable Water Quality Control Plans.

2. Watershed effects produced by timber harvest and other activities may include one or more of the following:

- o Sediment.
- o Water temperature.
- o Organic debris.
- o Chemical contamination.
- o Peak flow.

The following general guidelines shall be used when evaluating watershed impacts. The factors described are general and may not be appropriate for all situations. Actual measurements may be required if needed to evaluate significant environmental effects. The plan must comply with the quantitative or narrative water–quality objectives set forth in an applicable Water Quality Control Plan.

a. Sediment Effects

Sediment–induced CWEs occur when earth materials transported by surface or mass wasting erosion enter a stream or stream system at separate locations and are then combined at a downstream location to produce a change in water quality or channel condition. The eroded materials can originate from the same or different projects. Potentially adverse changes are most likely to occur in the following locations and situations:

- Downstream areas of reduced stream gradient where sediment from a new source may be deposited in addition to sediment derived from existing or other new sources.
- Immediately downstream from where sediment from a new source is combined with sediment from other new or existing sources and the combined amount of sediment exceeds the transport capacity of the stream.
- Any location where sediment from new sources in combination with suspended sediment from existing or other new sources significantly reduces the survival of fish or other aquatic organisms or reduces the quality of waters used for domestic, agricultural, or other beneficial uses.
- Channels with relatively steep gradients which contain accumulated sediment and debris that can be mobilized by sudden new sediment inputs, such as debris flows, resulting in debris torrents and severe channel scouring.

Potentially significant adverse impacts of cumulative sediment inputs may include:

- Increased treatment needs or reduced suitability for domestic, municipal, industrial, or agricultural water use.
- Direct mortality of fish and other aquatic species.
- Reduced viability of aquatic organisms or disruption of aquatic habitats and loss of stream productivity caused by filling of pools and plugging or burying streambed gravel.
- Accelerated channel filling (aggradation) resulting in loss of streamside vegetation and stream migration that can cause accelerated bank erosion.
- Accelerated filling of downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors.
- Channel scouring by debris flows and torrents.
- Nuisance to or reduction in water related recreational activities.

Situations where sediment production potential is greatest include:

- Sites with high or extreme erosion hazard ratings.
- Sites which are tractor logged on steep slopes.
- Unstable areas.

b. Water Temperature Effects

Water temperature related CWEs are changes in water chemistry or biological properties caused by the combination of solar warmed water from two or more locations (in contrast to an individual effect that results from impacts along a single stream segment) where natural cover has been removed. Cumulative changes in water temperature are most likely to occur in the following situations:

- Where stream bottom materials are dark in color.
- Where water is shallow and has little underflow.
- Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more locations along a stream.
- Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more streams that are tributary to a larger stream.
- Where water temperature is near a biological threshold for specific species.

Significant adverse impacts of cumulative temperature increases include:

- Increases in the metabolic rate of aquatic species.
- Direct increases in metabolic rate and/or reduction of dissolved oxygen levels, either of which can cause reduced vigor and death of sensitive fish and other sensitive aquatic organisms.
- Increased growth rates of microorganisms that deplete dissolved oxygen levels or increased disease potential for organisms.
- Stream biology shifts toward warmer water ecosystems.

c. Organic Debris Effects

CWEs produced by organic debris can occur when logs, limbs, and other organic material are introduced into a stream or lake at two or more locations. Decomposition of this debris, particularly the smaller sized and less woody material, removes dissolved oxygen from the water and can cause impacts similar to those resulting from increased water temperatures. Introduction of excessive small organic debris can also increase water acidity.

Large organic debris is an important stabilizing agent that should be maintained in small to medium size, steep gradient channels, but the sudden introduction of large, unstable volumes of bigger debris (such as logs, chunks, and larger limbs produced during a logging operation) can obstruct and divert streamflow against erodible banks, block fish migration, and may cause debris torrents during periods of high flow.

Removing streamside vegetation can reduce the natural, annual inputs of litter to the stream (after decomposition of logging–related litter.) This can cause both a drop in food supply, and resultant productivity, and a change in types of food available for organisms that normally dominate the lower food chain of streams with an overhanging or adjacent forest canopy.

d. Chemical Contamination Effects

Potential sources of chemical CWEs include run–off from roads treated with oil or other dust–retarding materials, direct application or run–off from pesticide treatments, contamination by equipment fuels and oils, and the introduction of nutrients released during slash burning or wildfire from two or more locations.

e. Peak Flow Effects

CWEs caused by management induced peak flow increases in streams during storm events are difficult to anticipate. Peak flow increases may result from management activities that reduce vegetative water use or produce openings where snow can accumulate (such as clear–cutting and site preparation) or that change the timing of flows by producing more efficient runoff routing (such as insloped roads.) These increases, however, are likely to be small relative to natural peak flows from medium

and large storms. Research to date on the effects of management activities on channel conditions indicates that channel changes during storm events are primarily the result of large sediment inputs.

3. Watercourse Condition

The watershed impacts of past upstream and on–site projects are often reflected in the condition of stream channels on the project area. Following is a list of channel characteristics and factors that may be used to describe current watershed conditions and to assist in the evaluation of potential project impacts:

o Gravel Embedded – Spaces between stream gravel filled with sand or finer sediments. Gravel are often in a tightly packed arrangement.

o Pools Filled – Former pools or apparent pool areas filled with sediments leaving few areas of deep or "quiet" water relative to stream flow or size.

o Aggrading – Stream channels filled or filling with sediment that raises the channel bottom elevation. Pools will be absent or greatly diminished and gravel may be embedded or covered by finer sediments. Streamside vegetation may be partially or completely buried, and the stream may be meandering or cutting into its banks above the level of the former streambed. Depositional areas in aggrading channels are often increasing in size and number.

o Bank Cutting – Can either be minor or severe and is indicated by areas of fresh, unvegetated soil or alluvium exposed along the stream banks, usually above the low–flow channel and often with a vertical or undercut face. Severe bank cutting is often associated with channels that are downcutting, which can lead to over–steepened banks, or aggrading, which can cause the channel to migrate against slopes that were previously above the high flow level of the stream.

o Bank Mass Wasting – Channels with landslides directly entering the stream system. Slide movement may be infrequent (single events) or frequent (continuing creep or periodic events).

o Downcutting – Incised stream channels with relatively clean, uncluttered beds cut below the level of former streamside vegetation and with eroded, often undercut or vertical, banks.

o Scoured – Stream channels that have been stripped of gravel and finer bed materials by large flow events or debris torrents. Streamside vegetation has often been swept away, and the channel has a raw, eroded appearance.

o Organic Debris – Debris in the watercourse can have either a positive or negative impact depending on the amount and stability of the material. Some stable organic debris present in the watercourse helps to form pools and retard sediment transport and downcutting in small to medium sized streams with relatively steep gradients. Large accumulations of organic debris can block fish passage, block or divert streamflow, or could be released as a debris flow.

o Stream–Side Vegetation – Stream–side vegetation and near–stream vegetation provide shade or cover to the stream, which may have an impact on water temperature, and provides root systems that stabilize streambanks and floodplains and filter sediment from flood flows.

o Recent Floods – A recent high flow event that would be considered unusual in the project area may have an impact on the current watercourse condition.

B. Soil Productivity

Cumulative soil productivity impacts occur when the effects of two or more activities, from the same or different projects, combine to produce a significant decrease in soil biomass production potential. These impacts most often occur on–site within the project boundary, and the relative severity of productivity losses for a given level of impact generally increases as site quality declines.

The primary factors influencing soil productivity that can be affected by timber operations include:

o Organic matter loss.

o Surface soil loss.

o Soil compaction.

o Growing space loss.

The following general guidelines may be used when evaluating soil productivity impacts.

1. Organic Matter Loss

Displacement or loss of organic matter can result in a long term loss of soil productivity. Soil surface litter and downed woody debris are the store–house of long term soil fertility, provide for soil moisture conservation, and support soil microorganisms that are critical in the nutrient cycling and uptake process. Much of the chemical and microbial activity of the forest nutrient cycle is concentrated in the narrow zone at the soil and litter interface.

Displacement of surface organic matter occurs as a result of skidding, mechanical site preparation, and other land disturbing timber operations. Actual loss of organic matter occurs as a result of burning or erosion. The effects of organic matter loss on soil productivity may be expressed in terms of the percentage displacement or loss as a result of all project activities.

2. Surface Soil Loss

The soil is the storehouse of current and future site fertility, and the majority of nutrients are held in the upper few inches of the soil profile. Topsoil displacement or loss can have an immediate effect on site productivity, although effects may not be obvious because of reduced brush competition and lack of side–by–side comparisons or until the new stand begins to fully occupy the available growing space.

Surface soil is primarily lost by erosion or by displacement into windrows, piles, or fills. Mass wasting is a special case of erosion with obvious extreme effects on site productivity. The impacts of surface soil loss may be evaluated by estimating the proportion of the project area affected and the depth of loss or displacement.

3. Soil Compaction

Compaction affects site productivity through loss of large soil pores that transmit air and water in the soil and by restricting root penetration. The risk of compaction is associated with:

- Depth of surface litter.
- Soil organic matter content.
- Soil texture.
- Soil structure.
- Presence and amount of coarse fragments in the soil.
- Soil moisture status.

Compaction effects may be evaluated by considering the soil conditions, as listed above, at the time of harvesting activities and the proportion of the project area subjected to compacting forces.

4. Growing Space Loss

Forest growing space is lost to roads, landings, permanent skid trails, and other permanent or non–restored areas subjected to severe disturbance and compaction.

The effects of growing space loss may be evaluated by considering the overall pattern of roads, etc., relative to feasible silvicultural systems and yarding methods.

C. Biological Resources

Biological assessment areas will vary with the species being evaluated and its habitat. Factors to consider in the evaluation of cumulative biological impacts include:

1. Any known rare, threatened, or endangered species or sensitive species (as described in the Forest Practice Rules) that may be directly or indirectly affected by project activities.

Significant cumulative effects on listed species may be expected from the results of activities over time which combine to have a substantial effect on the species or on the habitat of the species.

2. Any significant, known wildlife or fisheries resource concerns within the immediate project area and the biological assessment area (e.g. loss of oaks creating forage problems for a local deer herd, species requiring special elements, sensitive species, and significant natural areas).

Significant cumulative effects may be expected where there is a substantial reduction in required habitat or the project will result in substantial interference with the movement of resident or migratory species.

The significance of cumulative impacts on non–listed species viability should be determined relative to the benefits to other non–listed species. For example, the manipulation of habitat results in conditions which discourage the presence of some species while encouraging the presence of others.

3. The aquatic and near–water habitat conditions on the THP and immediate surrounding area. Habitat conditions of major concern are:

- o Pools and riffles.
- o Large woody material in the stream.
- o Near–water vegetation.

Much of the information needed to evaluate these factors is described in the preceding Watershed Resources section. A general discussion of their importance is given below:

a. Pools and Riffles

Pools and riffles affect overall habitat quality and fish community structure. Streams with little structural complexity offer poor habitat for fish communities as a whole, even though the channel may be stable. Structural complexity is often lower in streams with low gradients, and filling of pools can reduce stream productivity.

b. Large Woody Material

Large woody debris in the stream plays an important role in creating and maintaining habitat through the formation of pools. These pools comprise important feeding locations that provide maximum exposure to drifting food organisms in relatively quiet water. Removal of woody debris can reduce frequency and quality of pools.

c. Near–Water Vegetation

Near–water vegetation provides many habitat benefits, including: shade, nutrients, vertical diversity, migration corridors, nesting, roosting, and escape. Recruitment of large woody material is also an important element in maintaining habitat quality.

4. The biological habitat condition of the THP and immediate surrounding area. Significant factors to consider are:

- o Snags/den trees
- o Downed, large woody debris
- o Multistory canopy
- o Road density
- o Hardwood cover
- o Late seral (mature) forest characteristics
- o Late seral habitat continuity

The following general guidelines may be used when evaluating biological habitat. The factors described are general and may not be appropriate for all situations. The THP preparer must also be alert to the need to consider factors which are not listed below. Each set of ground conditions are unique and the analysis conducted must reflect those conditions.

a. Snags/Den/Nest Trees: Snags, den trees, nest trees and their recruitment are required elements in the overall habitat needs of more than 160 wildlife species. Many of these species play a vital role in maintaining the overall health of timberlands. Snags of greatest value are > 16″ DBH and 20 feet in height. The degree of snag recruitment over time should be considered. Den trees are partially live trees with elements of decay which provide wildlife habitat. Nest trees have importance to birds classified as a sensitive species.

b. Downed large, woody debris: Large downed logs (particularly conifers) in the upland and near–water environment in all stages of decomposition provide an important habitat for many wildlife species. Large woody debris of greatest value consists of downed logs > 16″ diameter at the large end and > 20 feet in length.

c. Multistory canopy: Upland multistoried canopies have a marked influence on the diversity and density of wildlife species utilizing the area. More productive timberland is generally of greater value and timber site capability should be considered as a factor in an assessment. The amount of upland multistoried canopy may be evaluated by estimating the percent of the stand composed of two or more tree layers on an average per acre basis.

Near–water multistoried canopies in riparian zones that include conifer and hardwood tree species provide an important element of structural diversity to the habitat requirements of wildlife. Near–water multistoried canopy may be evaluated by estimating the percentage of ground covered by one or more vegetative canopy strata, with more emphasis placed on shrub species along Class III and IV streams (14 CCR 916.5, 936.5, or 956.5).

d. Road Density: Frequently traveled permanent and secondary roads have a significant influence on wildlife use of otherwise suitable habitat. Large declines in deer and bear use of areas adjacent to open roads are frequently noted. Road density influence on large mammal habitat may be evaluated by estimating the miles of open permanent and temporary roads, on a per–section basis, that receive some level of maintenance and are open to the public. This assessment should also account for the effects of vegetation screening and the relative importance of an area to wildlife on a seasonal basis (e.g. winter range).

e. Hardwood Cover: Hardwoods provide an important element of habitat diversity in the coniferous forest and are utilized as a source of food and/or cover by a large proportion of the state's bird and mammal species. Productivity of deer and other species has been directly related to mast crops. Hardwood cover can be estimated using the basal area per acre provided by hardwoods of all species.

Post–harvest deciduous oak retention for the maintenance of habitats for mule deer and other hardwood–associated wildlife shall be guided by the Joint Policy on Hardwoods between the California Board of Forestry and California Fish and Game Commission (5/9/94). To sustain wildlife, a diversity of stand structural and seral conditions, and tree size and age classes of deciduous oaks should be retained in proportions that are ecologically sustainable. Regeneration and recruitment of young deciduous oaks should be sufficient over time to replace mortality of older trees. Deciduous oaks should be present in sufficient quality and quantity, and in appropriate locations to provide functional habitat elements for hardwood–associated wildlife.

f. Late Seral (Mature) Forest Characteristics: Determination of the presence or absence of mature and over– mature forest stands and their structural characteristics provides a basis from which to begin an assessment of the influence of management on associated wildlife. These characteristics include large trees as part of a multilayered canopy and the presence of large numbers of snags and downed logs that contribute to an increased level of stand decadence. Late seral stage forest amount may be evaluated by estimating the percentage of the land base within the project and the biological assessment area occupied by areas conforming to the following definitions:

Forests not previously harvested should be at least 80 acres in size to maintain the effects of edge. This acreage is variable based on the degree of similarity in surrounding areas. The area should include a multi–layered canopy, two or more tree species with several large coniferous trees per acre (smaller subdominant trees may be either conifers or hardwoods), large conifer snags, and an abundance of large woody debris.

Previously harvested forests are in many possible stages of succession and may include remnant patches of late seral stage forest which generally conform to the definition of unharvested forests but do not meet the acreage criteria.

g. Late Seral Habitat Continuity: Projects containing areas meeting the definitions for late seral stage characteristics must be evaluated for late seral habitat continuity. The fragmentation and resultant isolation of late seral habitat types is one of the most significant factors influencing the sustainability of wildlife populations not adapted to edge environments.

This fragmentation may be evaluated by estimating the amount of the on–site project and the biological assessment area occupied by late seral stands greater than 80 acres in size (considering the mitigating influence of adjacent and similar habitat, if applicable) and less than one mile apart or connected by a corridor of similar habitat.

h. Special Habitat Elements: The loss of a key habitat element may have a profound effect on a species even though the habitat is otherwise suitable. Each species may have several key limiting factors to consider. For example, a special need for some large raptors is large decadent trees/ snags with broken tops or other features. Deer may have habitat with ade-

quate food and cover to support a healthy population size and composition but dependent on a few critical meadows suitable for fawning success. These and other key elements may need special protection.

D. Recreational Resources: The recreational assessment area is generally the area that includes the logging area plus 300 feet.

To assess recreational cumulative impacts:

1. Identify the recreational activities involving significant numbers of people in and within 300 feet of logging area (e.g., fishing, hunting, hiking, picnicking, camping).

2. Identify any recreational Special Treatment Areas described in the Board of Forestry rules on the plan area or contiguous to the area.

E. Visual Resources: The visual assessment area is generally the logging area that is readily visible to significant numbers of people who are no further than three miles from the timber operation. To assess visual cumulative effects:

1. Identify any Special Treatment Areas designated as such by the Board of Forestry because of their visual values.

2. Determine how far the proposed timber operation is from the nearest point that significant numbers of people can view the timber operation. At distances of greater than 3 miles from viewing points, activities are not easily discernible and will be less significant.

3. Identify the manner in which the public identified in 1 and 2 above will view the proposed timber operation (from a vehicle on a public road, from a stationary public viewing point or from a pedestrian pathway).

F. Vehicular Traffic Impacts: The traffic assessment area involves the first roads not part of the logging area on which logging traffic must travel. To assess traffic cumulative effects:

1. Identify whether any publicly owned roads will be used for the transport of wood products.

2. Identify any public roads that have not been used recently for the transport of wood products and will be used to transport wood products from the proposed timber harvest.

3. Identify any public roads that have existing traffic or maintenance problems.

4. Identify how the logging vehicles used in the timber operation will change the amount of traffic on public roads, especially during heavy traffic conditions.

NOTE: Authority cited: Sections 4551, 4551.9 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4551.9, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New section, Technical Rule Addendum #2, and Appendix filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
2. Editorial correction (Register 97, No. 48).
3. Amendment of section and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
5. Amendment of appendix technical rule addendum #2, paragraph c.4.e. filed 11–18–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 47).
6. Amendment filed 10–28–2004; operative 1–1–2005 (Register 2004, No. 44).

§ 932.10. Pacific Yew.

HISTORY

1. New section filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

Article 3. Silvicultural Methods

§ 933. Silvicultural Objectives.

The objectives of this article are to describe standard silvicultural systems and to provide for alternatives that when applied shall meet the objectives of the FPA (PRC 4512 and 4513). The RPF shall select systems and alternatives which provide for maximum sustained production of high quality timber products.

The THP shall designate one or a combination of regeneration methods, prescriptions or intermediate treatments described by this article. If a method, prescription or treatment not defined in the rules (see 14 CCR 895.1), is to be used an alternative prescription shall be included in the plan.

The assessment of maximum sustained production of high quality timber products is guided by:

(a) Regeneration methods, intermediate treatments and prescriptions described in the rules which establish standards. These methods, treatments, prescriptions, and standards shall not be utilized to permit harvesting of growing stock in a manner that will significantly delay reaching or maintaining maximum sustained production.

(b) Published yield tables or other tools which can be validated and which serve as a point of reference for evaluating and selecting silvicultural systems and their implementation.

(c) The Sustained Yield Plan. The SYP establishes the flow of forest products from managed timberlands, and shall demonstrate the achievement of maximum sustained production.

(d) An assessment of maximum sustained production of high quality timber products is not required for a harvest designated as, and meeting the definition of fuelbreak/defensible space under 14 CCR 913.4 [933.4, 953.4] Special Prescriptions. Because these lands are designated as defensible space areas, the wood production potential of these lands is compatible with the lowest site classifications and they shall be considered site IV timberland for stocking purposes.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5 and 4561, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
3. Amendment filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
4. New subsection (d) filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

§ 933.1. Regeneration Methods Used in Evenaged Management.

The following types of regeneration methods are designed to replace a harvestable stand with well spaced growing trees of commercial species. Evenaged management systems shall be applied with the limitations described by this rule:

(a) Timber stands harvested under an evenaged regeneration method shall meet the following standards:

(1) Where a regeneration step harvest of evenaged management will occur on stands younger than 50 years of age for Class I lands, 60 years of age for Class II and III lands, or 80 years of age for Class IV and V lands, or equivalent age of trees, based on height, as determined according to the appropriate site class, the RPF preparing the THP or SYP must demonstrate how the proposed harvest will achieve MSP pursuant to 14 CCR § 933.11(a) or (b) provided, however, that the Director may grant an exemption from this section based upon hardship.

(2) The regeneration harvest of evenaged management shall be limited to 20 acres for tractor yarding. Aerial or cable yarding may be 30 acres. Tractor yarding may be increased to 30 acres where the EHR is low and the slopes are < 30%. The RPF may propose increasing these acreage limits to a maximum of 40 acres, and the Director may agree where measures contained in the THP provide substantial evidence that the increased acreage limit does any one of the following:

(A) by using additional on–site mitigation measures, reduces the overall detrimental effects of erosion thereby providing better protection of soil, water, fish and/or wildlife resources; or

(B) provide for the inclusion of "long corners", or

(C) create a more natural logging unit by taking maximum advantage of the topography; or

(D) will increase long–term sustained yield; or

(E) provide feasible off–site mitigation measures that can be incorporated in the plan to restore or enhance previously impacted resource areas or other environmental enhancements that will result in demonstrable net environmental benefits within the planning watershed. These measures may include, but are not limited to, watercourse restoration, soil stabilization, road surface stabilization, road outsloping, road abandonment, road reconstruction, enhancement of wildlife habitats and vegetation management.

To qualify for an exemption, the plan submitter is not required to demonstrate that other feasible options are not available.

(3) Evenaged regeneration units within an ownership shall be separated by a logical logging unit that is at least as large as the area being harvested or 20 acres, whichever is less, and shall be separated by at least 300 feet in all directions.

(4) Within ownership boundaries, no logical logging unit contiguous to an evenaged management unit may be harvested using an evenaged regeneration method unless the following are met:

(A) The prior evenaged regeneration unit has an approved report of stocking, and the dominant and codominant trees average at least five feet tall or are at least five years of age from the time of establishment on the site, either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent evenaged management may occur.

(5) Except for the clearcut method, all trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to felling operations. A sample area shall be marked prior to a preharvest inspection. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type, and must be representative of the range of conditions present in the area. The marking requirement may be waived by the Director if the trees to be harvested are easily distinguished from the trees to be retained, when explained and justified by the RPF in the plan.

(6) Special consideration for aesthetic enjoyment shall be given to selection of silvicultural treatments and timber operations within 200 feet of the edge of the traveled surface of any permanent road maintained by the County or the State.

(7) Special consideration for aesthetic enjoyment and protection of adjacent stand vigor shall be given to the selection of silvicultural methods and timber operations within 200 feet of adjacent non–federal lands not zoned TPZ.

(b) Clearcutting. The clearcutting regeneration method involves the removal of a stand in one harvest. Regeneration after harvesting shall be obtained by direct seeding, planting, sprouting, or by natural seed fall. When practical, clearcuts shall be irregularly shaped and variable in size in order to mimic natural patterns and features found in landscapes. Site preparation and slash disposal measures, if necessary for successful regeneration, shall be described in the plan.

(c) Seed Tree. The seed tree regeneration method involves the removal of a stand in one harvest except for well distributed seed trees of desired species which are left singly or in groups to restock the harvested area. The seed step is utilized to promote natural reproduction from seed and to initiate the establishment of an evenaged stand. The removal step may be utilized to remove the seed trees after a fully stocked stand of reproduction has become established.

(1) Seed Tree Seed Step.

The seed tree seed step is the regeneration step and shall meet the following requirements:

(A) Retention of at least the following basal area of seed trees per acre which are 18 inches dbh or greater:

1. Fifteen square feet basal area on site I, II and III lands and

2. Twelve square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 150 feet from a seed tree.

(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 932.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

(2) Seed Tree Removal Step.

Not more than 15 predominant trees per acre may be removed in the seed tree removal step. Not more than 50 sq. ft. of basal area of predominant trees per acre may be removed in the seed tree removal step. The seed tree removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 932.7(b)(1). Regeneration shall not be harvested under the seed tree method unless the trees are dead, dying or diseased or substantially damaged during timber operations. The minimum stocking standards of 14 CCR § 932.7(b)(1) shall be met immediately upon completion of operations. The seed tree removal step shall only be used once in the life of the stand unless otherwise agreed to by the Director. If the extent and intensity of the soil and vegetation disturbance caused by the harvest is similar to what would have been caused by a clearcut, the size limitations, separation (spacing) by logical logging unit requirements, and yarding equipment limitations of 14 CCR § 933.1(a) are applicable.

(d) Shelterwood. The shelterwood regeneration method reproduces a stand via a series of harvests (preparatory, seed, and removal). The preparatory step is utilized to improve the crown development, seed production capacity and wind firmness of designated seed trees. The seed step is utilized to promote natural reproduction from seed. The removal step is utilized when a fully stocked stand of reproduction has become established, and this step includes the removal of the protective overstory trees.

The shelterwood regeneration method is normally utilized when some shade canopy is considered desirable for the establishment of regeneration.

(1) Shelterwood Preparatory Step. The shelterwood preparatory step shall meet the following minimum standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained.

1. Thirty square feet basal area on site I, II and III lands and

2. Twenty four square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

(C) Seed tree species shall be specified in the plan by the RPF.

(D) At least 100 square feet of basal area per acre on Site I lands, and 75 square feet of basal area per acre on Site II and III lands and 50 sq. ft. of basal area per acre on site IV and V lands shall be retained.

(E) The minimum stocking standards of 14 CCR § 932.7(b)(1) shall be met immediately upon completion of operations. Within six months following completion of work described in the plan, a report of stocking shall be filed as stated in PRC § 4587.

(2) Shelterwood Seed Step. The shelterwood seed step is the regeneration step and shall meet the following standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained

1. Thirty square feet basal area on site I, II and III lands and

2. Twenty four square feet basal area on site IV and V lands.

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The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 932.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

(3) Shelterwood Removal Step. The shelterwood removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 932.7(b)(1). Unless otherwise agreed to by the Director, the Shelterwood removal shall only be used once in the life of the stand. Regeneration shall not be harvested during the shelterwood removal step unless the trees are dead, dying or diseased or substantially damaged by timber operations. The minimum stocking standards of 14 CCR § 932.7(b)(1) shall be met immediately upon completion of operations.

If the extent and intensity of the ground disturbance caused by the harvest is essentially the same as would have been caused by a clearcut or will cause adverse cumulative effects on wildlife as determined by the RPF or Director the size limitations, and separation (spacing) by logical logging unit requirements, of 14 CCR § 933.1(a) are applicable unless the post–harvest stand, regardless of average diameter, meets the stocking standards of 14 CCR § 933.3(a)(1)(A) or (B).

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4582(h) and 4587, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
3. Editorial correction of subsection (b)(2) (Register 91, No. 28).
4. Amendment of section heading and section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
5. Repealer of emergency amendments filed 11–25–91 and reinstatement of prior text filed 9–22–92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
6. Amendment filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
7. Amendment of subsections (a)(1)–(2)(A), (a)(4)(A) and (d)(3) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
8. Amendment of subsection (a)(4)(A) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
9. Editorial correction of subsection (a)(2)(B) and restoring text inadvertently deleted from last paragraph (Register 96, No. 50).
10. Amendment of subsections (a)(5), (c)(1)(D) and (d)(2)(D) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
11. Editorial correction deleting last sentence (Register 99, No. 26).
12. Amendment filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).

§ 933.1.5. Regeneration Methods Used in Even–Aged Management and Limitations.

NOTE: Authority cited: Sections 4551, 4553, 4561, and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4561 and 4582(h), Public Resources Code.

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 933.2. Regeneration Methods Used in Unevenaged Management.

Unevenaged management is utilized to establish and maintain an unevenaged stand structure. Unevenaged management attributes include the establishment and/or maintenance of a multi–aged, balanced stand structure, promotion of growth on leave trees throughout a broad range of diameter classes, and encouragement of natural reproduction.

(a) Selection. Under the selection regeneration method, the trees are removed individually or in small groups sized from .25 acres to 2.5 acres.

(1) Trees to be harvested or trees to be retained shall be marked by or under the supervision of the RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area.

(2) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. In no cases shall stocking be reduced below the following standards:

(A) Selection System.

1. On Site I lands at least 100 square feet per acre of basal area shall be retained.

2. On Site II and III lands at least 75 square feet per acre of basal area shall be retained.

3. On Site IV and V lands at least 50 square feet per acre of basal area shall be retained.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 933.1(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(B) Group Selection.

1. At least 80% of the stocked plots must meet the Basal Area standards of 14 CCR § 933.2(a)(2)(A).

2. Not more than 20% of the stocked plots may meet stocking standards utilizing the 300 point count standard with trees that are at least 10 (ten) years old.

3. An RPF or supervised designee may offset up to 8 plots per 40 plots where those plot centers are initially placed within small group clearings created during the current harvest. Unless substantially damaged by fire, the RPF or supervised designee shall not exclude small group clearings created by previous timber harvesting from the stocking survey.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 933.11(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(3) Within any THP, small group clearings under the selection method shall be separated by a logical logging area.

(4) Following completion of timber operations (including site preparation) not more than 20 percent of the THP area harvested by this method shall be covered by small group clearings.

(5) Exceptions to stocking standards in 14 CCR § 933.2(a)(2) above may be granted only when proposed by the RPF and explained and justified in the plan, but in no case will the exceptions be less than those specified in 14 CCR § 932.7(b)(2). Exceptions may only be granted when the RPF clearly demonstrates that the existing stand will grow substantially less than both the potential site productive capacity and the proposed post harvest stand.

(b) Transition. The transition method may be used to develop an unevenaged stand from a stand that currently has an unbalanced irregular or evenaged structure. The transition method involves the removal of

trees individually or in small groups from irregular or evenaged stands to create a balanced stand structure and to obtain natural reproduction.

(1) Area for determination of preharvest seed tree retention levels shall be no greater than 20 acres in size.

(2) This method is to be used to increase stocking and improve the balance of age classes so as to allow the residual stand to be managed by the selection regeneration method. This method shall not be used more than two times for a stand. The RPF shall delineate areas previously treated by the transition method on the plan map.

(3) Stands suitable for the transition method contain adequate quantity and quality of seed producing trees to provide adequate regeneration for new age classes. Stands suitable for this method shall have no more than 50 sq. ft. of basal area greater than the selection basal area standards.

(4) Trees to be harvested or trees to be retained shall be marked by or under the supervision of a RPF before felling operations. A sample area must be marked before the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present.

(5) Immediately following the completion of timber operations, the minimum basal area standards in 14 CCR § 932.7(b)(2) shall be met.

(6) The post harvested residual stand shall contain at least 15 square feet of basal area per acre of seed trees at least 12 inches dbh or greater for timber sites I, II or III; or 12 square feet of basal area per acre of seed trees 12 inches dbh or greater for timber sites IV or V. Unless obviously stocked, these basal area requirements will be determined from sampling averaged across each harvested area required in 14 CCR § 933.2(b)(1). Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 933.11(a) or (b), where present in the preharvest stand, disease free, undamaged seed trees 18 inches dbh or greater shall be retained post harvest until the stand exceeds the minimum seed tree requirements of 14 CCR § 933.1(c)(1)(A). The seed trees shall be full crown, capable of seed production and representative of the best phenotypes available in the present stand.

(7) Following completion of timber operations (including site preparation) not more than 20 percent of the Plan area harvested by this method shall be occupied by small group clearings.

(8) The Plan Submitter must provide the Director sufficient information such as growth and stand description to demonstrate that the standards of the selection regeneration method will be met by the third and subsequent entries of Plan areas harvested by the transition method.

(c) Within six months following completion of timber operations conducted pursuant to the selection and transition methods as described in the plan, a report of stocking shall be filed as stated in PRC Section 4587.

(d) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material, and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4582(h) and 4587, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
3. Editorial correction of subsection (c) (Register 91, No. 28).
4. *Amendment of section heading and section filed 1–7–94*; operative 3–1–94 (Register 94, No. 1).
5. Amendment of subsections (a)(2)(A)4, (a)(2)(B)2 and 4 and (b)(5) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
6. Amendment of subsections (a)(2)(B)3. and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
7. Editorial correction of subsection (a)(2)(B)3. (Register 97, No. 48).
8. Amendment filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
9. New subsection (b)(1), subsection renumbering, amendment of newly designated subsections (b)(2)–(7), repealer of former subsections (b)(7)–(b)(7)(A), redesignation and amendment of former subsection (b)(7)(B) as new subsection (b)(8) and amendment of NOTE filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

§ 933.2.5. Even–Aged Size Limits.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Sections 4512, 4513, 4561, 4582(h) and 21001, Public Resources Code.

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 933.3. Intermediate Treatments.

(a) Commercial Thinning. Commercial thinning is the removal of trees in a young–growth stand to maintain or increase average stand diameter of the residual crop trees, promote timber growth, and/or improve forest health. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand.

(1) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. Generally stands will develop stand structures with considerably higher levels of basal area than provided in these minimum standards as stand age increases. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 inches DBH:

1. On Site I mixed conifer lands at least 125 sq.ft. per acre of basal area shall be left, and on Site I lands where greater than 50% of the basal area is pine, at least 100 square feet per acre of basal area shall be left.

2. On Site II mixed conifer lands at least 100 sq.ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 square feet per acre of basal area shall be left.

3. On Site III mixed conifer lands at least 75 sq.ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 square feet per acre of basal area shall be left.

4. On Site IV and V mixed conifer lands, at least 50 sq.ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 square feet per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees less than 14 inches DBH, a minimum of 100 trees per acre over 4 inches DBH shall be retained for site I, II and III. For site IV and V 75 trees per acre over 4 inches DBH shall be retained.

(2) Exceptions to these stocking standards may be proposed by the RPF when explained and justified in the plan, but in no case will the standards be below those specified in 14 CCR 932.7(b)(2).

(3) For stands harvested in compliance wit 14 CCR 933.3(a)(1)(A), the trees to be harvested or the trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. For all thinning proposals, a sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the thinning area up to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. The Director may waive the marking requirements for the remainder of the THP area when explained and justified in the THP.

(4) Within six months following completion of timber operations as described in the plan, a report of stocking shall be filed as stated in PRC Section 4587.

(b) Sanitation–Salvage. Sanitation is the removal of insect–attacked or diseased trees in order to maintain or improve the health of the stand. Salvage is the removal of only those trees which are dead, dying or deteriorating, because of the damage from fire, wind, insects, disease, flood or

other injurious agents. Salvage provides for the economic recovery of trees prior to a total loss of their wood product value. Sanitation and salvage may be combined into a single operation. The following requirements apply to the use of the sanitation–salvage treatment:

(1) The RPF shall estimate in the THP the expected level of stocking to be retained upon completion of operations.

(2) Immediately upon completion of operations, the area shall meet the stocking standards of 14 CCR 932.7(b) unless explained and justified in the plan. If stocking is to be met immediately following completion of timber operations, a report of stocking shall be filed within six months of completion. If this standard cannot be met, the area must be planted during the first planting season following completion of operations and the minimum stocking standards of 14 CCR 932.7(b)(1) must be met within 5 years following completion of operations.

(3) Trees to be harvested or trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the area, up to a maximum of 20 acres per stand type, whichever is less, which is representative of the range of conditions present in the area. The Director may waive the marking requirement for the remainder of the THP area when explained and justified in the THP.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4582(d), (h) and 4587, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. New subsection (c) filed 1–23–85; effective thirtieth day thereafter (Register 85, No. 4).
3. Change without regulatory effect of subsections (a)(2) and (c)(2) filed 5–24–89 (Register 89, No. 23).
4. Editorial correction of subsections (a)(2) and (c)(2)(B) (Register 91, No. 28).
5. Amendment filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. Editorial correction of subsections (a)(1)(B) and (b)(2) (Register 96, No. 50).
7. Amendment of subsections (a)(3) and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsections (a)(1)(A)1.–2. (Register 2005, No. 5).

§ 933.4. Special Prescriptions.

The following special harvesting methods are appropriate under certain conditions:

(a) Special Treatment Area Prescriptions. Special consideration in Special Treatment Areas shall be given to selection of a regeneration method or intermediate treatment compatible with the objectives for which the special area was established. Such areas shall be identified in the plan. To assure the integrity of legally designated historical and archaeological sites and legally designated ecological reserves, and that the objectives of the special treatment areas are met, the RPF and the Director may agree, after on–the–ground inspection, if requested by either party, on specific silvicultural and logging practices to protect such areas. The Director shall notify affected agencies or groups with expertise in the resource involved in the special treatment area of any such areas located during the THP review process.

(b) Rehabilitation for Understocked Area Prescription. Rehabilitation is a procedure for restoring and enhancing the productivity of commercial timberlands which do not meet the stocking standards in 14 CCR 952.7, prior to any timber operations. On such lands an area may be harvested provided it is restocked in accordance with Subsections (1) or (2). To facilitate restocking, a regeneration plan must be included in the THP. The regeneration plan shall include site preparation, method of regeneration, and other information appropriate to evaluate the plan.

(1) If the area meets the standards of 14 CCR 932.7 within five years of completion of timber operations, the area shall be considered acceptably stocked, or shall be considered acceptably stocked if it contains at least 10 planted countable trees for each tree harvested on sites I, II, and III, and 5 planted countable trees for each tree harvested on site IV and V.

(2) On understocked timber lands where no countable conifer trees are to be harvested and the broadleaf species are not designated for management, the area shall be planted to equal or exceed the stocking standards of 14 CCR 932.7(b)(1) and shall be considered acceptably stocked if within five years of completion of timber operations it contains at least an average point count of 150 of Group A species on all site classifications.

(c) Fuelbreak/Defensible Space. Where some trees and other vegetation and fuels are removed to create a shaded fuel break or defensible space in an area to reduce the potential for wildfires and the damage they might cause. Minimum stocking standards within the timber operating area shall be met immediately after harvest and shall be those found in 14 CCR 932.7. The RPF shall describe in the plan specific vegetation and fuels treatment, including timing, to reduce fuels to meet the objectives of the Community Fuelbreak area.

(d) Variable Retention. Variable retention is an approach to harvesting based on the retention of structural elements or biological legacies (trees, snags, logs, etc.) from the pre–harvest stand for integration into the post–harvest stand to achieve various ecological, social and geomorphic objectives. The major variables in the variable retention harvest system are retention types, densities, and spatial arrangement of retained structures; aggregated retention is the retention of structures or biological legacies as intact forest patches within the harvest unit; dispersed retention is the retention of structures or biological legacies in a dispersed or uniform pattern. Retained trees may be intended to become part of future stands managed by the Selection regeneration method. Retained trees are often designated as decadent tree or snag recruitment hence not ever intended for harvest. Regeneration after harvest outside of aggregated retention patches may be obtained by direct seeding, planting, sprouting, or by natural seedfall.

(1) In the plan, the RPF shall describe in sufficient detail to provide for review and evaluation: the trees and elements retained, the objectives intended to be achieved by retention, the distribution and quantity of retained trees, the intended time period of retention, and any potential future conditions or events the RPF believes would allow harvest of retained trees. The RPF may explain and justify, and the Director may approve a plan which indicates up to 50% of retained trees are intended for harvest during future Intermediate Treatments of the regenerated portion of the harvest area where such harvest(s) are consistent with stated Variable Retention objectives.

(2) The retention standards for Dispersed Retention shall be measured in average basal area per acre. Where retention is aggregated in groups (greater than or equal to one–tenth acre), percentage of harvest unit area shall be the standard. Sum of all areas within groups divided by harvest unit acres will be used to determine percentage of aggregated retention in the harvest unit. Area and trees located within any standard width WLPZ will be excluded from calculating retention.

(3) The following retention standards shall be met:

(A) Minimum dispersed Variable Retention standard is 20 percent of the Resource Conservation Standards basal area levels stated in 14 CCR § 932.7(b) (2), 10 percent of harvest area in aggregated retention or combinations thereof. Variable Retention harvests at the minimum retention level shall be limited to 30 acres.

(B) Table 1 shall be used for Determining the Maximum Size Harvest Area for Variable Retention. For areas with a combination of dispersed and aggregated retention types for determination of permissible unit size, the percentage of basal area in dispersed retention portions of the combination area may be reduced proportionately to the area in aggregated retention indicated in Table 1.

Table 1

Dispersed Retention	*Aggregated Retention*	*Maximum Size Harvest Area*
>20% of 932.7(b)(2)	>10% Area	30 Acres
>30% of 932.7(b)(2)	>15% Area	40 Acres
>35% of 932.7(b)(2)	>20% Area	60 Acres
>45% of 932.7(b)(2)	>25% Area	80 Acres
>55% of 932.7(b)(2)	>30% Area	120 Acres
>75% of 932.7(b)(2)	>40% Area	200 Acres

(C) Aggregated retention areas that conform to the definition of Late Succession Forest Stands under 14 CCR § 895.1, with the exception of the minimum 20 acre threshold size, may be counted as contributing 1.5 times the acres they actually occupy toward providing retention.

(D) Retention trees classified as Dunning's Class 3, 4, 5, or 7 which exceed the size standards of 14 CCR § 932.7 may be counted as contributing 1.5 times their actual basal area toward providing retention.

(E) Retention standards shall be met on each 20–acre maximum area(s) within each harvest unit. Retention standards may be met by either dispersed, aggregated or a combination of the two types of retention.

(F) Unless explained and justified by the RPF in the plan, and approved by the Director, no point within the harvest area where retention standards are met by dispersed retention shall be more than 300 feet from a retention tree.

(G) With the exception of 14 CCR § 933.4(d)(3)(J) below, the average height of dispersed retention trees shall be at least (the average height of dominants and codominants of like species in the pre–harvest stand.

(H) For areas where the plan relies on natural seedfall to obtain regeneration, dispersed retention trees shall meet the standards of 14 CCR § 933.1(c)(1). Where retention is aggregated, retained aggregates shall meet the standards of Commercial Thinning required under 14 CCR § 933.3(a) including (a)(1)(A) or (a)(1)(B).

(I) Where specific WHR habitat elements are insufficient to provide functional wildlife habitat, the RPF may explain and justify and the Director may approve alternatives to the standards of subsections 14 CCR § 933.4(d)(3)(G) and (H).

(J) Decadent and Deformed Trees of Value to Wildlife, and Snags which meet the standards of 14 CCR § 932.7(b)(3)(A,B or C) and 14 CCR § 932.7(c) may be counted to meet up to 15 square feet of basal area per acre of retention in excess of the minimum variable retention standards (ref. 14 CCR § 933.4(d)(3)(A)).

(K) Trees shall be retained for at least 50 years unless a shorter period of time is described in the plan, explained and justified by the RPF, and approved by the Director.

(4) Retention standards shall be met immediately after harvest and if retention trees are to be used to meet stocking, at the time the stocking report is approved.

(5) The stocking standards of 14 CCR § 932.7(b)(1) within five years following completion of operations.

(6) Retention trees shall be protected to the extent feasible during timber operations consistent with 14 CCR §§ 934.1; 934.2(e); 934.3; 935.2; 935.3 and 937.7.

(7) The plan shall indicate the estimated average pre–harvest and post–harvest basal area by species and diameter class. Diameter class designations shall be grouped in no greater than 6″ classes.

(8) Where retention is aggregated in groups, the RPF shall provide in the plan a general description of group locations and/or a map showing the approximate location of the groups. This information shall be provided for each logging unit.

(9) All trees to be harvested or all retention trees shall be marked by, or under the supervision of, an RPF prior to felling operations. Where timber harvesting does not occur within retained aggregates, the boundaries of retained aggregates may be designated in lieu of marking individual trees within retained aggregates. A sample area must be marked prior to a pre–harvest inspection for evaluation. The sample area shall include at least 10% of the harvest area for each stand type represented in the range of conditions present in the area. Where necessary to evaluate the proposed retention, the Director may require additional marking before plan approval.

(10) To facilitate restocking, a regeneration plan must be included in the plan. The regeneration plan shall include site preparation, method of regeneration, and other information appropriate to evaluate the plan. Site preparation activities shall be designed to protect retention elements and maintain ground cover to the extent practicable while at the same time result in seedling establishment on the site and encourage long–term site occupancy of the regenerated trees.

(11) Another Variable Retention harvest may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report except as specified in: (i) a THP that has been approved pursuant to 14 CCR § 933.11(a), (ii) an SYP, (iii) a PTEIR or, (iv) an NTMP).

(12) Within ownership boundaries, no logical logging unit contiguous to a previously harvested Variable Retention harvest area may be harvested by a Variable Retention method unless the previously harvested Variable Retention unit has an approved report of stocking and the dominant and codominant trees, not counting retention trees, average at least five years of age or average at least five feet tall and three years of age from the time of establishment on the site either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent Variable Retention management may occur.

(13) A Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report.

(14) Within an ownership, at least 10 years must pass after a Variable Retention harvest that exceeds the size standards of 14 CCR § 933.1(a)(2) before a Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may occur in an adjacent logical harvest area.

(15) Within an ownership, the separation requirements and adjacency limitations of 14 CCR § 933.1(a)(3, 6 and 7) shall apply equally to Variable Retention harvest areas and evenaged regeneration units.

(16) Alternative Prescriptions proposed under 14 CCR § 933.6 may not reference Variable Retention as the most nearly feasible method (ref. 14 CCR § 933.6(b)(3 and 4)). Alternative Prescriptions which approach but do not fully meet the minimum standards of Variable Retention shall be considered Alternatives to a Regeneration Method Used in Evenaged Management.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Section 4582.5, Public Resources Code.

HISTORY

1. Editorial correction (Register 78, No. 45).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Amendment of subsection (a) and NOTE filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
4. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
5. New subsection (c) filed 11–19–97; operative 1–1–98 (Register 97, No. 47).
6. New subsections (d)–(d)(16) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).

§ 933.5. Stocking Status.

Under any regeneration method where artificial regeneration is specified in the plan to restock the logged area, a preliminary report on the degree of stocking shall be submitted to the Director annually, between October 1 and December 31, beginning two years following completion of

logging by the timber owner or his/her agent until the stocking standard of 14 CAC 932.7 is met or exceeded or as otherwise required. This report shall indicate the degree of stocking achieved and any additional measures to be taken to stock the logged area.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4587 and 4588, Public Resources Code.

HISTORY

1. Amendment filed 2–27–80; effective thirtieth day thereafter (Register 80, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

§ 933.6. Alternative Prescription.

(a) An alternative prescription shall be included in a THP when, in the judgment of the RPF, an alternative regeneration method or intermediate treatment offers a more effective or more feasible way of achieving the objectives of Section 933 than any of the standard silvicultural methods provided in this Article.

(b) An alternative prescription, as defined in 14 CAC 895.1, shall normally contain at least the following information:

(1) A description of the stand before timber operations, including:

(A) The RPF's professional judgment of the species composition of the stand before harvest.

(B) The RPF's professional judgment of the current stocking on the area expressed in basal area or a combination of basal area and point count.

(C) The RPF's estimate of the basal area per acre to be removed from the stand during harvest.

(2) A description of stand management constraints such as animal, insect, disease, or other natural damage, competing vegetation, harsh site conditions, or other problems which may affect stand management.

(3) A statement of which silvicultural method in the current District rules is most nearly appropriate or feasible and an explanation of why it is not appropriate or feasible.

(4) An explanation of how the proposed alternative prescription will differ from the most nearly feasible method in terms of securing regeneration; protection of soil, water quality, wildlife habitat, and visual appearance; and in terms of fire, insect and disease protection.

(5) A description of the stand expected after completion of timber operations, including the following:

(A) The management objective under which the post–harvest stand is to be managed (even–aged, uneven–aged, or neither);

(B) The desired tree species composition of the post–harvest stand and the RPF's judgment as to the remaining stocking after harvest expressed as basal area or a combination of basal area and point count.

(6) The treatment of the stand to be used in harvesting including:

(A) The guidelines to be used in determining which trees are to be harvested or left;

(B) The type of field designation to be followed, such as marking, sample marking of at least 20 percent of the trees to be harvested or left, professional supervision of fallers or other methods; and

(C) The site preparation and regeneration method and time table to be used for restocking.

(c) If an alternative prescription will have the practical on–the–ground effect of a clearcut, regardless of name or description, then the acreage limitations, and requirement for separation by a typical logging unit, yarding equipment limitations, exceptions and stocking requirements for the clearcut regeneration method shall apply.

(d) All trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to harvest. A sample area must be marked prior to the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. The Director may waive the requirements for the remainder of the area when explained and justified by the RPF in the THP.

(e) The Director shall approve the alternative if in his judgment it complies with 14 CCR 898 and if, considering the entire area to which the alternative is to be applied, it would: (1) when compared with the standard most closely related method identified in subsection (b)(3) above have the effect equal to or more favorable than such standard method would achieve in the areas of values relating to soil, the quality and beneficial uses of water, wildlife and fisheries,

(2) not create a significant adverse change in range and forage, and recreation and aesthetic values; and

(3) not reduce the after harvest stocking standards or evenaged prescription limitation below the most closely associated standard, unless the RPF demonstrates that either:

(A) the harvest will result in stand conditions that will increase long term sustained yield as compared to the long term sustained yield achieved by utilizing the stocking standards of the method identified in subsection (b)(3); or

(B) the yield over 20 years of a "No Harvest" alternative would be less than the yield over 20 years of the proposed alternative.

(4) not lead to the direct or indirect conversion of the timberland to other land uses not associated with timber growing and harvesting and compatible uses unless a timberland conversion permit is approved before submission of the THP; and

(5) not result in violations of any of the other standards in the rules of the Board.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5 and 4561, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Repealer of subsection (d) and new subsections (d)–(e)(5) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
3. Amendment of subsections (e), (e)(1), (3) and (4) and new subsection (e)(3)(B) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
4. Editorial correction implementing action described in HISTORY 3 (Register 96, No. 50).
5. Amendment of subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of subsection (d) (Register 97, No. 48).
7. Editorial correction of subsection (b)(5)(A) (Register 99, No. 26).

§ 933.7. Exceptions.

The requirements of this article shall not prohibit the timber operator from cutting or removing trees for purposes of:

(a) Clearing the rights–of–way, log landings, campsites, or firebreaks necessary for the conduct of timber operations.

(b) The harvesting of Christmas trees and construction of an integral part of a public fire protection agency fuelbreak are also permitted.

NOTE: Authority cited: Section 4551, Public Resources Code, Reference: Section 4584, Public Resources Code.

HISTORY

1. Repealer of former Section 933.7 and renumbering of Section 933.9 to Section 933.7 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3). For prior history, see Register 79, No. 9.
2. Amendment filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

§ 933.8. Report of Stocking.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4587 and 4590, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

§ 933.9. Exceptions.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4584, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Renumbering of Section 933.9 to Section 933.7 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

§ 933.10. Timberland Productivity.

The goal of this section is to restore, enhance and maintain the productivity of the state's timberlands, where feasible.

(a) Where feasible, the productivity of timberlands shall be maintained on a site–specific basis by

(1) meeting the stocking standards of the selected silvicultural or regeneration method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY) that is proposed in 913.11 a or b.

(2) proposing and implementing an appropriate silvicultural system and regeneration method for the site,

(3) protecting the soil resource and its ability to grow commercial tree species and provide sustainable associated forest values.

(b) Timberland productivity is restored by mitigating the adverse effects of catastrophic events or previous land use activities in order to improve the site capacity to grow for harvest commercial tree species and provide forest values.

(c) Timberland productivity is enhanced by such means as planting, thinning, stand manipulation, stream channel improvement, or other techniques that will lead to increased tree growth and yield, accumulation of growing stock and production of associated forest values.

(d) Measures implemented to mitigate or avoid adverse environmental impacts of timber harvesting contribute to restoration and enhancement of timberland productivity. Plan submitters are encouraged, but not required, to undertake additional measures to restore and enhance timberland productivity. CDF may advise plan submitters of measures which could be undertaken at the plan submitters' option to further restore and enhance timberland productivity.

(e) This section does not impose any additional obligation on owners of timberlands where wildfires, insects, disease, wind, flood, or other blight caused by an act of nature reduces stocking levels below any applicable stocking requirements.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 94, No. 1.
2. Editorial correction implementing action described in HISTORY 1 (Register 96, No. 50).

§ 933.11. Maximum Sustained Production of High Quality Timber Products.

The goal of this section is the achieve Maximum Sustained Production of High Quality Timber Products (MSP). MSP is achieved by meeting the requirements of either (a) or (b) or (c) in a THP, SYP or NTMP, or as otherwise provided in Article 6.8.

(a) Where a Sustained Yield Plan (14 CCR § 1091.1) or Nonindustrial Timber Management Plan (NTMP) has not been approved for an ownership, MSP will be achieved by:

(1) Producing the yield of timber products specified by the landowner, taking into account biologic and economic factors, while accounting for limits on productivity due to constraints imposed from consideration of other forest values, including but not limited to, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment.

(2) Balancing growth and harvest over time, as explained in the THP for an ownership, within an assessment area set by the timber owner or timberland owner and agreed to by the Director. For purposes of this subsection the sufficiency of information necessary to demonstrate the balance of growth and harvest over time for the assessment area shall be guided by the principles of practicality and reasonableness in light of the size of the ownership and the time since adoption of this section using the best information available. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield.

(3) Realizing growth potential as measured by adequate site occupancy by species to be managed and maintained given silvicultural methods selected by the landowner.

(4) Maintaining good stand vigor.

(5) Making provisions for adequate regeneration. At the plan submitters option, a THP may demonstrate achievement of MSP pursuant to the criteria established in (b) where an SYP has been submitted but not approved.

(b) Where a SYP or NTMP is submitted for an ownership, an approved SYP or NTMP achieves MSP by providing sustainable harvest yields established by the landowner which will support the production level of those high quality timber products the landowner selects while at the same time:

(1) meeting minimal stocking, and basal area standards for the selected silvicultural methods as provided in these rules as described;

(2) protecting the soil, air, fish and wildlife, water resources and any other public trust resources;

(3) giving consideration to recreation, range and forage, regional economic vitality, employment and aesthetic enjoyment;

(4) balancing growth and harvest over time. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield. A THP which relies upon and is found to be consistent with an approved SYP shall be deemed adequate to achieve MSP.

(c) In a THP or NTMP, MSP is achieved by:

(1) for evenage management, meeting the minimum stand age standards of 14 CCR § 933.1(a)(1), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules; or

(2) for unevenaged management, complying with the seed tree retention standards pursuant to 14 CCR §§ 933.1(c)(1)(A) or 933.2(b)(6), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules.

(3) for intermediate treatments and special prescriptions, complying with the stocking requirements of the individual treatment or prescription.

(4) Timberland ownerships totaling 50,000 acres or less may use subsection (c) to show MSP.

(5) Timberland ownerships of 50,000 acres or more may use subsection (c) through December 31, 1999. Thereafter they may use subsection (c) if an SYP or demonstration of achievement of MSP pursuant to 14 CCR § 933.11(a) has been filed with the department and has not been returned unfiled or approved.

(6) For scattered parcels on timberland ownerships of 50,000 acres or more, subsection (c) may be used to show MSP.

NOTE: Authority cited: Sections 4551 and 4554.5, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Repealed by operation of Government Code section 11346.1. New section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 92, No. 25.
2. Editorial correction of subsections (c)(1) and (c)(2) (Register 96, No. 46).
3. Amendment of subsections (c)(4) and (c)(5) and amendment of NOTE filed 11–13–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 46).
4. Amendment of first paragraph filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
5. Editorial correction inserting inadvertently omitted last paragraph (Register 96, No. 48).
6. Amendment of subsection (c)(5) and new subsection (c)(6) filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
7. Amendment of subsection (c)(5) filed 11–18–98; operative 1–1–99 (Register 98, No. 47).
8. Amendment of subsections (a), (c)(1)–(2) and (c)(5) filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

Article 4. Harvesting Practices and Erosion Control

§ 934. Purposes.

Timber operations shall be conducted to: meet the goal of maximum sustained production of high quality timber products; to minimize breakage of merchantable timber; prevent unreasonable damage to residual trees, fish and wildlife habitat as identified in the THP or contained in the rules, reproduction, and riparian vegetation; to prevent degradation of the quality and beneficial uses of water; and to maintain site productivity by minimizing soil loss. The following provisions shall be applied in a manner which achieves this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: 33 U.S.C.A. Section 1288; Sections 4512, 4513, 4514.3, 4527, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Repealer of Article 4 (Sections 934–934.6) and new Article 4 (Sections 934–934.9 not consecutive) filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32). For prior history, see Register 79, No. 9).
2. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).

§ 934.1. Felling Practices.

The following standards are applicable to felling practices:

(a) To the fullest extent possible and with due consideration given to topography, lean of trees, landings, utility lines, local obstructions, and safety factors, trees shall be felled to lead in a direction away from watercourses and lakes.

(b) Desirable residual trees and tree seedlings of commercial species, and those oak trees requiring protection pursuant to 14 CAC 953.10 shall not be damaged or destroyed by felling operations, except where unavoidable due to safety factors, lean of trees, location of obstructions or roads, or lack of sufficient openings to accommodate felled trees.

(c) Trees shall be felled in conformance with watercourse and lake protection measures incorporated in timber harvesting plans and consistent with Article 6 of these rules.

(d) Felling practices shall conform to requirements of 914.4, 934.4, 954.4 to protect bird nesting sites.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5 and 4562.7, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, 4581, 4582 and 4582.5, Public Resources Code.

[The next page is 299.]

§ 934.2. Tractor Operations.

The following standards are applicable to tractor operations:

(a) Tractor operations shall be conducted in a manner which complies with 14 CCR 934.

(b) Tractor, or other heavy equipment which is equipped with a blade, shall not operate on skid roads or slopes that are so steep as to require the use of the blade for braking.

(c) Tractor roads shall be limited in number and width to the minimum necessary for removal of logs. When less damage to the resource specified in 14 CCR 934 will result, existing tractor roads shall be used instead of constructing new tractor roads. The RPF may propose exceptions for silvicultural reasons when explained and justified in the THP.

(d) Heavy equipment shall not operate on unstable areas. If such areas are unavoidable, the RPF shall develop specific measures to minimize the effect of operations on slope instability. These measures shall be explained and justified in the plan and approved by the Director, and must meet the requirements of 14 CCR 934.

(e) Slash and debris from timber operations shall not be bunched adjacent to residual trees required for silvicultural or wildlife purposes or placed in locations where they could be discharged into a Class I or II watercourse, or lake.

(f) Tractor operations shall be subject to the following limitations:

(1) Heavy equipment shall be prohibited where any of the following conditions are present:

(i) slopes steeper than 65%

(ii) slopes steeper than 50% where the erosion hazard rating is high or extreme

(iii) slopes over 50% which lead without flattening to sufficiently dissipate water flow and trap sediment before it reaches a watercourse or lake.

(2) On slopes between 50 percent and 65 percent where the erosion hazard rating is moderate, and all slope percentages are for average slope steepness based on sample areas that are 20 acres, or less if proposed by the RPF or required by the Director, heavy equipment shall be limited to:

(i) existing tractor roads that do not require reconstruction, or

(ii) new tractor roads that have been flagged by an RPF or supervised designee prior to use.

(3) The RPF may propose exceptions to the limitations on tractor operations described above if the proposed exception will comply with 14 CCR 934, and if the THP both clearly explains the proposed exception and justifies why application of the standard rule is either not feasible, or would not comply with 14 CCR 934. The location of tractor roads to be used under such exceptions shall be flagged prior to the pre–harvest inspection or, when a pre–harvest inspection is not required, prior to the start of timber operations.

(g) Where tractor roads are constructed, timber operators shall use tractor roads only, both for skidding logs to landings and on return trips.

(h) Timber operators shall exercise due diligence so that desirable residual trees and seedlings will not be damaged or destroyed in tractor operations.

(i) Where waterbreaks cannot effectively disperse surface runoff, other erosion controls shall be installed as needed.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsection (d) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
3. New subsection (i) filed 9–23–91; operative 9–23–91 (Register 92, No. 25).
4. Amendment of subsections (d) and (f)–(f)(3) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
5. Amendment of subsection (f)(2)(ii) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 934.3. Cable Yarding.

The following standards are applicable to cable yarding:

(a) Due diligence shall be exercised in the installing, and operating, of cable lines so that residual trees will not incur unreasonable damage by such installation or use.

(b) Residual trees required to be left upon completion of timber operations shall not be used for rub trees, corner blocks, rigging or other cable ties unless effectively protected from damage.

(c) The practice of tight–lining for the purpose of changing location of cable lines is prohibited unless such practice can be carried on without damaging residual trees.

(d) Cable yarding settings shall take maximum advantage of the natural topography and timber types so that yarding operations will protect residual trees.

(e) Tractors shall not be used in areas designated for cable yarding except to pull trees away from streams, to yard logs in areas where deflection is low, where swing yarding is advantageous, to construct firebreaks and/or layouts, and to provide tail–holds. Such exception(s) shall be explained and justified in the THP, and require Director's approval.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (e) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 934.5. Servicing of Logging Equipment, Disposal of Refuse, Litter, Trash and Debris.

The following standards shall be adhered to in servicing logging equipment and disposing of refuse, litter, trash and debris:

(a) Equipment used in timber operations shall not be serviced in locations where servicing will allow grease, oil, or fuel to pass into lakes or watercourses.

(b) Non–biodegradable refuse, litter, trash, and debris resulting from timber operations, and other activity in connection with the operations shall be disposed of concurrently with the conduct of timber operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 934.6. Waterbreaks *[Effective until 1–1–2000]*.

The following standards are applicable to the construction of waterbreaks:

(a) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations, except as otherwise provided for in the rules.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient*				*Metric Measure Road or Trail Gradient*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.35	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

The appropriate waterbreak spacing shall be based upon the erosion hazard rating and road or trail gradient.

(d) Cable roads that are so deeply cut as to divert and carry water away from natural drainage patterns for more than 100 feet shall have waterbreaks installed on them at 100 feet intervals, or other appropriate erosion control measures may be applied if specified in the plan.

(e) Waterbreaks shall be installed at all natural watercourses on tractor roads and firebreaks regardless of the maximum distances specified in this section except where permanent drainage facilities are provided.

(f) Waterbreaks shall be located to allow water to be discharged into some form of vegetative cover, duff, slash, rocks, or less erodible material wherever possible, and shall be constructed to provide for unrestricted discharge at the lower end of the waterbreak so that water will be discharged and spread in such a manner that erosion shall be minimized. Where waterbreaks cannot effectively disperse surface runoff, including where waterbreaks on roads and skid trail cause surface run–off to be concentrated on downslopes, roads or skid trails, other erosion controls shall be installed as needed to comply with 14 CCR 934.

(g) Waterbreaks shall be cut diagonally a minimum of 15.2 cm (6 inches) into the firm roadbed, cable road, skid trail or firebreak surface and shall have a continuous firm embankment of at least 15.2 cm (6 inches) in height immediately adjacent to the lower edge of the waterbreak cut. In the Southern Subdistrict of the Coast Forest District, on truck roads having firmly compacted surfaces, waterbreaks installed by hand methods need not provide the additional 15.2 cm (6 inch) embankment provided the waterbreak ditch is constructed so that it is at least 15.2 cm (6 inches) deep and 15.2 cm (6 inches) wide on the bottom and provided there is ample evidence based on slope, material amount of rainfall, and period of use that the waterbreaks so constructed will be effective in diverting water flow from the road surface without the embankment.

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8–9–90; operative 9–10–90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17). *Text of version effective through 12–31–99 retained for reference.*

§ 934.6. Waterbreaks *[Effective 1–1–2000].*

The following standards are applicable to the construction of waterbreaks:

(a) except as otherwise provided for in the rules:

(1) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations.

(2) Installation of drainage facilities and structures is required from October 15 to November 15 and from April 1 to May 1 on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient (in percent)*				*Metric Measure Road or Trail Gradient (in percent)*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.35	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

The appropriate waterbreak spacing shall be based upon the erosion hazard rating and road or trail gradient.

(d) Cable roads that are so deeply cut as to divert and carry water away from natural drainage patterns for more than 100 feet shall have water-

breaks installed on them at 100 feet intervals, or other appropriate erosion control measures may be applied if specified in the plan.

(e) Waterbreaks shall be installed at all natural watercourses on tractor roads and firebreaks regardless of the maximum distances specified in this section except where permanent drainage facilities are provided.

(f) Waterbreaks shall be located to allow water to be discharged into some form of vegetative cover, duff, slash, rocks, or less erodible material wherever possible, and shall be constructed to provide for unrestricted discharge at the lower end of the waterbreak so that water will be discharged and spread in such a manner that erosion shall be minimized. Where waterbreaks cannot effectively disperse surface runoff, including where waterbreaks on roads and skid trail cause surface run-off to be concentrated on downslopes, roads or skid trails, other erosion controls shall be installed as needed to comply with 14 CCR 934.

(g) Waterbreaks shall be cut diagonally a minimum of 15.2 cm (6 inches) into the firm roadbed, cable road, skid trail or firebreak surface and shall have a continuous firm embankment of at least 15.2 cm (6 inches) in height immediately adjacent to the lower edge of the waterbreak cut. In the Southern Subdistrict of the Coast Forest District, on truck roads having firmly compacted surfaces, waterbreaks installed by hand methods need not provide the additional 15.2 cm (6 inch) embankment provided the waterbreak ditch is constructed so that it is at least 15.2 cm (6 inches) deep and 15.2 cm (6 inches) wide on the bottom and provided there is ample evidence based on slope, material amount of rainfall, and period of use that the waterbreaks so constructed will be effective in diverting water flow from the road surface without the embankment.

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12-20-89; operative 2-1-90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8-9-90; operative 9-10-90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2-11-91; operative 3-13-91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4-21-99; operative 1-1-2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17).

§ 934.7. Timber Operations, Winter Period.

During the winter period:

(a) Mechanical site preparation and timber harvesting, shall not be conducted unless a winter period operating plan is incorporated in the timber harvesting plan and is followed, or unless the requirements of subsection (c) are met. Cable, helicopter and balloon yarding methods are exempted.

(b) The winter period operating plan shall include the specific measures to be taken in winter timber operations to minimize damage due to erosion, soil movement into watercourses and soil compaction from felling, yarding, loading, mechanical site preparation, and erosion control activities. A winter period operating plan shall address the following subjects:

(1) Erosion hazard rating.
(2) Mechanical site preparation methods.
(3) Yarding system (construction skid trails).
(4) Operating period.
(5) Erosion control facilities timing.
(6) Consideration of form of precipitation–rain or snow.
(7) Ground conditions (soil moisture condition, frozen).
(8) Silvicultural system–ground cover.
(9) Operations within the WLPZ.
(10) Equipment use limitations.
(11) Known unstable areas.

(c) In lieu of a winter period operating plan, the RPF can specify the following measures in the THP:

(1) Tractor yarding or the use of tractors of constructing layouts, firebreaks or other tractor roads shall be done only during dry, rainless periods where soils are not saturated.

(2) Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to the end of the day if the U.S. Weather Service forecast is a "chance" (30 percent or more) of rain before the next day, and prior to weekend or other shutdown periods. The provisions of this subsection do not apply to mechanical site preparation.

(3) Site specific mitigation measures needed to comply with 14 CCR 934 for operations within the WLPZ and unstable areas during the winter period.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 12-4-89; operative 2-1-90 (Register 89, No. 50).
2. Amendment of subsections (a), (b) and (c)(3) filed 2-11-91; operative 3-13-91 (Register 91, No. 14).

§ 934.8. Tractor Road Watercourse Crossing.

Watercourse crossing facilities on tractor roads shall be planned, constructed, maintained, and removed according to the following standards:

(a) The number of crossings shall be kept to a minimum. Existing crossing locations shall be used wherever feasible.

(b) A prepared watercourse crossing using a structure such as a bridge, culvert, or temporary log culvert shall be used to protect the watercourse from siltation where tractor roads cross a watercourse in which water may be present during the life of the crossing.

(c) Crossing facilities on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and for unrestricted passage of water. Such crossing facilities shall be fully described in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) Watercourse crossing facilities not constructed to permanent crossing standards on tractor roads shall be removed before the beginning of the winter period. If a watercourse crossing is to be removed, it shall be removed in accordance with 14 CCR 943.3(d).

(e) If the watercourse crossing involves a culvert, the minimum diameter shall be stated in the THP and the culvert shall be of a sufficient length to extend beyond the fill material.

(f) Consistent with the protection of water quality, exceptions may be provided through the Fish and Game Codes and shall be indicated in the plan.

(g) The amendments to 14 CCR § 934.8 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (d) filed 9-23-91; operative 10-23-91 (Register 92, No. 25).
2. Amendment of subsection (e) filed 12-8-95; operative 12-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

3. Amendment of subsections (a) and (c) and new subsection (g) filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
4. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph and amendment of NOTE filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
9. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 934.9. Alternatives to Standard Rules.

(a) Alternative practices may be developed by the RPF on a site–specific basis provided the following conditions are complied with and the alternative practices will achieve environmental protection at least equal to that which would result from using measures stated in Sections 934.1–934.8.

(1) Environmental impacts with potential for significant adverse effects on the beneficial uses of water, on the residual timber, and on the soil productivity are identified and measures proposed to mitigate such impacts are included in an approved THP. The THP shall also contain a clear statement as to why alternative harvesting and erosion control measures are needed.

(2) The alternative practice(s) must be explained in sufficient detail and standards provided in the THP so that they can be adequately evaluated and enforced by the Director and implemented by the licensed timber operator.

(3) On a THP in which alternatives covering harvesting and erosion control measures have been incorporated, the timber operator shall agree to the alternative specifications by signing and filing with the Director a copy of the plan, the amended plan or a facsimile thereof, prior to beginning or continuing operations on the portion of the plan to which the alternatives apply.

(b) The Director shall not accept for inclusion in a THP alternative harvesting and erosion control measures proposes under this section which do not meet the standard of subsection (a) of this section. In the event that there is more than one written negative position showing that the alternative practices does (do) not meet the standard of subsection (a) received from among the agencies listed in 14 CCR 1037.3 and the Department of Forestry, which participated in the review of the plan including on–the–ground inspection, the Director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

Article 5. Site Preparation

§ 935. Purposes.

Site preparation shall be planned and conducted in a manner which encourages maximum timber productivity, minimizes fire hazard, prevents substantial adverse effects to soil resources and to fish and wildlife habitat, and prevents degradation of the quality and beneficial uses of water. The following provisions shall be applied in a manner which complies with this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89, operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 935.1. Use of Heavy Equipment for Site Preparation.

(a) Use of heavy equipment for site preparation shall comply with the provisions set forth in 14 CCR 934.2.

(b) Heavy equipment shall not be used for site preparation under saturated soil conditions or when it cannot operate under its own power due to wet conditions.

(c) Watercourse crossings for heavy equipment shall be planned, constructed, maintained, and removed in accordance with the requirements for tractor roads in 14 CCR Section 934.8.

(d) Undisturbed areas or energy dissipators shall be used to control and disperse concentrated runoff from roads, landings, tractor roads, firebreaks and erosion control facilities where it flows into site preparation areas.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 935.2. Treatment of Vegetative Matter.

(a) Piling, burning, and other treatment of snags, slash and vegetative matter and protection of desirable residual trees during site preparation shall comply with 14 CCR Sections 937 through 937.7.

(b) Broadcast burning shall not fully consume the largest organic debris which retains soil on slopes and stabilizes watercourse banks. The Director may approve exceptions to individual requirements when such exceptions are explained and justified in the THP and the exceptions would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 935.3. Protection of Natural Resources.

(a) Site preparation activities shall comply with the watercourse and lake protection requirements in 14 CCR Article 6, and 937.3(d).

(b) Site preparation activities shall comply with the wildlife and habitat protection provisions of 14 CCR Article 9.

(c) Site preparation shall be performed in a manner which does not deleteriously affect species which are threatened, endangered, or designated by the Board as species of special concern. The director may allow exceptions to this standard, if explained and justified in the plan, after consultation with the Department of Fish and Game pursuant to the California Endangered Species Act (F&G Code 2050–2098).

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. References Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 935.4. Site Preparation Addendum.

Where site preparation will occur on the logging area, the THP shall incorporate a site preparation addendum which includes the following information:

(a) Whether site preparation will be required to meet stocking.

(b) The general methods of site preparation to be used.

(c) The types of equipment (if any) to be used for mechanical site preparation and firebreak construction.

(d) The methods for protecting any desirable residual trees in accordance with 14 CCR 937.7.

(e) Explanations and justifications for any exceptions or alternatives to the standard rules.

(f) A map identifying the boundaries of site preparation areas, if different from logging area boundaries, and distinguishing areas by type of site preparation activity.

(g) The name, address, and telephone number of the person responsible for conduct of site preparation activities shall be provided prior to conducting site preparation activities.

(h) The estimated timing of site preparation operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.
2. Amendment of subsection (g) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 935.5. Erosion Control, Winter Period.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

§ 935.6. Timber Harvesting.

HISTORY

1. Repealer filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).

Article 6. Watercourse and Lake Protection

§ 936. Intent of Watercourse and Lake Protection.

The purpose of this article is to ensure that the beneficial uses of water, native aquatic and riparian species, and the beneficial functions of riparian zones are protected from potentially significant adverse site–specific and cumulative impacts associated with timber operations.

It is the intent of the Board to restore, enhance, and maintain the productivity of timberlands while providing equal consideration for the beneficial uses of water. Further, it is the intent of the Board to clarify and assign responsibility for recognition of potential and existing impacts of timber operations on watercourses and lakes, native aquatic and riparian–associated species, and the beneficial functions of riparian zones and to ensure adoption of feasible measures to effectively achieve compliance with this article. Further, it is the intent of the Board that the evaluations that are made, and the measures that are taken or prescribed, be documented in a manner that clearly and accurately represents those existing conditions and those measures. "Evaluations made" pertain to the assessment of the conditions of the physical form, water quality, and biological characteristics of watercourses and lakes, including cumulative impacts affecting the beneficial uses of water on both the area of planned logging operations and in the Watershed Assessment Area (WAA). "Measures taken" pertain to the procedures used or prescribed for the restoration, enhancement, and maintenance of the beneficial uses of water.

All provisions of this article shall be applied in a manner, which complies with the following:

(a) During and following timber operations, the beneficial uses of water, native aquatic and riparian–associated species, and the beneficial functions of riparian zones shall be maintained where they are in good condition, protected where they are threatened, and insofar as feasible, restored where they are impaired.

(b) Protection of the quality and beneficial uses of water during the planning, review, and conduct of timber operations shall comply with all applicable legal requirements including those set forth in any applicable water quality control plan adopted or approved by the State Water Resources Control Board. At a minimum, the LTO shall not do either of the following during timber operations:

(1) Place, discharge, or dispose of or deposit in such a manner as to permit to pass into the waters of the state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water;

(2) Remove water, trees or large woody debris from a watercourse or lake, the adjacent riparian area, or the adjacent flood plain in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water.

(c) Protecting and restoring native aquatic and riparian–associated species, the beneficial functions of riparian zones and the quality and beneficial uses of water shall be given equal consideration as a management objective within any prescribed WLPZ and within any ELZ or EEZ designated for watercourse or lake protection.

(d) The measures set forth in this Section are meant to enforce the public's historical and legal interest in protection for wildlife, fish, and water quality and are to be used to guide timberland owners in meeting their legal responsibilities to protect public trust resources.

(e) The amendments to 14 CCR §§ 936 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4552, 4562.5, 4562.7, 21001(b)(f), 21002 and 21002.1, Public Resources Code; and Sections 100, 1243, 1243.5, 13001, 13050(f), 13146 and 13247, Water Code.

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
4. Amendment of section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
5. Amendment of subsection (e) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsection (e) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (e) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (e) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
10. Amendment of subsection (e) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 936.1. In Lieu Practices.

In rule sections where provision is made for site specific practices to be approved by the director and included in the THP in lieu of a stated rule, the RPF shall reference the standard rule, shall explain and describe each proposed practice, how it differs from the standard practice, and the specific locations where it shall be applied; and shall explain and justify how the protection provided by the proposed practice is at least equal to the protection provided by standard rule.

(a) The in lieu practice(s) must provide for the protection of the beneficial uses of water to the standards of 14 CCR 916.3 and 916.4(b).

(b) In lieu practices stated in an approved THP shall have the same enforceability and legal authority as those practices required by the standard rules.

(c) Any in lieu practices which propose less than standard rule WLPZ widths for Class I watercourses shall include 14 CCR (936.5(e)) "A" & "D" protection measures.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21001(b)(f), 21002 and 21002.1, Public Resources Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment and new subsection (c) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

§ 936.2. Protection of the Beneficial Uses of Water and Riparian Functions.

(a) The measures used to protect each watercourse and lake in a logging area shall be determined by the presence and condition of the following values:

(1) The existing and restorable quality and beneficial uses of water as specified by the applicable water quality control plan and as further identified and refined during preparation and review of the plan.

(2) The restorable uses of water for fisheries as identified by the DFG or as further identified and refined during preparation and review of the plan.

(3) Riparian habitat that provides for the biological needs of native aquatic and riparian-associated species as specified in 14 CCR 936.4(b).

(4) Sensitive conditions near watercourses and lakes as specified in 14 CCR 936.4(a).

These values shall be protected from potentially significant adverse impacts from timber operations and restored to good condition, where needed, through a combination of the rules and plan-specific mitigation. The RPF shall propose and the Director may require, adequate protection of overflow and changeable channels which are not contained within the channel zone.

(b) The State's waters are grouped into four classes based on key beneficial uses. These classifications shall be used to determine the appropriate minimum protection measures to be applied during the conduct of timber operations. The basis for classification (characteristics and key beneficial uses) are set forth in 14 CCR 936.5, Table 1 and the range of minimum protective measures applicable to each class are contained in 14 CCR 936.3, 936.4, and 936.5.

(c) When the protective measures contained in 14 CCR 936.5 are not adequate to provide protection to beneficial uses, feasible protective measures shall be developed by the RPF or proposed by the Director under the provisions of 14 CCR 936.6, Alternative Watercourse and Lake Protection, and incorporated in the plan when approved by the Director.

(d) The amendments to 14 CCR § 936.2 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 3050(f), Water Code; and Sections 1600 and 5650(c) Fish and Game Code.

HISTORY

1. Repealer and new section filed 5-31-83; designated effective 7-1-83 (Register 83, No. 23).
2. Editorial correction of 5-31-83 order filed 6-16-83 redesignating effective date from 7-1-83 to 10-1-83 (Register 83, No. 27).
3. Amendment of section heading, repealer of subsection (a), new subsections (a)(1)-(4), and amendment of subsection (c) filed 9-23-91; operative 10-23-91 (Register 92, No. 25).
4. Amendment of section heading, section and NOTE filed 5-31-2000; operative 7-1-2000 (Register 2000, No. 22).
5. Amendment of subsection (d) filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsections (a)(4) and (d) filed 11-20-2001; operative 1-1-2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7-12-2002; operative 1-1-2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (d) filed 12-1-2003; operative 1-1-2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (d) filed 9-20-2006; operative 10-20-2006 (Register 2006, No. 38).
10. Amendment of subsection (d) filed 10-24-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 936.3. General Limitations near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas.

The quality and beneficial uses of water shall not be unreasonably degraded by timber operations. During timber operations, the timber operator shall not place, discharge, or dispose of or deposit in such a manner as to permit to pass into the water of this state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, or the quality and beneficial uses of water. All provisions of this article shall be applied in a manner which complies with this standard.

(a) When there is reasonable expectation that slash, debris, soil, or other material resulting from timber operations, falling or associated activities, will be deposited in Class I and Class II waters below the watercourse or lake transition line or in watercourses which contain or conduct Class IV water, those harvest activities shall be deferred until equipment is available for its removal, or another procedure and schedule for completion of corrective work is approved by the Director.

(b) Accidental depositions of soil or other debris in lakes or below the watercourse or lake transition line in waters classed I, II, and IV shall be removed immediately after the deposition or as approved by the director.

(c) The timber operator shall not construct or reconstruct roads, construct or use tractor roads or landings in Class I, II, III or IV watercourses, in the WLPZ, marshes, wet meadows, and other wet areas unless explained and justified in the THP by the RPF, and approved by the Director, except as follows:

(1) At prepared tractor road crossings as described in 934.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et seq.)

Use of existing roads is addressed in 936.4(a).

(d) Vegetation, other than commercial species, bordering and covering meadows and wet areas shall be retained and protected during timber operations unless explained and justified in the THP and approved by the director. Soil within the meadows and wet areas shall be protected to the maximum extent possible.

(e) Trees cut within the WLPZ shall be felled away from the watercourse by pulling or other mechanical methods if necessary, in order to protect the residual vegetation in the WLPZ. Exceptions may be proposed in the THP and used when approved by the director.

(f) Where less than 50% canopy exists in the WLPZs of Class I and II waters before timber operations, only sanitation salvage which protects the values described in 14 CCR 936.4(b) shall be allowed.

(g) Recruitment of large woody debris for instream habitat shall be provided by retaining at least two living conifers per acre at least 16 inches diameter breast high and 50 feet tall within 50 feet of all Class I and II watercourses.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5-31-83; designated effective 7-1-83 (Register 83, No. 23).
2. Editorial correction of 5-31-83 order filed 6-16-83 redesignating effective date from 7-1-83 to 10-1-83 (Register 83, No. 27).
3. Amendment of subsection (a) filed 12-4-89, operative 2-1-90 (Register 89, No. 50).
4. Repealer of subsection (g) filed 8-12-91; operative 9-11-91 (Register 92, No. 13).
5. Amendment of first paragraph and subsection (a), repealer of subsection (c), new subsection (c), amendment of subsection (e), repealer of subsection (f), and new subsection (f) filed 9-23-91; operative 10-23-91 (Register 92, No. 25).
6. Amendment of subsection (c) and new subsections (c)(1)-(4) filed 12-8-95; operative 12-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 936.4. Watercourse and Lake Protection.

(a) The RPF or supervised designee shall conduct a field examination of all lakes and watercourses and shall map all lakes and watercourses which contain or conduct Class I, II, III or IV waters.

(1) As part of this field examination, the RPF or supervised designee shall evaluate areas near, and areas with the potential to directly impact, watercourses and lakes for sensitive conditions including, but not limited to, existing and proposed roads, skidtrails and landings, unstable and erodible watercourse banks, unstable upslope areas, debris, jam potential, inadequate flow capacity, changeable channels, overflow channels, flood prone areas, and riparian zones wherein the values set forth in 14 CCR §§ 936.4(b) are impaired. The RPF shall consider these conditions, and those measures needed to maintain, and restore to the extent feasible, the functions set forth in 14 CCR §§ 936.4(b), when proposing WLPZ widths and protection measures. The plan shall identify such conditions, including where they may interact with proposed timber operations, that individually or cumulatively significantly and adversely affect the beneficial uses of water, and shall describe measures to protect and restore to the extent feasible, the beneficial uses of water. In proposing, reviewing, and approving such measures, preference shall be given to measures that

are on–site, or to offsite measures where sites are located to maximize the benefits to the impacted portion of a watercourse or lake.

(2) As part of this field examination, the RPF or supervised designee shall map the location of spawning and rearing habitat for anadromous salmonids, and the condition of the habitat shall be evaluated using habitat typing that at a minimum identifies the pool, flatwater, and riffle percentages. The opportunity for habitat restoration shall be described within the plan for each Class I watercourse, and for each Class II watercourse that can be feasibly restored to a Class I.

(3) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to permit the Director and the other review team representatives to evaluate the potential environmental impacts of timber operations, the proposed mitigation measures and the proposed restoration measures.

(4) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to provide direction and clear guidance to the timber operator.

(5) The mapping of conditions identified in 14 CCR § 936.4 subsections (a)(1) and (a)(2), and their protective and restoration measures, should be done at a scale of 1:2,400. In site–specific cases, the mapping of critical locations of corrective work and logging operation impacts shall be done at a scale of at least 1:240 when the Director determines it is necessary to evaluate the plan.

(6) One set of photocopies of recent stereo aerial photographs of the plan area may be required by the Director.

(b) The standard width of the WLPZ and/or the associated basic protection measures shall be determined from Table I (14 CCR 936.5), or Section 956.4(c), and shall be stated in the plan. A combination of the rules, the plan, and mitigation measures shall provide protection for the following:

a. Water temperature control.
b. Streambed and flow modification by large woody debris.
c. Filtration of organic and inorganic material.
d. Upslope stability.
e. Bank and channel stabilization.
f. Spawning and rearing habitat for salmonids
g. Vegetation structure diversity for fish and riparian wildlife habitat, possibly including but not limited to,
1. Vertical diversity
2. Migration corridor
3. Nesting, roosting, and escape
4. Food abundance
5. Microclimate modification
6. Snags
7. Surface cover

(1) Measures and the appropriate zone widths for the protection of the State's waters which have been taken from Table I (14 CCR 936.5) or developed under Section 936.4(c) shall be stated in the THP.

(2) All timber operations shall conform to the marking, flagging and other identification of protective measures specified in CCR 936.4 and 936.5 and the THP. Conformance shall be determined based on the evaluation of no less than a 200 foot lineal segment of each watercourse or lake.

(3) The width of the WLPZ shall be measured along the surface of the ground from the watercourse or lake transition line or in the absence of riparian vegetation from the top edge of the watercourse bank.

(4) Slopes shall be measured in percent for the proposed WLPZ. If topography within the proposed WLPZ is variable, segments of the proposed WLPZ should be segregated by slope class as indicated in Table I, 14 CCR 936.5.

(5) If requested by either party, and after on–the–ground inspection, the RPF and the Director may increase or decrease the width of a proposed WLPZ. A decrease shall not exceed 25 percent of the width as determined by the *procedure* prescribed in Sections 14 CCR 936.4(c), and 936.5. Such changes in zone width shall be based on considerations of soil, slope, biologic, hydrologic, and geologic values listed in Section 14 CCR 936.4(b), silvicultural methods, yarding systems, road location, and site preparation activities. In no case shall the width be adjusted to less than 50 feet for Class I and II waters. Where soil surfaced roads exist within the standard WLPZ, no in–lieu reduction of WLPZ width shall be approved.

(6) Within the WLPZ, at least 75 percent surface cover and undisturbed area shall be retained to act as a filter strip for raindrop energy dissipation, and for wildlife habitat.

This percentage may be adjusted to meet site specific conditions when proposed by the RPF and approved by the Director or where broadcast burning is conducted under the terms of a project type burning permit and in compliance with 14 CCR 935.2(b).

(c) The protection and WLPZ widths for Class III and Class IV waters shall prevent the degradation of the downstream beneficial use of water and shall be determined on a site–specific basis.

(1) Where operations occur adjacent to Class III watercourses, the RPF shall designate in the THP an equipment limitation zone (ELZ) of at least 25 feet where sideslope steepness is less than 30% and at least 50 feet where sideslope steepness is 30% or greater unless explained and justified otherwise in the THP and approved by the director. Class III watercourses within logging areas where the EHR is Low and the slopes are less than 30% shall not require an ELZ unless proposed by the RPF or required by the Director. The RPF shall describe the limitations on the use of heavy equipment in the THP. Where appropriate to protect the beneficial uses of water the RPF shall describe additional protection measures which may include surface cover retention, vegetation protection and timber falling limitations. The location of the areas of heavy equipment use in any ELZ shall be clearly described in the plan, or flagged or marked on the ground before the preharvest inspection. When necessary to protect the beneficial use of water, the RPF shall designate and the Director may require a WLPZ for Class III and Class IV waters or an ELZ for Class IV waters.

(2) The width of the WLPZ for Class III and Class IV waters shall be determined from on–site inspection. Minimum protective measures required when Class III and Class IV protection zones are necessary are contained in Table I 14 CCR 936.5.

(3) Soil deposited during timber operations in a Class III watercourse other than at a temporary crossing shall be removed and debris deposited during timber operations shall be removed or stabilized before the conclusion of timber operations, or before October 15. Temporary crossings shall be removed before the winter period, or as approved by the Director.

(4) When approved by the Director on an individual plan basis as provided in Section 14 CCR 936.4(c)(1) Class IV waters shall be exempted from required protection when such protection is inconsistent with the management objectives of the owner of the manmade watercourse.

(d) Heavy equipment shall not be used in timber falling, yarding, or site preparation within the WLPZ unless such use is explained and justified in the THP, and approved by the Director.

(e) Flagging for heavy equipment use within the WLPZ adjacent to Class I waters and for all tractor road watercourses crossings of all watercourses must be completed before the preharvest inspection, if one is conducted or start of operations, whichever comes first. Flagging for heavy equipment use within the WLPZ adjacent to Class II, III and IV waters may be done at the option of the RPF or as required by the director on a site–specific basis.

(f) Subsection (d) does not apply to (1)–(4) below. Subsection (e) does not apply to (2)–(4) below.

(1) At prepared tractor road crossings as described in 934.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et. seq.)

NOTE: Authority cited: Sections 4551, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Re-

sources Code; Sections 1600 and 5650(c), Fish and Game Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 26).
3. Amendment of subsection (d) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
4. Amendment and new subsection (b)(6) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
5. Amendment of subsections (d)–(d)(2) and new final subsections (1)–(4) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
6. Repealer and new subsection (c)(1), amendment of subsection (d), redesignation and amendment of former sections (d)(1)–(d)(2) as new subsection (e), and new subsection (f) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
7. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsection (d) (Register 99, No. 26).
9. Redesignation and amendment of portion of subsection (a) as (a)(1), new subsections (a)(2)–(6), amendment of subsection (b), new subsection (b)f. and subsection relettering filed 12–1–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 936.5. Procedure for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures.

The following procedure for determining watercourse and lake protection zone (WLPZ) widths and protective measures. The following procedure for determining WLPZ widths and protective measures shall be followed:

(a) The following information shall be determined from field investigation:

(1) The location of all lakes and watercourses including man made watercourses.

(2) The existing and restorable beneficial uses of the waters to be protected as identified in subsection (1) above.

(3) The side slope classes for the individual class waters to be protected (e.g. < 30%, 30–50%,), where side slope is measured from the watercourse or lake transition line to a point 100 feet upslope from the watercourse or lake transition line, or, in the absence of riparian vegetation, from the top of the watercourse bank. Where slope configurations are variable, a weighted average method shall be used to determine sideslope percent.

TABLE I—14 CCR 936.5
PROCEDURES FOR DETERMINING
WATERCOURSE AND LAKE PROTECTION ZONE
WIDTHS AND PROTECTIVE MEASURES[1]

Water Class Characteristics or key indicator Beneficial Use	1) Domestic supplies on site and/or within 100 feet downstream of the operations area and/or 2) Fish always or seasonally present onsite includes habitat to sustain fish migration and spawning	1) Fish always or seasonally present offsite within 1,000 feet downstream and/or 2) Aquatic habitat for non–fish aquatic species. 3) Excludes Class III waters that are tributary to Class I waters.	No aquatic life present, watercourse showing evidence of being capable of sediment transport downstream to waters Class I or II waters under normal high water flow conditions after completion of timber operations.	Man–made watercourses, usually downstream established domestic, agricultural, hydro–electric supply, or other beneficial use.

WATER CLASS	*CLASS I*		*CLASS II*		*CLASS III*	*CLASS IV*
SLOPE CLASS (%)	WIDTH FEET	PROTECTION MEASURE	WIDTH FEET	PROTECTION MEASURE	WIDTH PROTECTION FEET MEASURE	WIDTH PROTECTION FEET MEASURE
					See 936.4(c)	See 936.4(c)
<30	75	BDG	50	BEI	See CFH	See CFI
30–50	100	BDG	75	BEI	See CFH	See CFI
>50	150[2]	ADG	100[3]	BEI	See CFH	See CFI

[1]See Section 916.5(e) for letter designations applicable to this table.

[2]Subtract 50 feet width for cable yarding operations

[3]Subtract 25 feet width for cable yarding operations

(b) The beneficial uses noted from the field investigations in subsection (a) shall be compared to the characteristics or key beneficial uses listed in Row 1 of Table I (14 CCR 936.5) to determine the water classes (e.g. I, II, III, IV, Row 2).

(c) The standard protection zone width differentiated by slope classes determined in subsection (a) are shown in Rows 4–7, Table I (14 CCR 936.5). These widths may be modified as stated in 14 CCR 936.4(b)(5).

(d) The alphabetical letter designations A through I in Rows 4–7, Table 1 14 CCR 936.5, and described in subsection (e) to Table I indicate the standard protective measures to be applied to the classes of water as determined in subsection (b) above.

(e) The letter designations shown in the "Protective Measures and Widths" column in Table I correspond to the following:

"A" WLPZ shall be clearly identified on the ground by the RPF who prepared the plan, or supervised designee, with paint, flagging, or other suitable means prior to the preharvest inspection. For nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 936.4 and 936.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"B" WLPZ shall be clearly identified on the ground by an RPF or supervised designee, with paint, flagging, or other suitable means, prior to the start of timber operations. In watersheds with threatened or impaired values, on the ground identification of the WLPZ shall be completed prior to the preharvest inspection. For all nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 936.4 and 936.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"C" In site–specific cases, the RPF may provide in the plan, or the director may require, that the WLPZ be clearly identified on the ground with flagging or by other suitable means prior to the start of timber operations.

"D" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi–storied stand for protection of values described in 14 CCR § 936.4(b), residual or harvest trees shall be marked, including a base mark below the cut–line within the WLPZ by the RPF, or supervised designee. Outside of watersheds with threatened or impaired values, sample marking prior to the preharvest inspection is satisfactory in those cases where the Director determines it is adequate for plan evaluation. When sample marking has been used, the remaining WLPZ shall be marked in advance of falling operations by the RPF, or supervised designee. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions of 14 CCR §§ 936.4 and 936.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF, or supervised designee, prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"E" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi–storied stand for protection of values described in 14 CCR § 936.4(b), residual or harvest trees shall be marked, including a base mark below the cut line, within the WLPZ by the RPF or supervised designee. Outside of watersheds with threatened or impaired values, tree marking shall be done prior to timber falling operations. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions of 14 CCR §§ 936.4 and 936.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"F" Residual or harvest tree marking within the WLPZ may be stipulated in the THP by the RPF or required by the Director in site–specific cases to ensure retention of filter strip properties or to maintain soil stability of the zone. The RPF shall state in the THP if marking was used in these zones.

"G" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the overstory and 50% of the understory canopy covering the ground and adjacent waters shall be left in a well distributed multi–storied stand composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Species composition may be adjusted consistent with the above standard to meet on–site conditions when agreed to in the THP by the RPF and the Director.

"H" At least 50 percent of the understory vegetation present before timber operations shall be left living and well distributed within the WLPZ to maintain soil stability. This percentage may be adjusted to meet on–site conditions when agreed to by the RPF and the Director. Unless required by the Director, this shall not be construed to prohibit broadcast burning with a project type burning permit for site preparation.

"I" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the total canopy covering the ground shall be left in a well distributed multi–storied stand configuration composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Due to variability in Class II watercourses these percentages and species composition may be adjusted to meet on–site conditions when agreed to by the RPF and the Director in the THP.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4513, 4551.5 and 21001(f), Public Resources Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of section heading, section, and Table I filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Amendment of subsections (e)"B," "D" and "E" filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
5. Amendment of subsection (e) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of subsection (e) (Register 97, No. 48).
7. Editorial correction of table heading and table (Register 99, No. 26).
8. Amendment of subsection (e) filed 11–16–2006; operative 1–1–2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).

§ 936.6. Alternative Watercourse and Lake Protection.

(a) Alternative prescriptions for the protection of watercourses and lakes may be developed by the RPF or proposed by the Director on a site–specific basis provided the following conditions are complied with and the alternative prescriptions will achieve compliance with the standards set forth in 936.3 and 956.4(b):

(1) The following information regarding an alternative prescription shall be included in the THP:

(A) An identification of each standard prescription which would be replaced by the alternative prescription.

(B) An identification of any beneficial uses of water or other features listed in 14 CCR 936.4(b), which may be adversely affected by the replaced standard prescription and the alternative practice.

(C) An evaluation of any significant effects on such beneficial uses or features due to implementation of the alternative prescription.

(D) A clear and complete explanation and justification as to the reasons why, given site–specific technical, environmental, economic, or institutional considerations, an alternative prescription is needed. The reasons given must include at least one of the following:

1. Implementation of the specified standard prescriptions would not be feasible.

2. Implementation of the specified standard prescription(s) would not adequately prevent or reduce damage to the quality and beneficial uses of water.

3. Implementation of the proposed alternative prescription would provide equal or greater protection, including all proposed mitigations for the quality and beneficial uses of water and those features listed in 936.4(b), than would implementation of the specified standard prescriptions.

(E) A plan for evaluating the results of the proposed alternative practice by either the plan submitter or the Director. The plan must include the criteria and procedures for evaluating and inspecting each approved alternative practice.

(2) The alternative measures stated in the plan shall be written so that they provide clear, enforceable standards for the guidance of the timber operator.

(3) Prior to beginning or continuing an operation in which alternative measures have been added to an approved THP in regard to watercourse and lake protection measures, the timber operator shall acknowledge the new specifications by signing and filing with the director, a copy of the amended plan.

(b) The director shall not accept for inclusion in a THP alternative watercourse and lake protection measures which do not meet the standard of subsection (a) of this section. In the event that written comments received from two or more agencies listed in 4582.6 PRC and 14 CCR 1037.3 and which participated in review of the plan, including on–the–ground inspection, lead to the conclusion that the proposed alternative does not meet the criteria of Section 936.5, and is therefore not consistent with rules of the Board, the director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513 and 4551.5, Public Resources Code; and USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of subsection (a), repealer of subsection (a)(1), new subsections (a)(1)(A)–(E), and amendment of subsection (b) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

§ 936.7. Reduction of Soil Loss.

Within the watercourse and lake protection zone adjacent to Class I and Class II waters, areas where mineral soil exceeding 800 continuous square feet in size, exposed by timber operations, shall be treated for reduction of soil loss. Treatment shall be done prior to October 15th except that such bare areas created after October 15th shall be so treated within 10 days, or as agreed to by the director. Stabilization measures shall be included and explained in the THP or other required notices. Stabilization measures shall be selected that will prevent significant movement of soil into Class I and II waters and may include, but need not be limited to, mulching, rip–rapping, grass seeding, or chemical soil stabilizers.

(a) This section does not apply to the traveled surface of roads. Erosion control measures on road surfaces are specified in 14 CCR 943.

(b) Where mineral soil has been exposed by timber operations on approaches to watercourse crossings of Class I or II waters, or Class III waters if an ELZ or WLPZ is required, the disturbed area shall be stabilized to the extent necessary to prevent the discharge of soil into watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

(c) Where necessary to protect beneficial uses of water from timber operations, protection measures, such as seeding, mulching, or replanting, shall be specified to retain and improve the natural ability of the ground cover within the standard width of the WLPZ to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. New subsections (a) and (b) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Editorial correction of subsection (b) (Register 95, No. 41).
5. Editorial correction inserting inadvertently omitted first paragraph (Register 96, No. 50).
6. New subsection (b) and subsection relettering filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 936.8. Sensitive Watersheds.

The Board, at a public hearing, shall determine whether nominated planning watersheds are "sensitive" to further timber operations. Classifications of a water shed as "sensitive" shall be supported by substantial evidence that a condition, or conditions, exist(s) where further timber operations within the planning watershed will create a reasonable potential to cause, or contribute to ongoing, significant adverse cumulative effect(s) on the resources identified in 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)], and as set forth in Technical Rule Addendum No. 2 (14 CCR 912.9) [932.9, 952.9] and that mitigation of such significant cumulative effects requires the application of protection measures not required by the Forest Practice Rules. For all planning watersheds classified as "sensitive", the Board shall identify the specific resources which are sensitive to further timber operations and specific mitigation measures that will provide the necessary protection of the sensitive resource(s). A Board finding that a planning watershed is no longer sensitive shall be supported by substantial evidence that such conditions no longer exist. Unless and until a planning watershed(s) is classified as sensitive and any necessary rulemaking completed, the existing rules shall apply.

(a) Nomination process:

The Director, local, state, or federal agencies and the public may nominate planning watersheds to the Board and shall provide evidence supporting classification of the watershed as sensitive. The nominator shall discuss the effects that further timber operations will have on the specific resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)] which are at risk within the nominated watershed and specify those effects not sufficiently addressed under the forest practice rules and discuss the significance of the effects in light of the condition of the resources in areas adjacent to the planning watershed. Such nominations must be accompanied by the following information, descriptions, documents, or maps as appropriate:

1. Name, approximate size and location of the watershed(s) identified by county, township and range, and name(s) of USGS topographic map(s) on which the planning watershed is found.

2. The name of the higher–order stream, if any, to which the watershed is tributary.

3. Specific resources that are significantly threatened by further timber operations on non–federal timberland in the nominated watershed, including, as appropriate, but not limited to:

A. fish, aquatic organisms, aquatic habitat, or riparian habitat;

B. domestic and other water supplies, water quality, other beneficial uses of water existing at the time of nomination or factors related to the stream system and channel morphology.

C. downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors;

D. wildlife species, or the habitat of species, listed under state or federal law as rare, threatened or endangered, candidate, or sensitive, including discussion of the habitat features threatened by timber operations;

E. wildlife species with narrow geographic range, low density, low reproductive rates, and highly dependent on localized habitat features, including discussion of the habitat features threatened by timber operations and a discussion of why protective measures are required to prevent a loss of population viability.

4. Natural or management–induced conditions present in the watershed which pose a significant threat to the resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, including, as appropriate, but not limited to:

A. steep slopes and easily destabilized soils;

B. continuing landslide or soil erosion problems related to past or ongoing land–use activities;

C. extensive ground disturbance, particularly associated with roads, skid trails, landings, and watercourse crossings;

D. accelerated aggradation, streambank erosion, and channel scouring;

E. changes in the habitat or condition of wildlife species identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above.

F. accelerated rates of proposed road construction or timber harvesting within a watershed or near streams or springs.

5. Approved Habitat Conservation Plans or other documents approved or under review by public agencies within the nominated watershed which provide for maintenance or improvement over time of management induced conditions within or adjacent to the planning watershed or forest district.

6. Suggested, feasible mitigation measures needed, in addition to current forest practice rules, to provide adequate protection for resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, and to mitigate or avoid new or continuing significant cumulative effects related to timber operations, including, but not limited to, restoration or rehabilitation of degraded resources within any portion of the proposed sensitive watershed.

7. Other information about the watershed that may assist the Board to evaluate the nomination.

8. Literature citations, expert written opinion, and other relevant sources of information and, where possible, copies of information used to complete the nomination.

9. A list of names and mailing addresses of the following:

A. landowners of 40 acres or more of lands zoned for timber production in the planning watershed;

B. public water purveyors and known private purveyors within the planning watershed;

C. commonly known watershed associations within the planning watershed;

D. commonly known neighborhood or community associations within the planning watershed;

E. chairman, county board of supervisors;

F. chairman, county planning commission;

G. local manager for any public agency having custodial responsibility for timberlands within the planning watershed; and

H. district or local representatives for review team agencies.

10. A draft notice for newspaper publication containing the information in (a)(1)–(3), a statement that a public hearing will be scheduled before the Board within 60 days of Board receipt of a nomination forwarded by the committee, and a statement that further information can be obtained from the local Department Ranger Unit Headquarters.

(b) Notice Process

The Board shall mail notice of the nominated watershed, as provided in (a)10, to the addresses of parties described in 9 A–H and shall publish the provided notice one time in a newspaper with general circulation in the county containing the planning watershed. Such notice shall be provided following a determination that information contained in the nomination meets the requirements of 14 CCR 916.8(a) [936.8(a) and 956.8(a)], above.

(c) Screening Process:

Before consideration by the Board, nominations shall be screened for compliance with the informational requirements by a nominations review committee, which may consist of the appropriate District Technical Advisory Committee or other Board Committee, as determined by the Board. The nominations review committee shall consult with CDF, the appropriate Regional Water Quality Control Board, the Department of Fish and Game, the Division of Mines and Geology, and other(s) as deemed necessary to determine whether the nomination is supported by substantial evidence. The nominations review committee shall then forward a recommendation for approval or denial of the nomination to the Board within 120 days of the date of receipt by the committee, or such longer time provided by the Board. The nominations review committee shall describe its specific reason(s) for recommending approval or denial of the nomination. In the event that the committee forwards a recommendation for approval, it shall describe the substantial evidence which supports nomination, including specific reasons why the current forest practice rules are inadequate to protect the specific resources at risk and shall provide the following information:

1. A list of which resource is threatened and by which timber operations;

2. if possible, performance standard(s) for timber operations that will avoid or mitigate new or continuing significant cumulative effects;

3. additional information that is needed for evaluating the impacts of proposed timber operations and is to be included in harvesting plans submitted in the planning watershed;

4. Onsite mitigation measures in addition to the current forest practice rules, which can be required by the Director to mitigate the impacts of timber operations within the watershed;

5. Offsite mitigation measures that can be applied within or outside of the sensitive watershed area to offset adverse on–site impacts of timber operations. If such mitigation measures are proposed to protect the resources discussed in subdivision (a)(3)(A) and (B), they must occur in the same drainage. Such measures may include, but are not limited to, voluntary mitigation agreements among ownerships.

6. If needed, recommended alternatives to evaluate the implementation and effectiveness of mitigations required under this section.

7. Exemptions for ownerships, emergencies, or land–use classifications that are different than those provided in the current forest practice regulations and that may be applied in the watershed.

(d) Public hearing Process:

The Board shall consider the recommendations of the nominations review committee at a public hearing on classification of the planning watershed, which will be held within 60 days of receipt from the committee. The watershed nomination and recommendations of the committee will be made available to the public between the date of receipt by the Board and the public hearing. Recommendations adopted by the Board which have the effect of a regulation shall be processed in accordance with the Administrative Procedures Act (Section 11340. et seq. Gov. Code).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.

§ 936.9. Protection and Restoration in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon where the standards listed under 916.9.1 and 916.9.2 shall apply:

(a) GOAL — Every timber operation shall be planned and conducted to prevent deleterious interference with the watershed conditions that primarily limit the values set forth in 14 CCR 936.2(a) (e.g., sediment load increase where sediment is a primary limiting factor; thermal load increase where water temperature is a primary limiting factor; loss of instream large woody debris or recruitment potential where lack of this value is a primary limiting factor; substantial increase in peak flows or large flood frequency where peak flows or large flood frequency are primary limiting factors). To achieve this goal, every timber operation shall be planned and conducted to meet the following objectives where they affect a primary limiting factor:

(1) Comply with the terms of a Total Maximum Daily Load (TMDL) that has been adopted to address factors that may be affected by timber operations if a TMDL has been adopted, or not result in any measurable sediment load increase to a watercourse system or lake.

(2) Not result in any measurable decrease in the stability of a watercourse channel or of a watercourse or lake bank.

(3) Not result in any measurable blockage of any aquatic migratory routes for anadromous salmonids or listed species.

(4) Not result in any measurable stream flow reductions during critical low water periods except as part of an approved water drafting plan pursuant to 14 CCR 936.9(r).

(5) Consistent with the requirements of 14 CCR § 916.9(i), 14 CCR § 936.9(i), or 14 CCR § 956.9(i); protect, maintain, and restore trees (especially conifers), snags, or downed large woody debris that currently, or may in the foreseeable future, provide large woody debris recruitment needed for instream habitat structure and fluvial geomorphic functions.

(6) Consistent with the requirements of 14 CCR § 916.9(g), 14 CCR § 936.9(g), or 14 CCR § 956.9(g); protect, maintain, and restore the quality and quantity of vegetative canopy needed to: (A) provide shade to the watercourse or lake, (B) minimize daily and seasonal temperature fluctuations, (C) maintain daily and seasonal water temperatures within the preferred range for anadromous salmonids or listed species where they are present or could be restored, and (D) provide hiding cover and a food base where needed.

(7) Result in no substantial increases in peak flows or large flood frequency.

(b) Pre–plan adverse cumulative watershed effects on the populations and habitat of anadromous salmonids shall be considered. The plan shall specifically acknowledge or refute that such effects exist. Where appropriate, the plan shall set forth measures to effectively reduce such effects.

(c) Any timber operation or silvicultural prescription within 150 feet of any Class I watercourse or lake transition line or 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of anadromous salmonids or listed aquatic or riparian–associated species as significant objectives.

Additionally, for evenaged regeneration methods and rehabilitation with the same effects as a clearcut that are adjacent to a WLPZ, a special operating zone shall retain understory and mid–canopy conifers and hardwoods. These trees shall be protected during falling, yarding and site preparation to the extent feasible. If trees that are retained within this zone are knocked down during operations, that portion of the trees that is greater than 6″ in diameter shall remain within the zone as Large Woody Debris. The zone shall be 25 feet above Class I WLPZs with slopes 0–30% and 50 feet above Class I WLPZs with slopes > 30%.

(d)(1) The plan shall fully describe: (A) the type and location of each measure needed to fully offset sediment loading, thermal loading, and potential significant adverse watershed effects from the proposed timber operations, and (B) the person(s) responsible for the implementation of each measure, if other than the timber operator.

(2) In proposing, reviewing, and approving such measures, preference shall be given to the following: (A) measures that are both onsite (i.e., on or near the plan area) and in–kind (i.e., erosion control measures where sediment is the problem), and (B) sites that are located to maximize the benefits to the impacted portion of a watercourse or lake. Out–of–kind measures (i.e., improving shade where sediment is the problem) shall not be approved as meeting the requirements of this subsection.

(e) Channel zone requirements

(1) There shall be no timber operations within the channel zone with the following exceptions:

(A) timber harvesting that is directed to improve salmonid habitat through the limited use of the selection or commercial thinning silvicultural methods with review and comment by DFG.

(B) timber harvesting necessary for the construction or reconstruction of approved watercourse crossings.

(C) timber harvesting necessary for the protection of public health and safety.

(D) to allow for full suspension cable yarding when necessary to transport logs through the channel zone.

(E) Class III watercourses where exclusion of timber operations is not needed for protection of listed salmonids.

(2) In all instances where trees are proposed to be felled within the channel zone, a base mark shall be placed below the cut line of the harvest trees within the zone. Such marking shall be completed by the RPF that prepared the plan prior to the preharvest inspection.

(f) The minimum WLPZ width for Class I waters shall be 150 feet from the watercourse or lake transition line. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other WLPZ widths on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

(g) Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25% overstory conifer canopy post–harvest. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other canopy retention standards on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

Harvesting of hardwoods shall only occur for the purpose of enabling conifer regeneration.

(h) For Class I waters, any plan involving timber operations within the WLPZ shall contain the following information:

(1) A clear and enforceable specification of how any disturbance or log or tree cutting and removal within the Class I WLPZ shall be carried out to conform with 14 CCR 936.2(a) and 936.9(a).

(2) A description of all existing permanent crossings of Class I waters by logging roads and clear specification regarding how these crossings are to be modified, used, and treated to minimize risks, giving special attention to allowing fish to pass both upstream and downstream during all life stages.

(3) Clear and enforceable specifications for construction and operation of any new crossing of Class I waters to prevent direct harm, habitat

degradation, water velocity increase, hindrance of fish passage, or other potential impairment of beneficial uses of water.

(i) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the THP area that lies within 50 feet of the watercourse transition line. Where the THP boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 932.7(b)(2); the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones within the THP area shall be retained within 50 feet of the watercourse transition line.

The RPF may propose alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must explain and justify in the THP why the proposed alternative is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(j) Where an inner gorge extends beyond a Class I WLPZ and slopes are greater than 55%, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break–in–slope to less than 55% for a distance of 100 feet or more, or 300 feet as measured from the watercourse or lake transition line, which ever is less. All operations on slopes exceeding 65% within an inner gorge of a Class I or II watercourse shall be reviewed by a Professional Geologist prior to plan approval, regardless of whether they are proposed within a WLPZ or outside of a WLPZ.

(k) From October 15 to May 1, the following shall apply: (1) no timber operations shall take place unless the approved plan incorporates a complete winter period operating plan pursuant to 14 § CCR 934.7(a), (2) unless the winter period operating plan proposes operations during an extended period with low antecedent soil wetness, no tractor roads shall be constructed, reconstructed, or used on slopes that are over 40 percent and within 200 feet of a Class I, II, or III watercourse, as measured from the watercourse or lake transition line, and (3) operation of trucks and heavy equipment on roads and landings shall be limited to those with a stable operating surface.

(*l*) Construction or reconstruction of logging roads, tractor roads, or landings shall not take place during the winter period unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 934.7(a) that specifically address such road construction. Use of logging roads, tractor roads, or landings shall not take place at any location where saturated soil conditions exist, where a stable logging road or landing operating surface does not exist, or when visibly turbid water from the road, landing, or skid trail surface or inside ditch may reach a watercourse or lake. Grading to obtain a drier running surface more than one time before reincorporation of any resulting berms back into the road surface is prohibited.

(m) All tractor roads shall have drainage and/or drainage collection and storage facilities installed as soon as practical following yarding and prior to either (1) the start of any rain which causes overland flow across or along the disturbed surface within a WLPZ or within any ELZ or EEZ designated for watercourse or lake protection, or (2) any day with a National Weather Service forecast of a chance of rain of 30 percent or more, a flash flood warning, or a flash flood watch.

(n) Within the WLPZ, and within any ELZ or EEZ designated for watercourse or lake protection, treatments to stabilize soils, minimize soil erosion, and prevent the discharge of sediment into waters in amounts deleterious to aquatic species or the quality and beneficial uses of water, or that threaten to violate applicable water quality requirements, shall be applied in accordance with the following standards:

(1) The following requirements shall apply to all such treatments.

(A) They shall be described in the plan.

(B) For areas disturbed from May 1 through October 15, treatment shall be completed prior to the start of any rain that causes overland flow across or along the disturbed surface.

(C) For areas disturbed from October 16 through April 30, treatment shall be completed prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service or within 10 days, whichever is earlier.

(2) The traveled surface of logging roads shall be treated to prevent waterborne transport of sediment and concentration of runoff that results from timber operations.

(3) The treatment for other disturbed areas, including: (A) areas exceeding 100 contiguous square feet where timber operations have exposed bare soil, (B) approaches to tractor road watercourse crossings between the drainage facilities closest to the crossing, (C) road cut banks and fills, and (D) any other area of disturbed soil that threatens to discharge sediment into waters in amounts deleterious to the quality and beneficial uses of water, may include, but need not be limited to, mulching, rip–rapping, grass seeding, or chemical soil stabilizers. Where straw, mulch, or slash is used, the minimum coverage shall be 90%, and any treated area that has been subject to reuse or has less than 90% surface cover shall be treated again prior to the end of timber operations. The RPF may propose alternative treatments that will achieve the same level of erosion control and sediment discharge prevention.

(4) Where the undisturbed natural ground cover cannot effectively protect beneficial uses of water from timber operations, the ground shall be treated by measures including, but not limited to, seeding, mulching, or replanting, in order to retain and improve its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

(o) As part of the plan, the RPF shall identify active erosion sites in the logging area, assess them to determine which sites pose significant risks to the beneficial uses of water, assess them to determine whether feasible remedies exist, and address in the plan feasible remediation for all sites that pose significant risk to the beneficial uses of water.

(p) The erosion control maintenance period on permanent and seasonal roads and associated landings that are not abandoned in accordance with 14 CCR § 943.8 shall be three years.

(q) Site preparation activities shall be designed to prevent soil disturbance within, and minimize soil movement into, the channels of watercourses. Prior to any broadcast burning, burning prescriptions shall be designed to prevent loss of large woody debris in watercourses, and vegetation and duff within a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. No ignition is to occur within any WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. When burning prescriptions are proposed, the measures or burning restrictions which are intended to accomplish this goal shall be stated in the plan and included in any required burning permit. This information shall be provided in addition to the information required under 14 CCR § 935.4.

(r) Water drafting for timber operations from within a channel zone of a natural watercourse or from a lake shall conform with the following standards:

(1) The RPF shall incorporate into the THP:

(A) a description and map of proposed water drafting locations,

(B) the watercourse or lake classification, and

(C) the general drafting location use parameters (i.e., yearly timing, estimated total volume needed, estimated total uptake rate and filling time, and associated water drafting activities from other THPs).

(2) On Class I and Class II streams where the RPF has estimated that:

(A) bypass flows are less than 2 cubic feet per second, or

(B) pool volume at the water drafting site would be reduced by 10%, or

(C) diversion rate exceeds 350 gallons per minute, or

(D) diversion rate exceeds 10% of the above surface flow;

no water drafting shall occur unless the RPF prepares a water drafting plan to be reviewed and, if necessary a stream bed alteration agreement

issued, by DFG and approved by the Director. The Director may accept the project description and conditions portion of an approved "Streambed Alteration Agreement" issued under the Fish and Game Code (F&GC 1600 et seq.) which is submitted instead of the water drafting plan described in 14 CCR § 916.9(r)(2)(D)(1–5).

The water drafting plan shall include, but not be limited to:

1. disclosure of estimated percent streamflow reduction and duration of reduction,

2. discussion of the effects of single pumping operations, or multiple pumping operations at the same location,

3. proposed alternatives and discussion to prevent adverse effects (e.g. reduction in hose diameter, reduction in total intake at one location, described allowances for recharge time, and alternative water drafting locations),

4. conditions for operators to include an operations log kept on the water truck containing the following information: Date, Time, Pump Rate, Filling Time, Screen Cleaned, Screen Conditions, and Bypass flow observations,

5. a statement by the RPF for a pre–operations field review with the operator to discuss the conditions in the water drafting plan.

(3) Intakes shall be screened in Class I and Class II waters. Screens shall be designed to prevent the entrainment or impingement of all life stages of fish or amphibians. Screen specifications shall be included in the plan.

(4) Approaches to drafting locations within a WLPZ shall be surfaced with rock or other suitable material to avoid generation of sediment.

(s) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code, or

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions.

(t) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code,

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(7) the harvest of dead or dying conifer trees subject to the following conditions:

(A) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the area of operations that lies within 50 feet of the watercourse transition line. Where the area of operations is bounded by an ownership boundary that corresponds with a class I watercourse, and where the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 932.7(b)(2), the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones shall be retained within 50 feet of the watercourse transition line within the area of operations.

The RPF may provide alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must provide with the notice an explanation and justification why the alternative provided is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.

(C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

(D) Within the WLPZ, or ELZ/EEZ, if the stocking standards of 14 CCR § 932.7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

(u) No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

(1) This section does not apply to emergency operations under 14 CCR § 1052.

(v) Nonstandard practices (i.e., waivers, exceptions, in–lieu practices, and alternative practices) shall comply with the goal set forth in subsection (a) above as well as with the other requirements set forth in the rules.

(w) The Director may approve alternatives provided the alternative practice will achieve the goal of this section. The Director shall not accept for inclusion in a plan any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR § 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the goal of this section and the agency(ies) participated in the review of the plan, including an on–the–ground inspection.

(x) Other measures that would effectively achieve the goal set forth in 14 CCR § 936.9(a) may be approved in accordance with 14 CCR 916.6.

(y) The provisions of 14 CCR § 936.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(z) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 83, No. 27.
2. Amendment of subsection (y) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsections (a)(2)–(4), redesignation and amendment of former subsection (e)–(e)(5) as subsections (e)–(e)(2), amendment of subsections (f)–(g), (i), (j), (p), (s) and (y) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsections (f), (g), (r)(2)(D), (s) and (y) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (y) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsections (i)–(*l*), (p), (q) and (s), new subsections (s)(1)–(t)(7)(D), subsection relettering, amendment of newly designated subsections (u) and (w)–(y) and new subsection (u)(1) filed 11–16–2006; operative 1–1–2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).
8. Amendment of subsection (z) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
9. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of

Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 936.9.1. Protection Measures in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with coho salmon:

(a) GOAL — Every timber operation shall be planned and conducted to prevent deleterious interference with the watershed conditions that primarily limit the values set forth in 14 CCR 936.2(a) (e.g., sediment load increase where sediment is a primary limiting factor; thermal load increase where water temperature is a primary limiting factor; loss of instream large woody debris or recruitment potential where lack of this value is a primary limiting factor; substantial increase in peak flows or large flood frequency where peak flows or large flood frequency are primary limiting factors). To achieve this goal, every timber operation shall be planned and conducted to meet the following objectives where they affect a primary limiting factor:

(1) Comply with the terms of a Total Maximum Daily Load (TMDL) that has been adopted to address factors that may be affected by timber operations if a TMDL has been adopted, or not result in any measurable sediment load increase to a watercourse system or lake.

(2) Not result in any measurable decrease in the stability of a watercourse channel or of a watercourse or lake bank.

(3) Not result in any measurable blockage of any aquatic migratory routes for coho salmon or listed species.

(4) Not result in any measurable stream flow reductions during critical low water periods except as part of an approved water drafting plan pursuant to 14 CCR 936.9.1(r).

(5) Consistent with the requirements of 14 CCR § 916.9.1(i) or 14 CCR § 936.9.1(i); protect, maintain, and restore trees (especially conifers), snags, or downed large woody debris that currently, or may in the foreseeable future, provide large woody debris recruitment needed for instream habitat structure and fluvial geomorphic functions.

(6) Consistent with the requirements of 14 CCR § 916.9.1(g) or 14 CCR § 936.9.1(g); protect, maintain, and restore the quality and quantity of vegetative canopy needed to: (A) provide shade to the watercourse or lake, (B) minimize daily and seasonal temperature fluctuations, (C) maintain daily and seasonal water temperatures within the preferred range for coho salmon or listed species where they are present or could be restored, and (D) provide hiding cover and a food base where needed.

(7) Result in no substantial increases in peak flows or large flood frequency.

(b) Pre–plan adverse cumulative watershed effects on the populations and habitat of coho salmon shall be considered. The plan shall specifically acknowledge or refute that such effects exist. Where appropriate, the plan shall set forth measures to effectively reduce such effects.

(c) Any timber operation or silvicultural prescription within 150 feet of any Class I watercourse or lake transition line or 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of coho salmon or listed aquatic or riparian–associated species as significant objectives. Additionally, for evenaged regeneration methods and rehabilitation with the same effects as a clearcut that are adjacent to a WLPZ, a special operating zone shall retain understory and mid–canopy conifers and hardwoods. These trees shall be protected during falling, yarding and site preparation to the extent feasible. If trees that are retained within this zone are knocked down during operations, that portion of the trees that is greater than 6″ in diameter shall remain within the zone as Large Woody Debris. The zone shall be 25 feet above Class I WLPZs with slopes 0–30% and 50 feet above Class I WLPZs with slopes > 30%.

(d)(1) The plan shall fully describe: (A) the type and location of each measure needed to fully offset sediment loading, thermal loading, and potential significant adverse watershed effects from the proposed timber operations, and (B) the person(s) responsible for the implementation of each measure, if other than the timber operator.

(2) In proposing, reviewing, and approving such measures, preference shall be given to the following: (A) measures that are both onsite (i.e., on or near the plan area) and in–kind (i.e., erosion control measures where sediment is the problem), and (B) sites that are located to maximize the benefits to the impacted portion of a watercourse or lake. Out–of–kind measures (i.e., improving shade where sediment is the problem) shall not be approved as meeting the requirements of this subsection.

(e) Channel zone requirements

(1) There shall be no timber operations within the channel zone with the following exceptions:

(A) timber harvesting that is directed to improve coho habitat through the limited use of the selection or commercial thinning silvicultural methods with review and comment by DFG.

(B) timber harvesting necessary for the construction or reconstruction of approved watercourse crossings.

(C) timber harvesting necessary for the protection of public health and safety.

(D) to allow for full suspension cable yarding when necessary to transport logs through the channel zone.

(E) Class III watercourses where exclusion of timber operations is not needed for protection of coho salmon.

(2) In all instances where trees are proposed to be felled within the channel zone, a base mark shall be placed below the cut line of the harvest trees within the zone. Such marking shall be completed by the RPF that prepared the plan prior to the preharvest inspection.

(f) The minimum WLPZ width for Class I waters shall be 150 feet from the watercourse or lake transition line.

(g) Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25% overstory conifer canopy post–harvest. Harvesting of hardwoods shall only occur for the purpose of enabling conifer regeneration.

(h) For Class I waters, any plan involving timber operations within the WLPZ shall contain the following information:

(1) A clear and enforceable specification of how any disturbance or log or tree cutting and removal within the Class I WLPZ shall be carried out to conform with 14 CCR 936.2(a) and 936.9.1(a).

(2) A description of all existing permanent crossings of Class I waters by logging roads and clear specification regarding how these crossings are to be modified, used, and treated to minimize risks, giving special attention to allowing fish to pass both upstream and downstream during all life stages.

(3) Clear and enforceable specifications for construction and operation of any new crossing of Class I waters to prevent direct harm, habitat degradation, water velocity increase, hindrance of fish passage, or other potential impairment of beneficial uses of water.

(i) Recruitment of large woody debris for aquatic habitat in Class I coho salmon–bearing waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the THP area that lies within 50 feet of the watercourse transition line. Where the THP boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 932.7(b)(2); the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones within the THP area shall be retained within 50 feet of the watercourse transition line.

The RPF may propose alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must explain and justify in the THP why the proposed alternative is more conducive to current and long-term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(j) Where an inner gorge extends beyond a Class I WLPZ and slopes are greater than 55%, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break-in-slope to less than 55% for a distance of 100 feet or more, or 300 feet as measured from the watercourse or lake transition line, which ever is less. All operations on slopes exceeding 65% within an inner gorge of a Class I or II watercourse shall be reviewed by a Professional Geologist prior to plan approval, regardless of whether they are proposed within a WLPZ or outside of a WLPZ.

(k) From October 15 to May 1, the following shall apply: (1) no timber operations shall take place unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 934.7(a), (2) unless the winter period operating plan proposes operations during an extended period with low antecedent soil wetness, no tractor roads shall be constructed, reconstructed, or used on slopes that are over 40 percent and within 200 feet of a Class I, II, or III watercourse, as measured from the watercourse or lake transition line, and (3) operation of trucks and heavy equipment on roads and landings shall be limited to those with a stable operating surface.

(*l*) Construction or reconstruction of logging roads, tractor roads, or landings shall not take place during the winter period unless the approved plan incorporates a complete winter period operating plan pursuant to 14 § CCR 934.7(a) that specifically address such road construction. Use of logging roads, tractor roads, or landings shall not take place at any location where saturated soil conditions exist, where a stable logging road or landing operating surface does not exist, or when visibly turbid water from the road, landing, or skid trail surface or inside ditch may reach a watercourse or lake. Grading to obtain a drier running surface more than one time before reincorporation of any resulting berms back into the road surface is prohibited.

(m) All tractor roads shall have drainage and/or drainage collection and storage facilities installed as soon as practical following yarding and prior to either (1) the start of any rain which causes overland flow across or along the disturbed surface within a WLPZ or within any ELZ or EEZ designated for watercourse or lake protection, or (2) any day with a National Weather Service forecast of a chance of rain of 30 percent or more, a flash flood warning, or a flash flood watch.

(n) Within the WLPZ, and within any ELZ or EEZ designated for watercourse or lake protection, treatments to stabilize soils, minimize soil erosion, and prevent the discharge of sediment into waters in amounts deleterious to aquatic species or the quality and beneficial uses of water, or that threaten to violate applicable water quality requirements, shall be applied in accordance with the following standards:

(1) The following requirements shall apply to all such treatments.

(A) They shall be described in the plan.

(B) For areas disturbed from May 1 through October 15, treatment shall be completed prior to the start of any rain that causes overland flow across or along the disturbed surface.

(C) For areas disturbed from October 16 through April 30, treatment shall be completed prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service or within 10 days, whichever is earlier.

(2) The traveled surface of logging roads shall be treated to prevent waterborne transport of sediment and concentration of runoff that results from timber operations.

(3) The treatment for other disturbed areas, including: (A) areas exceeding 100 contiguous square feet where timber operations have exposed bare soil, (B) approaches to tractor road watercourse crossings between the drainage facilities closest to the crossing, (C) road cut banks and fills, and (D) any other area of disturbed soil that threatens to discharge sediment into waters in amounts deleterious to the quality and beneficial uses of water, may include, but need not be limited to, mulching, rip-rapping, grass seeding, or chemical soil stabilizers. Where straw, mulch, or slash is used, the minimum coverage shall be 90%, and any treated area that has been subject to reuse or has less than 90% surface cover shall be treated again prior to the end of timber operations. The RPF may propose alternative treatments that will achieve the same level of erosion control and sediment discharge prevention.

(4) Where the undisturbed natural ground cover cannot effectively protect beneficial uses of water from timber operations, the ground shall be treated by measures including, but not limited to, seeding, mulching, or replanting, in order to retain and improve its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

(o) As part of the plan, the RPF shall identify active erosion sites in the logging area, assess them to determine which sites pose significant risks to the beneficial uses of water, assess them to determine whether feasible remedies exist, and address in the plan feasible remediation for all sites that pose significant risk to the beneficial uses of water.

(p) The erosion control maintenance period on permanent and seasonal roads and associated landings that are not abandoned in accordance with 14 CCR § 943.8 shall be three years.

(q) Site preparation activities shall be designed to prevent soil disturbance within, and minimize soil movement into, the channels of watercourses. Prior to any broadcast burning, burning prescriptions shall be designed to prevent loss of large woody debris in watercourses, and vegetation and duff within a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. No ignition is to occur within any WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. When burning prescriptions are proposed, the measures or burning restrictions which are intended to accomplish this goal shall be stated in the plan and included in any required burning permit. This information shall be provided in addition to the information required under 14 CCR § 935.4.

(r) Water drafting for timber operations from within a channel zone of a natural watercourse or from a lake shall conform with the following standards:

(1) The RPF shall incorporate into the THP:

(A) a description and map of proposed water drafting locations,

(B) the watercourse or lake classification, and

(C) the general drafting location use parameters (i.e., yearly timing, estimated total volume needed, estimated total uptake rate and filling time, and associated water drafting activities from other THPs).

(2) On Class I and Class II streams where the RPF has estimated that:

(A) bypass flows are less than 2 cubic feet per second, or

(B) pool volume at the water drafting site would be reduced by 10%, or

(C) diversion rate exceeds 350 gallons per minute, or

(D) diversion rate exceeds 10% of the above surface flow;

no water drafting shall occur unless the RPF prepares a water drafting plan to be reviewed and, if necessary a stream bed alteration agreement issued, by DFG and approved by the Director. The Director may accept the project description and conditions portion of an approved "Streambed Alteration Agreement" issued under the Fish and Game Code (F&GC 1600 et seq.) which is submitted instead of the water drafting plan described in 14 CCR § 936.9.1(r)(2)(D)(1-5).

The water drafting plan shall include, but not be limited to:

1. disclosure of estimated percent streamflow reduction and duration of reduction,

2. discussion of the effects of single pumping operations, or multiple pumping operations at the same location,

3. proposed alternatives and discussion to prevent adverse effects (e.g. reduction in hose diameter, reduction in total intake at one location, described allowances for recharge time, and alternative water drafting locations),

4. conditions for operators to include an operations log kept on the water truck containing the following information: Date, Time, Pump Rate, Filling Time, Screen Cleaned, Screen Conditions, and Bypass flow observations,

5. a statement by the RPF for a pre-operations field review with the operator to discuss the conditions in the water drafting plan.

(3) Intakes shall be screened in Class I and Class II waters. Screens shall be designed to prevent the entrainment or impingement of all life stages of fish or amphibians. Screen specifications shall be included in the plan.

(4) Approaches to drafting locations within a WLPZ shall be surfaced with rock or other suitable material to avoid generation of sediment.

(s) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code, or

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions.

(t) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code,

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(7) the harvest of dead or dying conifer trees subject to the following conditions:

(A) Recruitment of large woody debris for aquatic habitat in Class I coho salmon-bearing waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the area of operations that lies within 50 feet of the watercourse transition line. Where the area of operations is bounded by an ownership boundary that corresponds with a class I watercourse, and where the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 932.7(b)(2), the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones shall be retained within 50 feet of the watercourse transition line within the area of operations.

The RPF may provide alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must provide with the notice an explanation and justification why the alternative provided is more conducive to current and long-term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.

(C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

(D) Within the WLPZ or ELZ/EEZ, if the stocking standards of 14 CCR § 932.7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

(u) No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

(1) This section does not apply to emergency operations under 14 CCR § 1052.

(v) Nonstandard practices (i.e., waivers, exceptions, in-lieu practices, and alternative practices) shall comply with the goal set forth in subsection (a) above as well as with the other requirements set forth in the rules.

(w) The Director may approve alternatives that provide equal or better protection for coho salmon and achieve the goal of this section.

(1) Any alternative proposed under this subsection for timber operations in a watershed with coho salmon shall only be included in a plan: i) after consultation and written concurrence from DFG prior to plan submittal, and ii) with a clear demonstration of compliance with the issuance criteria described under Fish and Game Code § 2081(b) as determined by DFG.

(2) The Director shall not accept for inclusion in a plan any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR § 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the goal of this section and the agency(ies) participated in the review of the plan, including an on-the-ground inspection.

(x) Other measures that would effectively achieve the goal set forth in 14 CCR § 936.9.1(a) may be approved with written concurrence from DFG (i)in accordance with 14 CCR 936.6, or (ii) pursuant to a coho salmon watershed evaluation for timber operations when the plan incorporates minimization and mitigation measures based on the watershed evaluation, and with written concurrence from DFG. The watershed evaluation must include the components set forth below and shall be included in addition to all other District Forest Practice Rules.

(1) The following are required components of a watershed evaluation:

(A) Description of assessment area.

(B) Status of coho salmon within each planning watershed in the assessment area.

(C) Status of coho salmon habitat conditions and water quality within each planning watershed in the assessment area.

(D) Identification and prioritization of limiting factors. A reasoned analysis shall assign ratings of high, moderate and low to those factors which may individually or cumulatively limit coho salmon distribution and abundance in the watershed.

(E) Proposed planning watershed specific management practices to prevent or control discharges and environmental impacts from timber operations that could contribute to the identified high and moderate risk limiting factors, and; corrective actions that would reduce or eliminate the high and moderate risk limiting factors on the landscape and mitigate the impacts of timber operations which cause or contribute to those limiting factors.

(F) A plan and schedule for implementing proposed management practices.

(G) A program for monitoring implementation and effectiveness of the management practices.

(y) The operational provisions of 14 CCR §§ 936.9.1 and 936.9.2 shall not apply to a plan under which the incidental take from timber operations of Coho Salmon within the planning watershed is already authorized pursuant to the following:

(1) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(2) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(3) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG.

(z) The operational provisions of 14 CCR §§ 936.9.1 and 936.9.2 shall not apply to a plan that specifies project revisions, guidelines, or take avoidance measures pursuant to a memorandum of understanding or a planning agreement entered into between the plan submitter and DFG, which DFG has determined will avoid take of coho salmon.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

§ 936.9.2. Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon. *[Effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective]*

(a) The measures to facilitate Incidental Take Authorization in watersheds with coho salmon are intended to facilitate the process of obtaining incidental take permits for state-listed coho salmon from DFG for timber operations under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.).

(b) In addition to all other District Forest Practice Rules, in any watershed with coho salmon, subsections (c) through (f) shall apply to all timber operations where DFG determines that take will, or is likely to result from such proposed timber operations, unless incidental take of coho salmon is already authorized as specified under 14 CCR § 936.9.1(y) or 936.9.1(z).

(c) Class I Watercourse and Lake Protection Measures — The following shall apply to all Class I watercourses and lakes within watersheds with coho salmon.

(1) Within a WLPZ for Class I watercourses and lakes, sufficient trees shall be retained to maintain the preharvest level of direct shading to pools. The percentage of shade provided by Group A species shall not be reduced relative to other species.

(2) Recruitment of large woody debris for aquatic habitat in Class I coho salmon-bearing watercourses shall be ensured by retaining the ten (10) largest dbh conifers (live or dead) per 330 feet of stream channel length on each side of the watercourse. The retained conifers shall be selected from within the plan area that lies within 100 feet of the watercourse transition line. Where the plan boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 932.7(b)(2); the ten (10) largest dbh conifers (live or dead) per 330 feet of stream channel length within the plan area shall be retained within 100 feet of the watercourse transition line.

(d) Class II Watercourse and Lake Protection Measures —

(1) Any timber operation or silvicultural prescription within 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of coho salmon or listed aquatic or riparian-associated species as significant objectives.

(2) Where an inner gorge extends beyond a Class II WLPZ and watercourse sideslopes are greater than 55 percent, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break-in-slope to less than 55 percent for a distance of 100 feet or more, or 200 feet as measured from the watercourse or lake transition line, which ever is less. All operations within the special management zone shall be reviewed by a Professional Geologist prior to plan approval and disclosed and incorporated in the plan as appropriate.

(3) The following shall apply to all Class II watercourses and lakes mapped on current 1:24,000 scale U.S. Geological Survey topographic map within watersheds with coho salmon except as provided under 14 CCR § 936.9.2(d)(3)(E):

(A) Inner Band: From 0-50 feet, retain a minimum of 85 percent post-harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(B) Outer Band with 0-30 percent watercourse sideslope: From 50-75 feet, retain a minimum of 65 percent post-harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(C) Outer Band with 31-50 percent watercourse sideslope: From 50-100 feet, retain a minimum of 65 percent post harvest overstory canopy. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(D) Outer Band with >50 percent watercourse sideslope: From 50-125 feet, retain a minimum of 65 percent post-harvest overstory canopy. WLPZ width may be reduced to 100 feet for helicopter or cable yarding operations. The overstory canopy must be composed of at least 25 percent overstory conifer canopy post-harvest.

(E) 14 CCR § 936.9.2(b)(3)(B)(C) and (D) do not apply to plans in the Southern Subdistrict of the Coast Forest District or to NTMPs within watersheds with coho salmon.

(e) Class III Watercourse Protection Measures — The following shall apply to all Class III watercourses within watersheds with coho salmon in or adjacent to harvest units where evenaged management, rehabilitation of under-stocked stands, or variable retention prescriptions are proposed.

(1) establish a minimum 25-foot-wide ELZ on each side of the watercourse for slopes less than or equal to 30% and a minimum 50-foot-wide ELZ on each side of the watercourse for slopes greater than 30%,

(2) retain all trees situated within the channel zone and trees that have boles that overlap the edge of the channel zone,

(3) within the ELZ, at least 50 percent of the understory vegetation shall be left post-harvest in an evenly distributed condition,

(4) within the ELZ; retain all snags, large woody debris, and countable trees 10 inches dbh or less, except where necessary to allow for cable yarding corridors, safety, or crossing construction,

(5) within the ELZ, prohibit initiation of any burning,

(6) allow cable yarding when necessary to transport logs through a Class III ELZ,

(7) tractor yarding is prohibited within the ELZ, except for the use of feller-bunchers and shovel yarding that minimize soil compaction and disturbance, and

(8) within the ELZ, retain at least 15 square feet basal area per acre of hardwoods where it exists before harvest, including the largest hardwoods available for this purpose. Retain all hardwoods when less than 15 square feet basal area per acre is present before harvest.

(f) Where harvesting is proposed on a connected headwall swale:

(1) Only the selection regeneration method allowed under 14 CCR § 933.2(a)(2)(A) or the commercial thinning intermediate treatment allowed under 14 CCR § 933.3(a) may be utilized in that area.

(2) Areas of ground based yarding shall be delineated on the ground as an equipment exclusion zone and marked prior to the preharvest inspection.

(3) All proposed road construction or reconstruction shall be reviewed by a Professional Geologist and disclosed and incorporated in the plan as appropriate prior to plan approval.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

§ 936.10. Domestic Water Supply Protection.

(a) When proposed timber operations may threaten to degrade a domestic water supply the Director shall evaluate any mitigations recommended prior to the close of the public comment period (PRC 4582.7) and shall require the adoption of those practices which are feasible and necessary to protect the quality and beneficial use of the supply.

(b) The Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the domestic water supply as a condition of plan approval. The Director shall require an evaluation at the request of the California Regional Water Quality Control Board, or any affected water purveyor, if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near streams or springs. The design and implementation of the evaluation shall be done in consultation with the Director, appropriate RWQCB, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 936.11. Effectiveness and Implementation Monitoring.

(a) Where timber operations will be conducted within a WLPZ, the Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the watercourse(s) or lake(s) as a condition of plan approval. The Director shall require such an evaluation if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or DFG, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality. The evaluation may utilize procedures including, but not limited, to:

(1) Procedures for effectiveness and implementation monitoring,

(2) Existing landowner monitoring programs, or

(3) Photographic monitoring

(b) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 96, No. 45.
2. Amendment of subsection (b) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (b) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (b) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (b) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (b) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 936.11.1. Monitoring for Adaptive Management in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

(a) Goal: The Board will develop a monitoring and adaptive management program for timber harvesting operations in watersheds with coho salmon. The purpose of the program will be: (i) to determine whether or not the operational Forest Practice Rules and associated hillslope and instream mitigation measures afford a level of protection that is both appropriate and adequate to ensure protection of coho salmon and its habitat, (ii) to provide monitoring necessary to ensure the Forest Practice Rules are being implemented in a manner consistent with the California Endangered Species Act as required under 14 CCR § 896, and (iii) to provide a timely feedback process for the Board to assess rule effectiveness in meeting the stated goals under subsections (i) and (ii).

(1) The monitoring component of the program will provide the information necessary to evaluate the effectiveness of mitigation measures and identify when site–specific mitigation or operational rules should be revised to better accomplish the goals of the Board.

(A) Four types of monitoring will be addressed under the program including: (i) compliance, (ii) implementation, (iii) effectiveness, and (iv) validation.

(B) Review Team agencies will continue to conduct mandated compliance and implementation monitoring as part of their regulatory responsibilities.

(C) Effectiveness monitoring will be undertaken by the landowner; or be a cooperative effort between landowners and the Department, Review Team agencies, or a cooperative interdisciplinary team.

(D) Long–term validation monitoring will be undertaken by the Department, or facilitated through cooperative agreements among stakeholders and Review Team agencies.

(E) The Board or its designee may include any monitoring that meets the intent of this section, including any efforts that are already underway by the landowner, agencies or other cooperators.

(2) The adaptive management component of the program will be a process of action–based planning, monitoring, evaluating and adjusting through use of the scientific method; with the objective of maintaining fully functioning habitat conditions and facilitating conservation of coho salmon populations.

(A) Four elements of adaptive management will be addressed under the program including: (i) identification of substantial new information, (ii) collection of substantial new information, (iii) evaluation of substantial new information, and (iv) determination regarding the necessity or benefit of adjustments and improvements to mitigation and protective measures, including the Forest Practice Rules, based upon the substantial new information.

(b)(1) In collaboration with the Department and other Review Team agencies, the Board shall appoint a scientific technical advisory committee to develop monitoring practices to evaluate the effectiveness of mitigation measures at the appropriate scale.

(A) In development of monitoring practices, the Board's appointed scientific technical advisory committee may also engage other experts in the field for assistance.

(B) The monitoring practices will be applied by the landowner; or be a cooperative effort between landowners and the Department, Review Team agencies, or a cooperative interdisciplinary team.

(2) Monitoring practices and strategies may be peer reviewed by a scientific technical advisory committee as directed by the Board.

(3) The design and implementation of monitoring shall be done in consultation with the Department and other Review Team agencies, and the

sufficiency of information shall be judged in light of its scientific merit and what is reasonable and practical.

(A) Monitoring data shall be derived from agency monitoring programs, landowner monitoring programs, or cooperative projects.

(4) As a condition of plan approval, based upon substantial evidence in the record, the Director may require monitoring:

(A) Anytime after plan approval,

(B) Concurrent with timber operations, and

(C) After completion of operations during the remainder of the prescribed maintenance period.

(5) Monitoring data collected pursuant to (b)(4) or (b)(6) shall be provided to the Board annually.

(6) The plan shall incorporate monitoring requirements in conformance with the requirements of a valid incidental take permit for coho salmon within the planning watershed that has been authorized pursuant to the following:

(A) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(B) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(C) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG; or

(c) The Department shall prepare an annual report in conjunction with a Board appointed technical subcommittee summarizing progress and significant findings from monitoring activities collected throughout the year in accordance with subsection (b)(4) above. The report shall be (i) provided to the Board during the first quarter of each calendar year, (ii) made available to the public upon request, and (iii) placed on the Board's website for at least 180 days.

(d) Based upon the findings presented in the annual monitoring report(s), the Director, in conjunction with the Board appointed technical subcommittee, may recommend additions, deletions or modifications to the Forest Practice Rules if the necessity for such a change is supported by substantial evidence in the reports. A specific recommendation based upon the findings that a rule requirement is no longer necessary shall also be supported by substantial evidence.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f) Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 936.12. Section 303(d) Listed Watersheds.

For any planning watershed in which timber operations could contribute to the pollutants or stressors which have been identified as limiting water quality in a water body listed pursuant to 303(d) Federal Clean Water Act, the following shall apply:

(a) The Department shall, in collaboration with the appropriate RWQCB and SWRCB, prioritize watersheds in which the following will be done: 1) conduct or participate in any further assessment or analysis of the watershed that may be needed, 2) participate in the development of Total Maximum Daily Load (TMDL) problem assessment, source assessment, or load allocations related to timber operations, and 3) if existing rules are deemed not to be sufficient, develop recommendations for watershed–specific silvicultural implementation, enforcement and monitoring practices to be applied by the Department.

(b) The Department shall prepare a report setting forth the Department's findings and recommendations from the activities identified pursuant to (a) above. The report shall be submitted to the Board and the appropriate RWQCB. The report shall be made available to the public upon request and placed on the Boards' website for a 90–day period.

(c) Where the Department has recommended that the adoption of watershed specific rules is needed, the Board shall consider that recommendation as a proposal for rulemaking under the Administrative Procedures Act (Section 11340 et. seq. Gov Code) and shall begin that process within 180 days following receipt of that report.

(d) These watershed specific rules shall be developed in collaboration with the appropriate RWQCB, the landowner(s) or designee with land in the planning watershed, and other persons or groups within the watershed, and may also be incorporated into a TMDL implementation plan.

(e) The watershed specific rules shall remain in effect until the water body has been removed from the 303(d) list, or that the Board finds, after consulting with the appropriate RWQCB, that timber operations are no longer a significant source of the pollutant or stressor that limits water quality in the listed water body.

(f) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 83, No. 40.
2. Amendment of subsection (f) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (f) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (f) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (f) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (f) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 936.13. Interim Watershed Mitigation Addendum (IWMA).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.1. Consultation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.2. IWMA Evaluation Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.3. Contents of IWMA

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002: operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.4. Standards for IWMA Preparation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.5. Submission of an IWMA as Part of a Plan

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.6. Compliance Monitoring and Expanded Completion Report.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.7. Subsequent Plans Within the IWMA Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 936.13.8. Equivalent Analysis.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

Article 7. Hazard Reduction

§ 937. Hazard Reduction.

This article shall provide standards for the treatment of snags and logging slash in order to reduce the fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Amendment filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 937.1. Snag Disposal and Retention.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Repealer of section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 937.2. Treatment of Logging Slash to Reduce Fire Hazard in the Northern Forest District.

The following standards shall apply to the treatment of slash created by timber operations within the plan area and on roads adjacent to the plan area, but excluding appertenant roads. Lopping for fire hazard reduction is defined in 14 CCR 895.1.

(a) Slash to be treated by piling and burning shall be treated not later than April 1 of the year following its creation, or within 30 days following climatic access, or as justified in the plan.

(b) Within 100 feet of the edge of the traveled surface of public roads, and within 50 feet of the edge of the traveled surface of permanent private roads open for public use where permission to pass is not required, slash created and trees knocked down by road construction or timber operations shall be treated by lopping for fire hazard reduction, piling and burning, chipping, burying or removal from the zone.

(c) All woody debris created by timber operations greater than one inch but less then eight inches in diameter within 100 feet of permanently located structures maintained for human habitation shall be removed or piled and burned; all slash created between 100–200 feet of permanently located structures maintained for human habitation shall be lopped for fire hazard reduction, removed, chipped or piled and burned; lopping may be required between 200–500 feet where unusual fire risk or hazard exists as determined by the Director or the RPF.

(d) An alternative to treating slash along roads and within 200 feet of structures may be approved by the Director when the RPF explains and justifies in the plans how equal fire protection will be provided. The alternative shall include a description of the alternate treatment(s) and the portion(s) of the plan area in which they will be utilized. In proposing alternate slash treatments, the RPF shall consider the estimated amount and distribution of slash to be created by the operation, type of remaining vegetation, topography, climate, and degree of public exposure fire history.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Repealer and new section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. Editorial correction of subsection (c) (Register 95, No. 41).

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§ 937.3. Prescribed Broadcast Burning of Slash.

Outside the High Use Subdistrict, broadcast burning may be prescribed for slash treatment subject to the following conditions.

(a) Such burning shall be done only after the first heavy fall rains and shall be completed before April 1;

(b) It may occur within cleared firebreaks of not less than 10 feet (3.05 m) in width;

(c) Use of the broadcast burning prescription of the Stream and Lake Protection Zone for Class I, and Class II, is prohibited. Where necessary to protect downstream beneficial uses, the director may prohibit burning prescriptions in Class III watercourses;

(d) Exceptions to requirements (a), (b) and (c) above may be granted provided a project–type burning permit is obtained prior to burning and the terms of the permit are adhered to while burning.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5, 4562, and 4562.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 957.3 to Section 957.2 and renumbering and amendment of former Section 957.5 to Section 957.3 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).
2. Amendment of subsection (c) filed 124–89; operative 2–1–90 (Register 89, No. 50).
3. New subsection (f) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
4. Subsection (f) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

§ 937.4. Broadcast Burning.

HISTORY

1. Renumbering and amendment of former Section 937.4 to Section 937.3 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 937.5. Piling and Burning.

When the option of burning piles or concentrations of slash is chosen to meet the slash treatment requirements as specified in these rules, such burning shall be done as follows:

(a) Piles shall be sufficiently free of soil and other noncombustible material for effective burning.

(b) The piled slash shall be burned at a safe time following the first wet fall or winter weather or other safe periods and according to laws and regulations. Piles that fail to burn sufficiently to remove the fire hazard shall be repiled and burned in the manner aforesaid or treated to eliminate the fire hazard. All necessary precautions shall be taken to confine the burning to the piled slash.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 937.3 to section 937.5 filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Amendment of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

§ 937.6. Notification of Burning.

The local representative of the Director shall be notified in advance of the time and place of any burning of logging slash. Any burning shall be done in the manner provided by law.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 937.7. Protection of Residual Trees.

Slash burning operations and fire hazard abatement operations shall be conducted in a manner which will not damage residual trees and reproduction to the extent that they will not qualify to meet the silvicultural and stocking requirements of the rules.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 937.8. Slash Disposal to Control Forest Insects.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5, 4562 and 4592, Public Resources Code.

HISTORY

1. New section filed 5–3–89 as an emergency; operative 5–3–89 (Register 89, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–31–89.
2. Repealed by operation of law (Register 90, No. 10).
3. New section filed 3–2–90 as an emergency; operative 3–2–90 (Register 90, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–2–90.
4. Repealed by operation of Government Code section 11346.1(g) 120 days from effective date (Register 91, No. 40).

§ 937.9. Prevention Practices.

Adverse insect and disease impacts shall be identified by the RPF in the timber harvesting plan, and mitigating measures shall be prescribed to improve the health and productivity of the timber stand. Timber operations shall be conducted to as to minimize the build–up of destructive insect populations or the spread forest diseases.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Repealer of former section 939, and renumbering and amendment of former section 939.1 to section 939 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. Repealer of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. Renumbering of former section 939 (mistakenly repealed) to section 937.9 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Appendix

BOARD OF FORESTRY TECHNICAL RULE
ADDENDUM NO. 3
BROOD MATERIAL

A. Hazard Determination

Tree mortality and top killing result when Ips beetle populations reproduce and increase in pine brood material[1] and then leave this material and attack pines in the residual stand. Hazard increases with the amount of pine brood material present.

Any suitable breeding material, including pine logs from recently felled trees, represents a hazard as long as it remains on site long enough for the beetles to complete a life cycle in it. During suitable weather, the life cycle may be as short as five weeks. Piling of brood material is more hazardous than leaving it spread–out on the ground.

Timing of brood material production may influence hazard. Hazard is presumed to be highest when pine brood material is produced from February through June and moderate when produced at other times of the year. At no time is hazard presumed to be low. In some parts of the Southern Forest District, hazard is presumed to be high year round, regardless of when the brood material was produced.

Age, size, and species of residual trees influence hazard. Young pole size stands of pine are most susceptible to damage. Tree species other than pine are not damaged by insects that breed in pine brood material. Brood material from tree species other than pine generally does not contribute to the build–up of damaging beetle populations.

Low vigor residual trees are at greatest risk. Historically, drought stressed, suppressed, and overstocked stands have been identified as high risk. Off–site, diseased, damaged, and overmature trees are also at risk.

If damaging insect populations are high, hazard will be greater. High beetle populations have the potential to damage more than just low vigor trees. Chronic pine mortality in the area should be evaluated to determine if high beetle populations are present. An established Zone of Infestation for pine bark beetles implies that conditions are appropriate for the build–up of beetle populations.

Potential for the spread of damaging insects to adjacent ownerships should be considered. The closer the ownership, the greater the risk. Generally, ownerships beyond one quarter of a mile will have little or no risk.

Value of residual trees should be considered. How much loss to residuals is acceptable?

B. Hazard Reduction Treatment Alternatives

Any treatment to reduce hazard should apply to the entire area where a hazard has been determined to exist, including the area where lopping for fire hazard reduction has been used. Treatment alternatives include modification of the brood material so that it is less suitable as a breeding site for beetles or methods to reduce beetle populations that have developed.

Specific Treatment Alternatives applied to pine brood material are as follows:

(1) The following treatments are acceptable provided they are completed before insect broods emerge from infested material. During weather that is suitable for brood development, a five week window is the maximum time that should elapse between creation of brood material and its treatment by one of the following methods: brood material can be removed from the site for processing or disposal; if left on-site, it can be piled and burned, chipped, debarked, treated with an appropriate pesticide, or piled and covered with clear plastic. If brood material is piled and covered, the plastic used must be a minimum of 6 mil thick; piles must be completely sealed by the plastic so that there are no openings to the outside and remain covered for 6 months (or 4 months if at least 2 summer months are included).

(2) The following treatment is acceptable, provided it is completed as soon after brood material creation as is practical, but not later than one week. Lop all branches from the sides and tops of those portions of main stems which are 3″ or more in diameter. Branches shall be scattered so that stems have maximum exposure to solar radiation. Do not pile brood material. Lopped stems could also be cut into short segments to decrease drying time and further reduce hazard.

(3) Burying brood material will prevent it from being colonized by beetles, but may not prevent emergence of the beetles. Therefore, it must be buried before becoming infested. During suitable weather, brood material must be buried concurrent with its creation.

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[1]"Suitable" weather depends upon location. In areas that receive snowfall, suitable weather generally exists from April 15–October 15. In other areas, suitable weather exists from March 1–November 30.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513, and 4713, Public Resources Code.

HISTORY

1. New Appendix filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
2. Editorial correction inserting inadvertently omitted Appendix A and adding HISTORY 1 (Register 96, No. 50).

§ 937.10. Locating and Reporting.

Timber operators, timber owners and foresters (RPF), if any employed on the operation, shall assist the State in determining the location of in-

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sect and disease outbreaks, and report such outbreaks to the Director or a representative of the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 939.2 to section 937.10 filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
2. Renumbering of former section 939.2 to section 937.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

Article 8. Fire Protection

§ 938. Fire Protection.

When burning permits are required pursuant to Public Resources Code 4423, timber operators shall:

(a) observe the fire prevention and control rules within this article, and

(b) submit each year, either before April 1st or before the start of timber operations a fire suppression resources inventory to the Department as required by the rules.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4423, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).
3. Editorial correction implementing inadvertently omitted amendment and adding HISTORY 2 (Register 96, No. 50).

§ 938.1. Fire Suppression Resource Inventory.

The Fire Suppression Resources Inventory shall include, as a minimum, the following information:

(a) Name, address and 24–hour telephone number of an individual and an alternate who has authority to respond to Department requests for resources to suppress fires.

(b) Number of individuals available for fire fighting duty and their skills.

(c) Equipment available for fire fighting.

The Fire Suppression Resources Inventory shall be submitted to the ranger unit headquarters office of the Department having jurisdiction for the timber operation.

NOTE: Authority cited: Section 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 938.2. Fire Plan Contents.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Repealer filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 938.3. Roads to Be Kept Passable.

Timber operators shall keep all logging truck roads in a passable condition during the dry season for fire truck travel until snag and slash disposal has been completed.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).

§ 938.4. Smoking and Matches.

Subject to any law or ordinance prohibiting or otherwise regulating smoking, smoking by persons engaged in timber operations shall be limited to occasions where they are not moving about and are confined to cleared landings and areas of bare soil at least three feet (.914 m) in diameter. Burning material shall be extinguished in such areas of bare soil before discarding. The timber operator shall specify procedures to guide actions of his employees or other persons in his employment consistent with this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 938.5. Lunch and Warming Fires.

Subject to any law or ordinance regulating or prohibiting fires, warming fires or other fires used for the comfort or convenience of employees or other persons engaged in timber operations shall be limited to the following conditions:

1. There shall be a clearance of 10 feet (3.05 m) or more from the perimeter of such fires and flammable vegetation or other substances conducive to the spread of fire.

2. Warming fires shall be built in a depression in the soil to hold the ash created by such fires.

3. The timber operator shall establish procedures to guide actions of his employees or other persons in their employment regarding the setting, maintenance, or use of such fires that are consistent with (a) and (b) of this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4103.5, 4432, 4433, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 938.6. Posting Procedures.

Timber operators shall post notices which set forth lists of procedures that they have established consistent with Sections 938.4 and 938.5. Such notices shall be posted in sufficient quantity and location throughout their logging areas so that all employees or other persons employed by them to work, shall be informed of such procedures. Timber operators shall provide for diligent supervision of such procedures throughout their operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 938.7. Blasting and Welding.

Timber operators shall provide for a diligent fire watch service at the scene of any blasting or welding operations conducted on their logging areas to prevent and extinguish fires resulting from such operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).

§ 938.8. Inspection for Fire.

The timber operator or his/her agent shall conduct a diligent aerial or ground inspection within the first 2 hours after cessation of felling, yarding, or loading operations each day during the dry period when fire is likely to spread. The person conducting the inspection shall have adequate communication available for prompt reporting of any fire that may be detected.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 938.9. Glass Containers.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).
2. Repealer filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 938.10. Cable Blocks.

During the period when burning permits are required, all tail side blocks on a cable setting shall be located in the center of an area that is either cleared to mineral soil or is covered with a fire–proof blanket that is at least 15 feet in diameter. A shovel and an operational full five–gallon back pump or a fire extinguisher bearing a label showing at least a 4A rating must be located within 25 feet of each such block before yarding.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

Article 9. Forest Insect and Disease Protection Practices

§ 939. Wildlife Practice.

Timber operations shall be planned and conducted to maintain suitable habitat for wildlife species as specified by the provisions of this Article. These provisions are in addition to those directly or indirectly provided in other rules of the Board of Forestry.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and and 4713, Public Resources Code.

HISTORY

1. Repealer of former section 939, and renumbering and amendment of former section 939.1 to section 939 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. Repealer of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. Renumbering of former section 939 to section 937.9 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.1. Snag Retention.

Within the logging area all snags shall be retained to provide wildlife habitat except as follows:

(a) If required by the Director during the review of a THP, snags over 20 feet in height and 16 inches dbh shall be felled in the following locations:

(1) Within 100 feet of main ridge tops that are suitable for fire suppression and delineated on a THP map.

(2) For hazard reduction within 100 feet of all public reads, permanent reads, seasonal reads, landings, and railroads.

(b) Where federal and state safety laws and regulations require the felling of snags.

(c) Within 100 feet of structures maintained for human habitation.

(d) Merchantable snags in any location as provided for in the plan, or

(e) snags whose falling is required for insect or disease control.

(f) When proposed by the RPF; where it is explained and justified that there will not be a significant impact to wildlife habitat needs or there is a threat to human health or safety, including fire where the Director determines a high hazard exists.

NOTE: Authority cited: Sections 4551, Public Resources Code. Reference: Sections 4513, 4551.5 and 4582.75, and 4583 Public Resources Code.

HISTORY

1. Renumbering and amendment of section 939.1 to section 939 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.2. General Protection of Nest Sites.

The following general standards for protection of Sensitive species shall apply.

(a) A pre–harvest inspection will normally be required when it is known or suspected that the minimum buffer zone surrounding an active nest of a Sensitive species is in or extends onto an area proposed for timber operations. When the California Department of Forestry is already familiar with the site, the Director, after consultation with the Department of Fish and Game, may waive this requirement.

(b) During timber operations, nest tree(s), designated perch tree(s), screening tree(s), and replacement tree(s), shall be left standing and unharmed except as otherwise provided in these following rules.

(c) Timber operations shall be planned and operated to commence as far as possible from occupied nest trees unless explained and justified by the RPF in the THP.

(d) When an occupied nest site of a listed bird species is discovered during timber operations, the timber operator shall protect the nest tree, screening trees, perch trees, and replacement trees and shall apply the provisions of subsections (b) and (c) above and of section 919.2 (939.2, 959.2), and shall immediately notify the Department of Fish and Game and the Department of Forestry and Fire Protection. An amendment that shall be considered a minor amendment to the timber harvesting plan shall be filed reflecting such additional protection as is agreed between the operator and the Director after consultation with the Department of Fish and Game.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583 and 4604, Public Resources Code; 14 CCR 670.5; and 50 CFR 17.11.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Amendment of subsection (d) filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of subsection (d) as it existed prior to 7–23–90 emergency amendment by operation of Government Code section 11346.1(f) (Register 91, No. 4).
4. Amendment of subsection (d) filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (d) as it existed before emergency amendment filed 11–21–91 by operation of Government Code section 11346.1(f) (Register 91, No. 16).
6. Amendment of subsection (d) filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–25–91 order transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
8. Editorial correction of printing error putting sections 939.5 and 939.6 in correct order (Register 91, No. 32).
9. Renumbering and amendment of former section 939.2 to section 937.10 filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
10. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13). For prior history, see Register 91, No. 50.
11. Renumbering of former section 939.2 to section 937.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
12. Renumbering and amendment of former section 939.6 to section 939.2 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.3. Specific Requirements for Protection of Nest Sites.

The following requirements shall apply to nest sites containing active nests and not to nest sites containing only abandoned nests.

(a) Buffer zones shall be established around all nest trees containing active nests. The buffer zone shall be designed to best protect the nest site and nesting birds from the effects of timber operations. In consultation with the Department of fish and Game, and as approved by the Director, an RPF or supervised designee shall flag the location of the boundaries of the buffer zone, and the configuration of the buffer zone. Consultation with the Department of Fish and Game shall be required pursuant to 14 CCR 898. Consideration shall be given to the specific habitat requirements of the bird species involved when configuration and boundaries of the buffer zone are established.

(b) The size of the buffer zone for each species shall be as follows:

(1) For the Bald eagle and Peregrine falcon, the buffer zone shall be a minimum of ten acres in size. The Director may increase the buffer zone beyond 40 acres in size so that timber operations will not result in a "take" of either species. The Director shall develop the buffer zone in consultation with the Department of Fish and Game and the RPF.

(2) For the Golden eagle, the buffer zone shall be a minimum of eight acres in size.

(3) For the Great blue heron and Great egret, the buffer zone shall consist of the area within a 300–foot radius of a tree or trees containing a group of five or more active nests in close proximity as determined by the Department of Fish and Game.

(4) For the Northern goshawk, the buffer zone shall be a minimum of five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 20 acres when necessary to protect nesting birds.

(5) For the Osprey, the buffer zone may be up to five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 18 acres when necessary to protect nesting birds.

(c) The following year–round restrictions shall apply within the buffer zone.

(1) For the Bald eagle, no clearcutting is allowed within the buffer zone. Selection, commercial thinning, sanitation–salvage, and the shelterwood regeneration method, except for the removal step, are permitted if all trees are marked prior to preharvest inspection. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(2) For the Golden eagle, no clearcutting is allowed within the buffer zone. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(3) For the Great blue heron and Great egret, all nest trees containing active nests shall be left standing and unharmed.

(4) For the Northern goshawk, designated nest trees, screening trees, perch trees, and replacement trees shall be left standing and unharmed. Only the commercial thinning, sanitation–salvage, and selection regeneration methods are permitted in the buffer zone.

(5) For the Osprey, all designated nest trees, perch trees, screening trees, and replacement trees shall be left standing and unharmed. If the RPF believes that retention is not feasible, he may propose construction of an artificial nest structure as an alternative.

(6) For the Peregrine falcon, where timber provides part of the immediate nesting habitat, special cutting prescriptions may be required by the Director on an area up to ten acres in size immediately surrounding the nest. The cutting prescriptions shall protect the nesting habitat.

(d) Critical periods are established for each species and requirements shall apply during these critical periods as follows:

(1) For the Bald eagle, the critical period is January 15 until either August 15 or four weeks after fledging, as determined by the Director. During this critical period, no timber operations are permitted within the buffer zone. Exceptions may be approved by the Director, after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(2) For the Golden eagle, the critical period is January 15 until April 15 for active nests, and is extended from April 15 until either September 1 or until the birds have fledged from occupied nests. During this critical period, hauling on existing roads that normally receive use during the critical period is permitted. Other timber operations are not permitted within the buffer zones.

(3) For the Great blue heron and Great egret, the critical period is February 15 until July 1 for coastal counties south of and including Marin County. For all other areas, the period is from March 15–July 15. During this critical period, timber operations within the buffer zone shall be staged with a gradual approach to the nest.

(4) For the Northern goshawk, the critical period is from March 15 until August 15. During this critical period, no timber operations are permitted; however, new road construction is permitted if the Director determines that there is no feasible alternative. Exceptions may be approved by the Director after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(5) For the Osprey, the critical period is March 1 to April 15 for active nests in coastal counties including Mendocino County and those south of it. This period is extended from April 15 until August 1 for occupied nests. For all other areas, the critical period is March 15 until May 1 for active nests, and is extended from May 1 to August 15 for occupied nests. During the critical period, at nest sites where Osprey have shown historical tolerance to disturbance, timber operations are permitted using a gradual approach to the nest, except that no cutting is permitted. Where Osprey are determined by the Director to be intolerant to timber operations, no timber operations are permitted within the buffer zone unless the Director determines that there are no feasible alternatives.

(6) For the Peregrine falcon, the critical period is February 1 until April 1 for active nests, and is extended until July 15 for occupied nests. During the critical period, no timber operations are permitted within the buffer zone. However, when the Director, after consultation with the Department of Fish and Game determines that Peregrines have shown a tolerance to hauling activity in the past, hauling on existing roads that normally receive use during the critical period within the buffer zone is permitted.

(e) The following requirements shall apply to helicopter logging during the critical period.

(1) For the Bald eagle, helicopter yarding within one–quarter mile radius of the nest tree is prohibited. Helicopter yarding between one–quarter and one–half mile of the nest tree is permitted when timber operations are conducted so that helicopter yarding gradually approaches the one–quarter mile radius limit.

(2) For the Golden eagle and Northern goshawk, helicopter yarding within one–quarter mile radius of the nest is prohibited.

(3) For the Osprey, helicopter yarding within one–quarter mile radius of the nest is prohibited between April 15 and June 15.

(4) For the Peregrine falcon, helicopter yarding is prohibited within one–half mile of the nest.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 939.7 to section 939.3 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 939.4. Non–listed Species.

Where significant adverse impacts to non–listed species are identified, the RPF and Director shall incorporate feasible practices to reduce impacts as described in 14 CCR 898.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.5. Alternative.

The RPF may propose alternatives to the requirements of this chapter, and the Director may approve such alternatives provided all of the following conditions are met:

(a) The RPF develops the alternative in consultation with the Department of Fish and Game.

(b) The Director consults with the Department of Fish and Game and makes findings that the alternative conforms to (c), below, prior to approving the alternative.

(c) The alternative will provide protection for nesting birds and their nesting sites equal to or greater than the protection that would be afforded by the application of the normal rules set forth in this chapter.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Repealer filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

3. Renumbering and amendment of former section 939.8 to section 939.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. Editorial correction of printing error in section heading and HISTORYS 2. and 3. (Register 92. No. 24).

§ 939.6. General Protection of Nest Sites.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583, and 4604, Public Resources Code; 14 CCR 670.5, and

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Amendment of subsection (d) filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
3. Reinstatement of subsection (d) as it existed prior to 7–23–90 emergency amendment by operation of Government Code section 11346.1(f) (Register 91, No. 4).
4. Amendment of subsection (d) filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
5. Reinstatement of subsection (d) as it existed before emergency amendment filed 11–21–91 by operation of Government Code section 11346.1(f) (Register 91, No. 16).
6. Amendment of subsection (d) filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 3–25–91 order transmitted to OAL on 4–26–91 and filed 5–28–91 (Register 91, No. 28).
8. Editorial correction of printing error putting sections 939.5 and 939.6 in correct order (Register 91, No. 32).
9. Renumbering and amendment of former section 939.6 to section 939.2 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
10. Editorial correction restoring NOTE (Register 92, No. 24).

§ 939.7. Specific Requirements for Protection of Nest Sites.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 939.7 to section 939.3 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.8. Alternatives.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 939.8 to section 939.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 939.9. Northern Spotted Owl.

Every proposed timber harvesting plan, NTMP, conversion permit, Spotted Owl Resource Plan, or major amendment located in the range of the northern spotted owl shall follow one of the procedures required in subsections (a)–(g) below for the area within the THP boundary as shown on the THP map and also for adjacent areas as specified within this section. The submitter may choose any alternative (a)–(g) that meets the on–the–ground circumstances. The required information shall be used by the Director to evaluate whether or not the proposed activity would result in the "take" of an individual northern spotted owl.

When subparagraphs (a), (b), or (c) are used, the Director, prior to approval of a THP, shall consult with a state–employed biologist designated by the Department who is accepted by the Department of Fish and Game or the Fish and Wildlife Service as having sufficient knowledge and education to determine harm or harassment of the Northern Spotted Owl. The biologist shall make written recommendations regarding whether the retained habitat configuration and protection measures proposed in the THP will prevent a take of the owl.

The Department may designate independent biological consultants who can fulfill the requirements within subparagraph (a) of these rules. The plan submitter has the discretion whether to utilize a designated independent consultant under subparagraph (a). All other requirements under the Northern Spotted Owl rules specifying a designated biologist are to be fulfilled by a state–employed biologist. To be designated by the Department, the independent consultant must be accepted by either the Department of Fish and Game or the Fish and Wildlife Service. This acceptance requires the independent consultant to demonstrate, in the field, sufficient knowledge and education to recognize and analyze data from field conditions and present information which helps determine harm or harassment of the Northern Spotted Owl. The same educational and experience criteria utilized to designate state–employed biologists will be applied. When a designated independent consultant is used to fulfill the requirements of subparagraph (a), the independent consultant shall make written observations and recommendations regarding whether the retained habitat configuration and protection measures proposed in the THP will prevent a take of the owl.

In consultation with the state–employed designated biologist, the Director may adjust standards established by this section based on site specific circumstances in a manner which is consistent with information collected on owl behavior in California, and the prohibitions of the Endangered Species Act.

(a) If the project proponent requests preliminary review of the proposed operation or Spotted Owl Resource Plan prior to filing, a designated biologist (either state–employed or an independent consultant) shall be assigned to evaluate whether the proposed operation would result in the taking of an individual northern spotted owl. This evaluation is preliminary to and separate from the final "take" determination to be made under Section 919.10 (939.10). In making that evaluation:

(1) The designated biologist shall apply the criteria set forth in section 919.10 or 939.10;

(2) The designated biologist may request that the submitter provide additional information which the designated biologist finds necessary to evaluate if a "take" would occur, provided that the designated biologist states the type of information needed, the purpose of the information, and the level of accuracy necessary to meet the stated purpose.

(3) If the designated biologist concludes that no prohibited taking would occur, the biologist shall inform the submitter as soon as practicable and shall document the decision the information which was relied upon by the biologist in the above evaluation. Reference data shall be readily available for the Director's review upon request;

(4) If the designated biologist concludes that the proposed timber operation or Spotted Owl Resource Plan would result in a taking, he or she shall inform the submitter as soon as practicable and shall comply with section 939.10(c) within 10 working days of making this determination.

(5) Requests for pre–filing consultation shall be handled in the order in which received.

(b) The RPF shall include the following information:

(1) On a planimetric or topographic map of a minimum scale of 1:24,000, provide the following:

(A) The location and acreage of owl habitat.

This information shall be shown for the area within the boundary both as it exists before and after timber operations. The Director shall determine if timber typing maps may qualify as showing owl habitat.

(B) Identify any adjoining owl habitat by type within .7 miles of the boundary.

(C) When mapping functional owl nesting, roosting, and foraging habitat, include additional information which helps define those areas such as: location of topography features, riparian vegetation, hardwood component, water, potential nest and roost sites, and potential suitable forage areas.

(D) All known owl observations, identified by location and visual or nonvisual confirmation within 1.3 miles of the boundary. This information shall be derived from the landowner's and RPF's personal knowl-

edge, and from existing spotted owl data bases available from the California Department of Forestry and Fire Protection.

(2) Discussion on how functional characteristics of owl habitat will be protected in terms of the criteria stated within subsections (a) and (b) of sections 919.10 or 939.10.

(3) As adjacent landowners permit and from other available information, a discussion of adjacent owl habitat up to .7 mile from the proposed boundary and its importance relative to the owl habitat within the boundary.

(4) Describe any proposals for monitoring owl or owl habitat which are necessary to insure their protection. Monitoring is not required for approval.

(5) Discussion of any known owl surveys that have been conducted within 1.3 miles of the THP boundary. Include the dates, results and methodologies used if known.

(6) A proposed route that will acquaint the designated biologist and other reviewers with the important owl habitat.

(7) Attach aerial photos of the area, if available. (Aerial photos are not required).

(c) Where certification is made by the RPF and adequate records are kept showing that owl surveys were conducted sufficient to demonstrate the absence of owls from an area, the THP will be reviewed on a high priority basis. The THP shall contain verification that:

(1) The surveys have been conducted throughout the area within .7 miles of the boundary in accordance with the USFWS approved protocol ("Guidelines for Surveying Proposed Management Activities That May Impact Northern Spotted Owls"; U.S. Fish and Wildlife Service; March 7, 1991).

(2) The surveys were conducted during the current to immediately preceding survey period as prescribed by the previously cited USFWS approved protocol.

(3) The surveys reveal no nest sites, activity centers or owl observations in the area surveyed; and

(4) The surveys reveal no activity centers, active nest sites or repeated observations indicating the presence of mates and/or young within 1.3 miles of the boundary based on a review of the landowner's and RPF's personal knowledge and the Department's spotted owl data base.

(d) If the plan submitter proposes to proceed under an "incidental taking" permit or any other permit covering the Northern spotted owl issued by the. U.S. Fish and Wildlife Service, the submitter shall supply a copy of the permit upon the Department's request.

(e) If the submitter proposes to proceed pursuant to the outcome of a discussion with the U.S. Fish and Wildlife Service, the submitter shall submit a letter prepared by the RPF that the described or proposed management prescription is acceptable to the USFWS.

(f) If:

(1) the submitter's proposed operations were reviewed by a designated biologist under sections 919.9(a)/939.9(a); and

(2) the designated biologist recommended minimum modifications to the proposed operations which would be necessary to bring the impacts to a level at which no "take" would occur and the submitter has adopted those recommendations; and

(3) the proposed operations remain substantially the same as the operations which the designated biologist reviewed, the submitter shall provide a copy of the recommendations made by the designated biologist and the submitter shall explain how the proposed operations comply with those recommendations.

(g) Where a nest site or activity center has been located within the THP boundary or within 1.3 miles of that boundary, the RPF shall determine and document within the THP that the habitat described in (1)–(5) below will be retained after the proposed operations are completed:

(1) Within 500 feet of the active nest site or pair activity center the characteristics of functional nesting habitat must be maintained. No timber operations shall be conducted in this area during the breeding season unless reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. Timber operations may be conducted in this area outside the breeding season if appropriate measures are adopted to protect nesting habitat.

(2) Within 500–1000 feet of the active nest site or pair activity center, retain sufficient functional characteristics to support roosting and provide protection from predation and storms.

(3) 500 acres of owl habitat must be provided within a .7 mile radius of the active nest site or pair activity center, unless an alternative is reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. The 500 acres includes the habitat retained in subsections (1) and (2) above and should be as contiguous as possible. Less than 50% of the retained habitat should be under operation in any one year, unless reviewed by the Department of Fish and Game and approved by the Director as not constituting a take.

(4) 1336 total acres of owl habitat must be provided within 1.3 miles of each nest site or pair activity center, unless an alternative is reviewed by the Department of Fish and Game and approved by the Director as not constituting a take. The 1336 acres includes the habitat retained within subsections (1)–(3) above.

(5) The shape of the areas established pursuant to subsections (1) and (2) shall be adjusted to conform to natural landscape attributes such as draws and streamcourses while retaining the total area required within subsections (1) and (2) above.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75 and 4583, Public Resources Code; and 50 CFR 17.11.

HISTORY

1. New section filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 4).
3. New section filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 16).
5. New section filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3–25–91 order transmitted to OAL 4–26–91 including amendments to introductory language and subsections (a)(3), (b)(1)(D)(2), (c), and (e), and deletion of subsection (h) transmitted to OAL 4–26–91 and filed 5–28–91 (Register 91, No. 28).
7. Amendment of second paragraph, new third paragraph, and amendment of fourth paragraph and subsection (a) filed 3–27–95; operative 3–27–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 13).
8. Amendment filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
9. Amendment of subsections (c) and (g) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 939.10. Take of Northern Spotted Owl.

The designated biologist and the Director shall apply the following criteria to the information provided by the plan submitter and obtained during the review period to make a finding as to whether the timber operations, as proposed, will "take" an individual northern spotted owl. The designated biologist shall use the best professional judgment in making that finding.

(a) The designated biologist shall determine that the proposed habitat modification would result in "harm" to an individual spotted owl if any of the following conditions exist.

(1) Feeding habits would be significantly impaired because prey base or ability to catch prey would be adversely altered; or

(2) Breeding success would be significantly impaired because of a reduction in surrounding owl habitat before the young have had an opportunity to successfully disperse from their nesting site;

(3) Nesting behavior would be significantly impaired because the nest site or adjoining area up to 500 feet from the nest site would be adversely altered; or

(4) Sheltering (which includes roosting, feeding, and nesting) would be significantly impaired because the ability to escape predators, survive

severe weather, or find appropriate microclimes would be adversely altered.

(b) The designated biologist and the Director shall determine that an individual northern spotted owl would be "harassed" by the proposed timber operations if there is a likelihood that any of the following conditions exist:

(1) Feeding habits would be significantly disrupted because the prey base or the ability to catch prey would be impaired;

(2) Breeding success would be significantly disrupted;

(3) Nesting behavior would be significantly disrupted because activities would be conducted within 500 feet of a nest site; or

(4) Sheltering (which includes roosting, nesting, or feeding) would be significantly disrupted because the ability to escape predators, survive severe weather, or find appropriate microclimes would be adversely altered.

(C) If the designated biologist concludes that the proposed operations will result in a taking of the owl, he/she shall provide the plan submitter with the following information:

(1) The reasons for the determination, including an analysis of the factors set forth in this section;

(2) The information which was relied upon and which was instrumental in making the determination; and

(3) Recommendations for minimum modifications to the proposed operations which would be necessary to bring the impacts to a level at which "take" would not occur.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4313, 4551.5, 4582.75 and 4583, Public Resources Code; 50 CFR 17.11.

HISTORY

1. New section filed 7–23–90 as an emergency; operative 7–23–90 (Register 90, No. 40). A Certificate of Compliance must be transmitted to OAL by 11–20–90 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) Register 91, No. 4).
3. New section filed 11–21–90 as an emergency; operative 11–21–90 (Register 91, No. 4). A Certificate of Compliance must be transmitted to OAL by 3–21–91 or emergency language will be repealed by operation of law on the following day.
4. Repealed by operation of Government Code section 11346.1(g) (Register 91, No. 16).
5. New section filed 3–25–91 as an emergency; operative 3–25–91 (Register 91, No. 16). A Certificate of Compliance must be transmitted to OAL by 7–23–91 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 3–25–91 order transmitted to OAL 4–26–91 including amendments to introductory language and subsection (b)(4) transmitted to OAL 4–26–91 and filed 5–28–91 (Register 91, No. 28).

§ 939.12. Sensitive Species Classification.

The Board of Forestry has the responsibility under the FPA to provide protection to all species occurring in the state's forestlands. The procedure to identify those species that warrant special protection during timber operations is described as follows:

(a) The public or public agencies may petition the Board to classify a species as a "Sensitive Species." For the Board to consider such a petition, it must contain a discussion of the following topics:

(1) Range and distributional status of the species which includes an assessment of occurrence in timberland as defined by the FPA and rules.

(2) Indices of population trends describing the abundance of the species.

(3) Biotic and abiotic factors affecting the population viability or status of the species. Specific attention should be given to factors related to forest management and harvesting. This should include threats to population and habitat viability, including direct, indirect, and cumulative effects from these and other threats.

(4) Habitat availability and trends that include, but are not limited to, an assessment of the following as appropriate:

A. Dependence on general habitat conditions altered by typical forest management activities and projected time for habitat recovery,

B. Dependence on special habitat elements adversely impacted by timber operations,

C. Habitat continuity and juxtaposition requirements as an evaluation of sensitivity to habitat fragmentation.

(5) Suggested feasible protective measures required to provide for species protection.

(6) Other information specific to the species proposed that the petitioner believes to be relevant in assisting the Board to evaluate the petition.

(7) Sources of information relied upon to complete the petition.

(8) Recommended forest practice rules to provide guidance to RPF's, LTO's, landowners and the Director on species protection.

(9) The potential economic impacts of classifying a species sensitive.

(b) The Board will consult with the U.S. Fish and Wildlife Service, the California Fish and Game Commission, the California Department of Fish and Game, and others as appropriate. After consultation, the Board shall classify a species as sensitive after a public hearing if it finds:

(1) The California population requires timberland as habitat for foraging, breeding, or shelter, and

(2) The California population is in decline or there is a threat from timber operations, and

(3) Continued timber operations under the current rules of the Board will result in a loss of the California population viability.

(c) The Board shall consult with the U.S. Fish and Wildlife Service, the California Department of Fish and Game, and others as appropriate. After consultation and a public hearing, the Board will declassify a species as sensitive if it no longer meets the criteria for classification.

(d) The Board shall consider, and when possible adopt, regulations using the best available scientific information to establish the feasible mitigations for protection of the species at the same time such species is classified sensitive.

(e) Where rules are not adopted for the protection of the species at the time of classification, the Board shall begin development of proposed regulations for protection of the species.

Within one year of the classification of a species as sensitive, the Board shall hold a hearing on proposed regulations to establish the protection standards for that species according to the best available scientific information.

NOTE: Authority cited: Sections 4551, 4552, 4553 and 4582, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4582, Public Resources Code.

HISTORY

1. New section filed 8–31–92; operative 9–30–92 (Register 92, No. 36).

§ 939.15. Protection of Wildlife Habitat.

All trees within aspen stands (defined as a location with the presence of living aspen (Populus tremuloides)), meadows and wet areas may be clearcut and these areas exempted from stocking provisions in order to restore, retain, or enhance these areas for ecological or range values, and to balance the protection and regeneration of aspen stands, meadows and wet area habitats in California's forest ecosystems with the other goals of forest management as specified in 14 CCR § 897. These areas shall be shown on the plan map and the plan shall describe the extent of the area proposed for clearcutting. The RPF shall consult with DFG prior to plan submittal. If wet areas are proposed for clearcutting, the RPF shall also consult with the appropriate RWQCB in those locations where the applicable basin plan identifies wet areas as a beneficial use.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512, 4551.5, 4561 and 4561.1, Public Resources Code.

HISTORY

1. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
2. Amendment filed 11–22–2006; operative 12–22–2006 (Register 2006, No. 47). For additional history, see Register 92, No. 40.

§ 939.16. Late Succession Forest Stands.

(a) When late succession forest stands are proposed for harvesting and such harvest will significantly reduce the amount and distribution of late succession forest stands or their functional wildlife habitat value so that it constitutes a significant adverse impact on the environment as defined in Section 895.1, the RPF shall provide habitat structure information for such stands.

A statement of objectives over time shall be included for late succession forest stands on the ownership. The THP, SYP, or NTMP shall include a discussion of how the proposed harvesting will affect the existing functional wildlife habitat for species primarily associated with late succession forest stands in the plan or the planning watershed, as appropriate, including impacts on vegetation structure, connectivity, and fragmentation. The information needed to address this subsection shall include, but is not limited to:

(1) —A map(s) showing: A) late succession forest stands within the planning watershed and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands that are on the ownership, B) those stands which are currently proposed to be harvested, and C) known stands on other ownerships.

(2) —A list of fish, wildlife and listed species known to be primarily associated with the late succession forest stands in the planning watershed(s) compiled by the RPF or supervised designee using the "California Wildlife Habitat Relationships System" (WHR), the California Natural Diversity Database, and local knowledge of the planning watershed.

(3) —Description of functional wildlife habitat elements that are important for fish, wildlife and listed species primarily associated with late succession forest stands within the planning watershed(s).

(4) —A description of the structural characteristics for each late succession forest stand and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands within the planning watershed including a discussion of important functional wildlife habitat elements identified in (3). Methods used to develop the description, which may be an ocular estimate, shall also be described.

(5) —A description of the functional wildlife habitat objectives, such as anticipated long–term landscape patterns, stand structure for late succession forest stands and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands, and a discussion of anticipated recruitment procedures for important functional wildlife habitat elements. Coordination of functional wildlife habitat objectives on landscape features among ownerships within mixed–ownership planning watersheds is encouraged.

(6) —An analysis of the long–term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests.

(b) Where timber operations will result in long–term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests in a THP, SYP, NTMP or planning watershed, feasible mitigation measures to mitigate or avoid such long–term significant adverse effects shall be described and incorporated in the THP, SYP or NTMP. Where long–term significant adverse effects cannot be avoided or mitigated, the THP, SYP, or NTMP shall identify the measures that will be taken to reduce those remaining effects and provide reasons for overriding concerns pursuant to 14 CCR Section 898.1(g), including a discussion of the alternatives and mitigation considered.

(c) A THP, SYP, or NTMP submitter may request that the Director waive subsection (a) above. The Director, after conferring with review team agencies with jurisdiction, may waive subsection (a) above when substantial evidence is presented that would support a determination that post–harvest late succession forest stands or functional wildlife habitat will continually provide adequate structure and connectivity to avoid or mitigate long–term significant adverse effects on fish, wildlife, and listed plant species known to be primarily associated with late succession forest stands within the planning watersheds.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5, 4562.7 and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551.5, 4562.5, 5093.50, 21001(f) and 21080.5, Public Resources Code; Section 5650(c), Fish and Game Code; 16 USC 1532; 50 CFR 17.3; 50 CFR 17.11.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.
2. Amendment of subsection (a)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 939.17. Protection of Old Growth Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 939.18. Protection of Ancient Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

Article 10. Violations of Rules Prior to Changes

§ 940. Violations of Rules Prior to Changes.

Amendment, modification, or repeal of rules shall not, unless otherwise provided, bar action on prior violations of rules as they stood at time of violation.

NOTE: Authority cited for Article 10 (Section 940): Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

Article 11. Logging Roads and Landings

§ 943. Logging Roads and Landings.

All logging roads and landings in the logging area shall be planned, located, constructed, reconstructed, used, and maintained in a manner which: is consistent with long–term enhancement and maintenance of the forest resource; best accommodates appropriate yarding systems and economic feasibility; minimizes damage to soil resources and fish and wildlife habitat; and prevents degradation of the quality and beneficial uses of water. The provisions of this article shall be applied in a manner which complies with this standard.

Factors that shall be considered when selecting feasible alternatives (see 14 CCR 897 and 898) shall include, but are not limited to, the following:

(a) Use of existing roads whenever feasible.

(b) Use of systematic road layout patterns to minimize total mileage.

(c) Planned to fit topography to minimize disturbance to the natural features of the site.

(d) Avoidance of routes near the bottoms of steep and narrow canyons, through marshes and wet meadows, or unstable areas, and near watercourses or near existing nesting sites of threatened or endangered bird species.

(e) Minimization of the number of watercourse crossings.

(f) Location of roads on natural benches, flatter slopes and areas of stable soils to minimize effects on watercourses.

(g) Use of logging systems which will reduce excavation or placement of fills on unstable areas.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4562.5, Public Resources Code. Reference: Sections 4512, 4551.5, 4562.5 and 4562.7, Public Resources Code; California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
2. Amendment of first paragraph and subsections (c), (d) and (g) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 943.1. Planning for Roads and Landings.

The following standards for logging roads and landings shall be adhered to:

(a) All logging roads shall be located and classified on the THP map as permanent, seasonal, or temporary. Road failure on existing roads which will be reconstructed shall also be located on the THP map. In addition to the requirements of 14 CCR 1034(v), the probable location of those landings which require substantial excavation or which exceed one quarter acre in size, shall be shown on the THP map.

(b) New logging roads shall be planned in accordance with their classification and maintenance requirements.

(c) Logging roads and landings shall be planned and located, when feasible, to avoid unstable areas. The Director shall approve an exception if those areas are unavoidable, and site–specific measures to minimize slope instability due to construction are described and justified in the THP.

(d) Where roads and landings will be located across 100 feet or more of lineal distance on any slopes over 65% or on slopes over 50% which are within 100 feet of the boundary of a WLPZ, measures to minimize movement of soil and the discharge of concentrated surface runoff shall be incorporated in the THP. The Director may waive inclusion of such measures where the RPF can show that slope depressions, drainage ways, and other natural retention and detention features are sufficient to control overland transport of eroded material. The Director may require end–hauling of material from areas within 100 feet of the boundary of a WLPZ to a stable location if end–hauling is feasible and is necessary to protect water quality. The Director shall require maintenance provisions in the THP for drainage structures and facilities provided that such maintenance is feasible and necessary to keep roadbeds and fills stable.

(e) New logging roads shall not exceed a grade of 15% except that pitches of up to 20% shall be allowed not to exceed 500 continuous feet (152.4 m). These percentages and distances may be exceeded only where it can be explained and justified in the THP that there is no other feasible access for harvesting of timber or where in the Northern or Southern Districts use of a gradient in excess of 20% will serve to reduce soil disturbance.

(f) Roads and landings shall be planned so that an adequate number of drainage facilities and structures are installed to minimize erosions on roadbeds, landing surfaces, sidecast and fills.

(g) Unless exceptions are explained and justified in the THP, general planning requirements for roads shall include:

(1) Logging roads shall be planned to a single–lane width compatible with the largest type of equipment used in the harvesting operation with turnouts at reasonable intervals.

(2) Roads shall be planned to achieve as close a balance between cut volume and fill volume as is feasible.

(3) When roads must be planned so that they are insloped and ditched on the uphill side, drainage shall be provided by use of an adequate number of ditch drains.

(h) Road construction shall be planned to stay out of Watercourse and Lake Protection Zones. When it is a better alternative for protection of water quality or other forest resources, or when such roads are the only feasible access to timber, exceptions may be explained and justified in the THP and shall be agreed to by the Director if they meet the requirements of this subsection.

(i) All logging roads to be constructed shall be flagged or otherwise identified on the ground before submission of a THP or substantial deviation, except for temporary roads less than 600 feet in length that would meet the requirements for a minor deviation (see 14 CCR 1036, 1039, 1040) if they were submitted as such. Exceptions may be explained and justified in the THP and agreed to by the Director if flagging or other identification is unnecessary as a substantial aid to examining (1) compatibility between road location and yarding and silvicultural systems or (2) possible significant adverse effects of road location on water quality, soil productivity, wildlife habitat, or other special features of the area.

(j) If logging roads will be used from the period of October 15 to May 1, hauling shall not occur when saturated soil conditions exist on the road.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551 and 4551.5, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of subsections (a), (c), (d) and (i) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Amendment of subsection (i) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
3. New subsection (j) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 943.2. Road Construction.

Logging roads shall be constructed or reconstructed in accordance with the following requirements or as proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this article.

(a) Logging roads shall be constructed in accordance with the approved THP. If a change in designation of road classification is subsequently made, the change shall be reported in accordance with 14 CCR 1039 or 1040, as appropriate.

(b) Where a road section which is greater than 100 feet in length crosses slopes greater than 65 percent, placement of fill is prohibited and placement of sidecast shall be minimized to the degree feasible. The Director may approve an exception where site specific measures to minimize slope instability, soil erosion, and discharge of concentrated surface runoff are described and justified in the THP.

(c) On slopes greater than 50 percent, where the length of road section is greater than 100 feet, and the road is more than 15 feet wide (as measured from the base of the cut slope to the outside of the berm or shoulder of the road) and the fill is more than 4 feet in vertical height at the road shoulder for the entire 100 feet the road shall be constructed on a bench that is excavated at the proposed toe of the compacted fill and the fill shall be compacted. The Director may approve exceptions to this requirement where on a site–specific basis if the RPF has described and justified an alternative practice that will provide equal protection to water quality and prevention of soil erosion.

(d) Roads shall be constructed so no break in grade, other than that needed to drain the fill, shall occur on through fill; breaks in grade shall be above or below the through fill, as appropriate. Where conditions do not allow the grade to break as required, through fills must be adequately protected by additional drainage structures or facilities.

(e) Through fills shall be constructed in approximately one foot lifts.

(f) On slopes greater than 35 percent, the organic layer of the soil shall be substantially disturbed or removed prior to fill placement. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the fill will be stabilized.

(g) Excess materials from road construction and reconstruction shall be deposited and stabilized in a manner or in areas where downstream beneficial uses of water will not be adversely affected.

(h) Drainage structures and facilities shall be of sufficient size, number and location to carry runoff water off of roadbeds, landings and fill slopes. Drainage structures or facilities shall be installed so as to minimize erosion, to ensure proper functioning, and to maintain or restore the natural drainage pattern. Permanent watercourse crossings and associated fills and approaches shall be constructed where feasible to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become plugged.

(i) Where there is evidence that soil and other debris is likely to significantly reduce culvert capacity below design flow, oversize culverts, trash racks, or similar devices shall be installed in a manner that minimizes culvert blockage.

(j) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, and unmerchantable trees, shall not be buried in road fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of fills to restrain excavated soil from moving downslope.

(k) Logging roads shall be constructed without overhanging banks.

(*l*) Any tree over 12 inches (30.5 cm) D.B.H. with more than 25 percent of the root surface exposed by road construction, shall be felled concurrently with the timber operations.

(m) Sidecast or fill material extending more than 20 feet (6.1 m) in slope distance from the outside edge of the roadbed which has access to a watercourse or lake which is protected by a WLPZ shall be seeded, planted, mulched, removed, or treated as specified in the THP, to adequately reduce soil erosion.

(n) All culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with the construction and reconstruction of logging roads. Other permanent drainage structures shall be installed no later than October 15. For construction and reconstruction of roads after October 15, drainage structures shall be installed concurrently with the activity.

(o) Drainage structures and drainage facilities on logging roads shall not discharge on erodible fill or othererodible material unless suitable energy dissipators are used. Energy dissipators suitable for use with waterbreaks are described in 14 CCR 934.6(f).

(p) Where roads do not have permanent and adequate drainage, the specifications of 14 CCR 934.6 shall be followed.

(q) Drainage facilities shall be in place and functional by October 15. An exception is that waterbreaks do not need to be constructed on roads in use after October 15 provided that all such waterbreaks are installed prior to the start of rain that generates overland flow.

(r) No road construction shall occur under saturated soil conditions, except that construction may occur on isolated wet spots arising from localized ground water such as springs, provided measures are taken to prevent material from significantly damaging water quality.

(s) Completed road construction shall be drained by outsloping, waterbreaks and/or cross–draining before October 15. If road construction takes place from October 15 to May 1, roads shall be adequately drained concurrent with construction operations.

(t) Roads to be used for log hauling during the winter period shall be, where necessary, surfaced with rock in depth and quantity sufficient to maintain a stable road surface throughout the period of use. Exceptions may be proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this subsection.

(u) Slash and other debris from road construction shall not be bunched against residual trees which are required for silvicultural or wildlife purposes, nor shall it be placed in locations where it could be discharged into Class I or II watercourses.

(v) Road construction activities in the WLPZ, except for stream crossings or as specified in the THP, shall be prohibited.

NOTE: Authority cited: Sections 4551, 4551.5, and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of first paragraph and subsections (a), (h), (m), (n), (o), (q) and (v); new subsections (b), (c), (f), and (i); deletion of former section (r); and renumbering filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Amendment of subsection (c) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
3. Amendment of subsection (s) filed 12–1–98; operative 1–1–99 (Register 98, No. 49).

§ 943.3. Watercourse Crossings.

Watercourse crossing drainage structures on logging roads shall be planned, constructed, reconstructed, and maintained or removed, according to the following standards. Exceptions may be provided through application of Fish and Game Code Sections 1601 and 1603 and shall be included in the THP.

(a) The location of all new permanent watercourse crossing drainage structures and temporary crossings located within the WLPZ shall be shown on the THP map. If the structure is a culvert intended for permanent use, the minimum diameter of the culvert shall be specified in the plan. Extra culverts beyond those shown in the THP map may be installed as necessary.

(b) The number of crossings shall be kept to a feasible minimum.

(c) Drainage structures on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and shall be fully described in the plan in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) When watercourse crossings, other drainage structures, and associated fills are removed the following standards shall apply:

(1) Fills shall be excavated to form a channel that is as close as feasible to the natural watercourse grade and orientation, and that is wider than the natural channel.

(2) The excavated material and any resulting cut bank shall be sloped back from the channel and stabilized to prevent slumping and to minimize soil erosion. Where needed, this material shall be stabilized by seeding, mulching, rock armoring, or other suitable treatment.

(e) All permanent watercourse crossings that are constructed or reconstructed shall accommodate the estimated 100–year flood flow, including debris and sediment loads.

(f) Permanent watercourse crossings and associated fills and approaches shall be constructed or maintained to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed. The RPF may propose an exception where explained in the THP and shown on the THP map and justified how the protection provided by the proposed practice is at least equal to the protection provided by the standard rule.

(g) Any new permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload to form a continuous bed through the culvert and shall require an analysis and specifications demonstrating conformance with the intent of this section and subsection.

(h) The amendments to 14 CCR §§ 943.3 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 21004, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 130.2(q); and California Case Law: *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New subsection (d) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (a) and new subsection (e) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
3. Amendment of first paragraph and subsections (c) and (d)(1), new subsections (e), (g) and (h), subsection relettering, and amendment of NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
4. Amendment of subsection (h) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (h) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (h) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (h) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
9. Amendment of subsection (h) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 943.4. Road Maintenance.

Logging roads, landings, and associated drainage structures used in a timber operation shall be maintained in a manner which minimizes concentration of runoff, soil erosion, and slope instability and which prevents degradation of the quality and beneficial uses of water during timber operations and throughout the prescribed maintenance period. In

addition those roads which are used in connection with stocking activities shall be maintained throughout their use even if this is beyond the prescribed maintenance period.

(a) The prescribed maintenance period for erosion controls on permanent and seasonal roads and associated landings and drainage structures which are not abandoned in accordance with 14 CCR 963.8 shall be at least one year. The Director may prescribe a maintenance period extending up to three years in accordance with 14 CCR 1050.

(b) Upon completion of timber operations, temporary roads and associated landings shall be abandoned in accordance with 14 CCR 963.8.

(c) Waterbreaks shall be maintained as specified in 14 CCR 964.6.

(d) Unless partially blocked to create a temporary water source, watercourse crossing facilities and drainage structures, where feasible, shall be kept open to the unrestricted passage of water. Where needed, trash racks or similar devices shall be installed at culvert inlets in a manner which minimizes culvert blockage. Temporary blockages shall be removed by November 15.

(e) Before the beginning of the winter period, all roadside berms shall be removed from logging roads or breached, except where needed to facilitate erosion control.

(f) Drainage structures, if not adequate to carry water from the fifty–year flood level, shall be removed in accordance with 14 CCR 963.3(d) by the first day of the winter period, before the flow of water exceeds their capacity if operations are conducted during the winter period, or by the end of timber operations whichever occurs first. Properly functioning drainage structures on roads that existed before timber operations need not be removed. An RPF may utilize an alternative practice, such as breaching of fill, if the practice is approved by the Director as providing greater or equal protection to water quality as removal of the drainage structure.

(g) Temporary roads shall be blocked or otherwise closed to normal vehicular traffic before the winter period.

(h) During timber operations, road running surfaces in the logging area shall be treated as necessary to prevent excessive loss of road surface materials by, but not limited to, rocking, watering, chemically treating, asphalting or oiling.

(i) Soil stabilization treatments on road or landing cuts, fills, or sidecast shall be installed or renewed,when such treatment could minimize surface erosion which threatens the beneficial uses of water.

(j) Drainage ditches shall be maintained to allow free flow of water and to minimize soil erosion.

(k) Action shall be taken to prevent failures of cut, fill, or sidecase slopes from discharging materials into watercourses or lakes in quantities deleterious to the quality or beneficial uses of water.

(*l*) Each drainage structure and any appurtenant trash rack shall be maintained and repaired as needed to prevent blockage and to provide adequate carrying capacity. Where not present, new trash racks shall be installed if there is evidence that woody debris is likely to significantly reduce flow through a drainage structure.

(m) Inlet and outlet structures, additional drainage structures (including ditch drains) and other features to provide adequate capacity and to minimize erosion of road and landing fill and sidecast to minimize soil erosion and to minimize slope instability shall be repaired, replaced, or installed wherever such maintenance is needed to protect the quality and beneficial uses of water.

(n) Permanent watercourse crossings and associated approaches shall be maintained to prevent diversion of stream overflow down the road should the drainage structure become plugged. Corrective action shall be taken before the completion of timber operations or the drainage structure shall be removed in accordance with 14 CCR section 923.3 (d).

(o) Except for emergencies and maintenance needed to protect water quality, use of heavy equipment for maintenance is prohibited during wet weather where roads or landings are within a WLPZ.

(p) The Director may approve an exception to a requirement set forth in subsections (b) through (o) above when such exceptions are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4561.7, and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of first paragraph; subsections (e), (d), (m), and (o) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
3. Amendment of subsection (h) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
4. Amendment of subsection (f) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 943.5. Landing Construction.

Landings shall be constructed according to the following standards:

(a) On slopes greater than 65 percent, no fill shall be placed and sidecast shall be minimized to the degree feasible. The Director may approve an exception if, site specific measures to minimize slope instability, soil erosion, and discharge of concentrated surface runoff are described and justified in the THP.

(b) On slopes greater than 50 percent, fills greater than 4 feet in vertical height at the outside shoulder of the landing shall be:

(1) constructed on a bench that is excavated at the proposed toe of the fill and is wide enough to compact the first lift, and

(2) compacted in approximately 1 foot lift from the toe to the finished grade. The RPF or supervised designee shall flag the location of this bench or the RPF shall provide a description of the bench location (narrative or drawing) in the THP for fills meeting the above criteria, where the length of landing section is greater than 100 feet. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the landing will be stabilized.

(c) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, or unmerchantable trees, shall not be buried in landing fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of landing fills to restrain excavated soil from moving downslope.

(d) Constructed landings shall be the minimum in width, size, and number consistent with the yarding and loading system to be used. Landings shall be no larger than one–half acre (.202 ha) unless explained and justified in the THP.

(e) No landing construction shall occur under saturated soil condition.

(f) The following specifications shall be met upon completion of timber operations for the year or prior to October 15, whichever occurs first:

(1) Overhanging or unstable concentrations of slash, woody debris and soil along the downslope edge or face of the landings shall be removed or stabilized when they are located on slopes over 65 percent or on slopes over 50 percent within 100 feet of a WLPZ.

(2) Any obstructed ditches and culverts shall be cleaned.

(3) Landings shall be sloped or ditched to prevent water from accumulating on the landings. Discharge points shall be located and designed to reduce erosion.

(4) Sidecast or fill material extending more than 20 feet in slope distance from the outside edge of the landing and which has access to a watercourse or lake shall be seeded, planted, mulched, removed or treated as specified in the THP to adequately reduce soil erosion.

(5) Sidecast or fill material extending across a watercourse shall be removed in accordance with standards for watercourse crossing removal set forth in 14 CCR 943.3(d).

(g) On slopes greater than 35 percent, the organic layer of the soil shall substantially removed prior to fill placement.

(h) When landings are constructed after October 15 they shall be adequately drained concurrent with construction operations and shall meet the requirements of (f)(1) through (f)(4) of this subsection upon completion of operations at that landing.

(i) The RPF may propose and the Director may approve waiver of requirements in (f)(1) through (f)(4) of this subsection if the Director finds

they are not necessary to minimize erosion or prevent damage to downstream beneficial uses. The Director may also approve an exception to the October 15th date for treatment of slash and debris, including the practice of burning.

NOTE: Authority cited: Sections 4551, 4551.5, and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Deletion of former subsection (a); addition of new subsections (a), (b), (f)(5) and (g); amendment of subsections (f)(1), (f)(3), (f)(4), (h) and (i); and renumbering filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Amendment of subsection (b) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 943.6. Conduct of Operations on Roads and Landings.

Routine use and maintenance of roads and landings shall not take place when, due to general wet conditions, equipment cannot operate under its own power. Operations may take place when roads and landings are generally firm and easily passable or during hard frozen conditions. Isolated wet spots on these roads or landings shall be rocked or otherwise treated to permit passage. However, operations and maintenance shall not occur when sediment discharged from landings or roads will reach watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

This section shall not be construed to prohibit activities undertaken to protect the road or to reduce erosion.

NOTE: Authority cited: Sections 4551, 4551.5, 4453 and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 943.7. Licensed Timber Operator Responsibility for Roads and Landings.

The licensed timber operator who is responsible for the implementation or execution of the plan shall not be responsible for the construction and maintenance of roads and landings, unless the licensed timber operator is employed for that purpose.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 943.8. Planned Abandonment of Roads, Watercourse Crossings, and Landings.

Abandonment of roads, watercourse crossings and landings shall be planned and conducted in a manner which provides for permanent maintenance–free drainage, minimizes concentration of runoff, soil erosion and slope instability, prevents unnecessary damage to soil resources, promotes regeneration, and protects the quality and beneficial uses of water. General abandonment procedures shall be applied in a manner which satisfies this standard and include the following:

(a) Blockage of roads so that standard production four wheel–drive highway vehicles cannot pass the point of closure at the time of abandonment.

(b) Stabilization of exposed soil on cuts, fills, or sidecast where deleterious quantities of eroded surface soils may be transported into a watercourse.

(c) Grading or shaping of road and landing surfaces to provide dispersal of water flow.

(d) Pulling or shaping of fills or sidecast where necessary to prevent discharge of materials into watercourses due to failure of cuts, fills, or sidecast.

(e) Removal of watercourse crossings, other drainage structures, and associated fills in accordance with 14 CCR 923.3 (d). Where it is not feasible to remove drainage structures and associated fills, the fill shall be excavated to provide an overflow channel which will minimize erosion of fill and prevent diversion of overflow along the road should the drainage structure become plugged.

The Director may approve an exception to a requirement set forth in (b) through (e) above when such exceptions are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code.

HISTORY

1. New section filed 12–20–89; operative 2–1–90 (Register 90, No. 3).

§ 943.9. Roads and Landings in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon. In watersheds with coho salmon, the standards listed under 923.9.1 and 923.9.2 shall apply:

(a) Where logging road or landing construction or reconstruction is proposed, the plan shall state the locations of and specifications for road or landing abandonment or other mitigation measures to minimize the adverse effects of long–term site occupancy of the transportation system within the watershed.

(b) Unless prohibited by existing contracts with the U.S.D.A. Forest Service or other federal agency, new and reconstructed logging roads shall be no wider than a single–lane compatible with the largest type of equipment specified for use on the road, with adequate turnouts provided as required for safety. The maximum width of these roads shall be specified in the plan. These roads shall be outsloped where feasible and drained with water breaks or rolling dips (where the road grade is inclined at 7 percent or less), in conformance with other applicable Forest Practice Rules.

(c) The following shall apply on slopes greater than 50%:

(1) Specific provisions of construction shall be identified and described for all new roads.

(2) Where cutbank stability is not an issue, roads may be constructed as a full–benched cut (no fill). Spoils not utilized in road construction shall be disposed of in stable areas with less than 30 percent slope and outside of any WLPZ, EEZ, or ELZ.

(3) Alternatively, roads may be constructed with balanced cuts and fills if properly engineered, or fills may be removed with the slopes recontoured prior to the winter period.

(d) In addition to the provisions listed under 14 CCR 943.1(e), all permanent or seasonal logging roads with a grade of 15% or greater that extends 500 continuous feet or more shall have specific erosion control measures stated in the plan.

(e) Where situations exist that elevate risks to the values set forth in 14 CCR 936.2(a), (e.g., road networks are remote, the landscape is unstable, water conveyance features historically have a high failure rate, culvert fills are large) drainage structures and erosion control features shall be oversized, low maintenance, or reinforced, or they shall be removed before the completion of the timber operation. The method of analysis and the design for crossing protection shall be included in the plan.

(f) The provisions of 14 CCR 943.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(g) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
2. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
8. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 943.9.1. Measures for Roads and Landings in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watersheds with coho salmon:

(a) Where logging road or landing construction or reconstruction is proposed, the plan shall state the locations of and specifications for road or landing abandonment or other mitigation measures to minimize the adverse effects of long–term site occupancy of the transportation system within the watershed.

(b) Unless prohibited by existing contracts with the U.S.D.A. Forest Service or other federal agency, new and reconstructed logging roads shall be no wider than a single–lane compatible with the largest type of equipment specified for use on the road, with adequate turnouts provided as required for safety. The maximum width of these roads shall be specified in the plan. These roads shall be outsloped where feasible and drained with water breaks or rolling dips (where the road grade is inclined at 7 percent or less), in conformance with other applicable Forest Practice Rules.

(c) Logging Road Watercourse Crossing Drainage structures on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and shall be fully described in the plan in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) Any new permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload to form a continuous bed through the culvert and shall require an analysis and specifications demonstrating conformance with the intent of this section and subsection.

(e) The following shall apply on slopes greater than 50%:

(1) Specific provisions of construction shall be identified and described for all new roads.

(2) Where cutbank stability is not an issue, roads may be constructed as a full–benched cut (no fill). Spoils not utilized in road construction shall be disposed of in stable areas with less than 30 percent slope and outside of any WLPZ, EEZ, or ELZ.

(3) Alternatively, roads may be constructed with balanced cuts and fills if properly engineered, or fills may be removed with the slopes recontoured prior to the winter period.

(f) In addition to the provisions listed under 14 CCR 943.1(e), all permanent or seasonal logging roads with a grade of 15% or greater that extends 500 continuous feet or more shall have specific erosion control measures stated in the plan.

(g) Where situations exist that elevate risks to the values set forth in 14 CCR 936.2(a), (e.g., road networks are remote, the landscape is unstable, water conveyance features historically have a high failure rate, culvert fills are large) drainage structures and erosion control features shall be oversized, low maintenance, or reinforced, or they shall be removed before the completion of the timber operation. The method of analysis and the design for crossing protection shall be included in the plan.

(h) Tractor Road Crossing facilities on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and for unrestricted passage of water. Such crossing facilities shall be fully described in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(i) The operational provisions of 14 CCR §§ 943.9.1 and 943.9.2 shall not apply to a plan under which the incidental take from timber operations of coho salmon is already authorized pursuant to the following:

(1) a valid incidental take permit issued by DFG pursuant to Section 2081(b) of the Fish and Game Code; or

(2) a federal incidental take statement or incidental take permit, for which a consistency determination has been made pursuant to Section 2080.1 of the Fish and Game Code; or

(3) Section 2835 of the Fish and Game Code under a valid natural community conservation plan approved by DFG.

(j) The operational provisions of 14 CCR §§ 943.9.1 and 943.9.2 shall not apply to a plan that specifies project revisions, guidelines, or take avoidance measures pursuant to a memorandum of understanding or a planning agreement entered into between the plan submitter and DFG, which DFG has determined will avoid take of Coho Salmon.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 amd 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 943.9.2. Measures to Facilitate Incidental Take Authorization in Watersheds with Coho Salmon. *[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective]*

(a) The measures to facilitate incidental take authorization for roads and landings in watersheds with coho salmon are intended to streamline and facilitate the process of obtaining incidental take permits for state–listed coho salmon from DFG for timber operations under the California Endangered Species Act (Fish & G. Code, § 2050 et seq.).

(b) The scope of application of the minimization and mitigation measures for roads and landings in watersheds with coho salmon is as follows:

(1) In addition to all other District Forest Practice Rules, in any watershed with coho salmon, subsections (c) through (q) shall apply to all timber operations where DFG determines that take will, or is likely to result from such proposed timber operations, unless an incidental take of coho salmon is already authorized as specified under 14 CCR § 943.9.1(h) or (i).

(c) An assessment of road surface and drainage conditions for all road segments within the plan area and appurtenant to proposed operations shall be included in the plan.

(1) The assessment shall contain a list of site–specific, field inventory information including proposed treatment of existing or potential sediment sources for all crossings, ditch relief culverts, road surfaces, road cuts, road fills, landings, turnouts and inboard ditches.

(A) Field inventory information shall be obtained by an RPF or supervised designee while traversing the road segments.

(2) The assessment shall be subject to approval by the Director, with written concurrence by DFG. Additional field inventory, work sites, and/or alternative treatments may be required.

(3) The results of the road assessment shall be used to, construct, reconstruct, or decommission road segments prior to filing a work completion report. Maintenance needs identified during and after the road assessment shall be addressed as soon as is feasible.

(d) Within WLPZs, any new road or landing construction, reconstruction, new watercourse crossings, use of Class I fords or opening of old roads (except for the purpose of decommissioning) will be subject to approval by the Director, with written concurrence by DFG. The Director will only approve such practices where protection for aquatic habitat provided by proposed practices is at least equal to the protection provided by the use of alternate routes or locations outside of the WLPZ.

(e) The guidelines and performance standards for road decommissioning methods described in the California Salmonid Stream Habitat Restoration Manual, 1998, 3rd edition; pages X–53 through X–59 (published by State of California, Resources Agency, California Department of Fish and Game) shall be followed.

(f) The following design features shall be included in the maintenance, construction, reconstruction, or decommissioning of roads, except where site–specific alternatives are explained, justified, and approved by the Director, with written concurrence by DFG. The Director may only approve alternatives where the consequences for aquatic habitat are no greater than would result from the standard measures. Except for maintenance needs that arise from October 15 to June 1, all work described below shall be completed before October 15 in the year that work begins.

(1) Road surfaces shall be outsloped with rolling dips, wherever feasible.

(2) All road segments shall be hydrologically disconnected, to the extent feasible, from watercourses and lakes by site specific application of the following: outsloping, rocking, installation of rolling dips, cross drains, and/or waterbars, except where site–specific alternatives are explained and justified in the plan, and approved by the Director, with written concurrence by DFG. All of these features shall drain to stable sediment filter strips.

(3) Crossings and associated fills shall be removed or reconstructed where there is evidence of failure potential or sediment delivery to Class I, II, or III watercourses and lakes.

(4) Culverts shall be replaced or removed if they are crushed, perforated, piping, separated, not adequate to carry water from the fifty–year flood level, located in unstable fill, or causing erosion that may be expected to deliver sediment to Class I, II, or III watercourses and lakes. Replaced culverts shall be installed at or as close to the original stream grade and slope as feasible.

(5) Each road approach to a watercourse crossing shall be treated to create and maintain a stable operating surface, and to avoid the generation of fines during use, in accordance with subsection (A) through (F) below. The road approach encompasses either of the following areas, whichever is less:

(i) the area from the watercourse channel to the nearest drainage facility, but not less than 50 feet; or

(ii) the area from the watercourse channel to the first high point on the road where road drainage flows away from the watercourse.

(A) Road surfaces on the following shall consist of high–quality, durable, compacted rock or paving:

(i) permanent roads,

(ii) seasonal roads crossing Class I watercourses,

(iii) roads used for hauling (logs, rock, heavy equipment) from October 15 to June 1.

(B) Road surfaces on the following shall be treated with either: rock, slash, seed and straw mulch, seed and stabilized straw, or seed and slash:

(i) all seasonal roads used for hauling in the current year,

(ii) all seasonal roads used from October 15 to June 1 for purposes other than hauling,

(C) Approaches to temporary crossings shall be rocked as needed after crossing removal to avoid rutting or pumping fines during use.

(D) Ditches exhibiting downcutting along the following shall be lined with high–quality, durable rock:

(i) permanent roads,

(ii) seasonal roads crossing Class I watercourses,

(iii) roads used for hauling from October 15 to June 1.

(E) Ditches along the following shall be treated to prevent scour:

(i) seasonal roads used for hauling in the current year,

(ii) seasonal roads used from October 15 to June 1 for purposes other than hauling.

(F) Bare soil on associated fill slopes, shoulders and cuts shall be treated to minimize erosion.

(6) Sediment discharge from unstable or eroding cutbanks, fillslopes and landing fills will be prevented by pulling, buttressing, or other means and by installing and maintaining effective erosion control materials.

(7) Bridges (including associated fill, rip rap, and abutments) and bridge approaches showing evidence of failure potential or sediment delivery to Class I, II, or III watercourses and lakes shall be repaired, replaced, or removed.

(g) Erosion control materials shall be applied in sufficient quantity prior to the onset of measurable precipitation with re–application as needed to avoid any visible increase in surface erosion or turbidity in Class I, II or III receiving watercourses and lakes.

(h) All roads in Class I WLPZs shall exhibit a rocked or paved stable operating surface. The surface shall consist of high quality, durable, compacted rock, or paving. The road surface and base shall be maintained to avoid generation of fines during use.

(i)(1) No road or landing construction, reconstruction, or decommissioning shall be undertaken from October 15th to May 15th, or at any time outside this period when saturated soil conditions exist, except as provided in subsection (2) or (3).

(2) No road or landing construction, reconstruction, or decommissioning shall be undertaken from October 15th to June 1st, or at any time outside this period when saturated soil conditions exist within (i) all planning watersheds that drain into the Mattole watershed, (ii) all planning watersheds wholly or partially contained within Del Norte County, and (iii) the following specified planning watersheds in Humboldt County; where average May rainfall exceeds three inches.

CALWATER 2.2 Planning Watershed	*ID Number*	*Coho Status*	*Acres*
McGarvey Creek	1105.110806	Present	13442.2
May Creek	1107.100201	Present	11242.8
Lost Man Creek	1107.100104	Present	12704.5
Skunk Cabbage Creek	1107.100203	Present	4855.1
McArthur Creek	1107.100103	Present	6814.1
McDonald Creek	1108.100002	Present	23879.8
Bond Creek	1107.100102	Present	8200.5
Tarup Creek	1105.110703	Present	12429.2
Pitcher Creek	1108.100001	Present	13179.4
Maple Creek	1108.100003	Present	16841.5
Ah Pah Creek	1105.110702	Present	10771.8
Bridge Creek	1107.100101	Present	15055.9

(3) The RPF may propose site–specific exceptions that are explained and justified in the plan, and approved by the Director, with written concurrence by DFG. The Director will only approve exceptions where the protection provided for aquatic habitat by the proposed practices is at

least equal to the protection provided by the above time period or conditions. Access without specific approval by the Director is allowed to correct emergency, road-related problems demanding immediate action.

(j) Use of unpaved roads shall cease when precipitation is sufficient to generate overland flow off the road surface, use of any portion of the road results in rutting of the road surface, or a stable operating surface can not be maintained.

(k)(1) Resumption of road use shall only occur when there is a stable operating surface.

(2) Resumption of road or landing construction or reconstruction, shall not occur until the soil conditions allow a stable operating surface to be developed.

(*l*)(1) All roads within the plan area and appurtenant to proposed operations shall be inspected

(A) by the LTO at least twice annually — once between June 1st and October 15th and at least once after October 15th following the first storm event producing bankfull stage — prior to completion of operations;

(B) by the timberland owner during the same time period for the remainder of the prescribed maintenance period.

(2) The inspection shall be started as soon as conditions permit access (in accordance with 14 CCR § 943.9.2(k)) to ensure that drainage structures and facilities are functioning to hydrologically disconnect the road prism from waters.

(3) Inspection results and follow up corrective measures shall be documented and shall be provided to CDF and DFG.

(m) Decommissioned roads shall be inspected following the first storm event producing bankfull stage after decommissioning and again prior to filing the completion report. The purpose of the inspection will be to verify the effectiveness of treatments in preventing sediment discharges to waters and to ensure treatments are functioning to restore natural drainage and hillslope stability. If treatments are found to be ineffective prior to the end of the prescribed maintenance period, further treatments shall be applied if the volume of sediment prevented from entering a channel by additional treatments is greater than that incurred by re-entering the site.

(n) During road inspection and maintenance, measures shall be employed to ensure the following: waterbars fully capture run-off from road surfaces and discharge it without gully formation or sediment delivery to waters; culverts (including crossdrains) are not occluded by debris; inboard ditches are not downcutting or scouring; cutbank erosion is minimized, and the fine sediment present on road surfaces is prevented from delivery to Class I, II, or III watercourses and lakes.

(o) Routine corrective work that prevents diversion of water from a watercourse or ditch or helps maintain a stable operating surface (e.g., repairing inboard ditches, cross drains, water bars, road surface and fill, unblocking of culverts) shall be performed as soon as possible, regardless of the time of year. Vehicle access for routine corrective work shall only be permitted in accordance with 14 CCR § 943.9.2. Other maintenance needs of lower priority shall be undertaken between June 1st and October 15th.

(p) Forest floor discharge sites below the outlets of drainage facilities on all roads within the plan area and appurtenant to proposed operations shall be inspected by the LTO for evidence of sediment delivery to Class I, II, or III watercourses and lakes at least twice annually; once between June 1 and October 15, and at least once after October 15 following the first storm event producing bankfull stage discharges prior to filing the notice of completion report. If evidence of sediment delivery is present, additional cross drains, waterbars, or rolling dips shall be installed to reduce the discharge volume to the site.

(q) Grading of road surfaces shall occur only when necessary to achieve a uniform, stable, and well-drained operating surface. Inboard ditches shall be graded only when they are blocked or lack adequate inside ditch hydraulic capacity, or driver safety is a concern. Where feasible, blading the segment of ditch between the watercourse and first drainage facility shall be avoided.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 11-29-2007; effective 1-1-2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0-787.9 become effective (Register 2007, No. 48).

§ 945. Lake County Rules.

In addition to forest practice rules applying in the Northern Forest District, these rules shall apply within the areas of Lake County designated as Scenic Combining District except as provided by subsection (f) of Public Resources Code section 4516.5. Where the general rules conflict with the Lake County rules, the Lake County rules shall apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 945.1. Statement of Purpose.

The purpose of these rules is to:

(a) insure that the visual and aesthetic sites identified within the Scenic Combining District are adequately identified and protected,

(b) provide direction to RPFs preparing plans which, for the purposes of this section, include THPs, MTHPs, NTMPs, PTEIRs, Notices of Emergency Timber Operations, and any Exemptions Notices pursuant to 14 CCR §§ 1038 and 1104.1,

(c) provide direction to the timber operator conducting timber operations,

(d) provide direction to the Department in its review, approval, and inspection programs.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 945.2. Definitions.

"Scenic Combining District" means a zone of varying widths adjacent to county and state maintained roadways and certain state and county roads as adopted by county ordinance. The Scenic Combining District is administered by the Community Development Department of Lake County.

Scenic Combining District width is measured from the edge of the roadway and may extend on both sides of the road. The width of the Scenic Combining District is identified, mapped, and administered by the Community Development Department.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 945.3. Timber Harvest Prescriptions.

The following rules shall be applied to all areas designated Scenic Combining District. Limited timber harvesting may be allowed within the Scenic Combining Districts using the following criteria:

(a) Selection. In the areas designated as Scenic Combining Districts, only the selection regeneration method and commercial thinning shall be used. The group selection method (14 CCR § 933.2(a)(2)(B)) shall not be used.

(1) A map that clearly defines the location and extent of the Scenic Combining District occurring on the site to be harvested shall be submitted with the Plan.

(2) Trees to be harvested shall be marked by or under the supervision of an RPF. All trees to be harvested shall be marked within the Scenic Combining District prior to a preharvest inspection for evaluation.

(3) In all areas designated as Scenic Combining Districts, at least 75 square feet per acre of conifer basal area shall be retained.

(4) Post harvest stand stocking levels of conifers shall be stated in the Plan. The level of residual stocking shall be consistent with maximum sustained production for high quality timber products. In no case shall conifer stocking levels per acre be reduced below the following standards:

(A) Within the first 150 feet of the Scenic Combining District, at least 50% of the trees 18 to 24 inches dbh, and 50% of the trees 26 inches dbh and larger, shall be retained.

(B) Between 150 and 300 feet of the Scenic Combining District, at least 50% of the trees less than 18 inches dbh, 40% of the trees 18–24 inches dbh, and 33% of the trees 26 inches dbh and larger shall be retained.

(C) Between 300 feet and the outermost boundary of the Scenic Combining District, 75 square feet of basal area per acre shall be retained.

(b) Logging roads, tractor roads, and landings shall be screened from direct view to the extent feasible by leaving trees and vegetation between the disturbed areas and vista points that would attract viewers.

(c) Hardwoods shall be considered for the purposes of aesthetic enhancement and a minimum of 25% of the pre–harvest hardwood basal area shall be retained.

(d) A second harvest shall not be conducted sooner than ten years following completion of an initial harvest unless an emergency condition exists pursuant to 14 CCR § 1052 *et seq.* in the interim, or pursuant to a conversion exemption (14 CCR § 1104.1).

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 945.4. Hours of Operation.

Within 300 feet of any occupied dwelling, the operation of power equipment, including chain saws, except licensed highway vehicles, shall be restricted to the hours between 7:00 a.m. and 7:00 p.m. and shall be prohibited on Saturdays, Sundays and nationally designated holidays. The Director may grant an exception to this rule where the Director has found that no disturbance will result to the occupants of the dwelling from the use of such equipment.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 945.5. Exempt and Emergency Notice Operations.

Timber operations may be conducted within the Scenic Combining District in compliance with an Exemption pursuant to 14 CCR § 1038, an Exemption pursuant to 14 CCR § 1104.1, or an Emergency Notice pursuant to 14 CCR § 1052. Such operations, when feasible, shall be conducted in a manner consistent with the limitations described in 14 CCR § 945.3(a), subsections (1), (2), and (3); 945.3(b); 945.3(c); and 945.4.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

Article 12. Archaeological and Historical Resource Protection

§ 949. Statement of Purpose.

The purpose of this article is to:

(a) ensure that the significant archeological and historical sites within the site survey are adequately identified and protected,

(b) to provide direction to RPFs preparing THPs (which includes all forms of THPs including, but not limited to, Modified THPs and Nonindistrial Timber Management Plans (NTMPs), Program Timber Harvesting Plans (PTHPs)), Notice of Emergency Timber Operations (Emergency Notices), and any Exemption Notices pursuant to 14CCR Sections 1038 and 1104.1,

(c) provide direction to the timber operator conducting timber operations,

(d) provide direction to the Department of Forestry and Fire Protection in its review, approval and inspection programs.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of article heading, section and NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsection (b) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

[The next page is 325.]

§ 949.1. Plan, and Emergency Notice Preparation.

(a) Preparing a plan.

Prior to submitting a plan, the RPF, or the RPF's supervised designee:

(1) Shall conduct an archaeological records check at the appropriate Information Center. A previously–conducted archaeological records check for the property may be used to satisfy this requirement if it covers the entire area proposed for timber operations and if it meets the definition of "current archaeological records check" in 14 CCR § 895.1.

(2) Shall provide written notification to Native Americans of the preparation of a plan. The primary purpose for this notification is to provide Native Americans an opportunity to disclose the existence of any Native American archaeological or cultural sites that are potentially within or adjacent to the site survey area, and the opportunity to comment on the plan. The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director. The remainder of the 10–day waiting period is waived when all Native Americans required to be informed respond in less than 10 days. This notice shall contain the following attachments or items of information:

(A) A request for information concerning the potential existence of any Native American archaeological or cultural sites within the plan boundaries.

(B) Information concerning the location of the plan including:

1. A general location map that, at a minimum, shows the travel route from the nearest community or well–known landmark to the plan area.

2. A copied segment of the titled USGS (if available) or equivalent map(s) that displays the approximate boundary of the plan area, and includes a map legend and a scale.

3. A description of the plan location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well–known landmark.

(C) A statement that all replies, comments, questions, or other information submitted by Native Americans as a result of this notice be directed to the RPF. The name, address, and phone number of the RPF shall be provided.

(D) Information concerning the available time for response. Indicate that the RPF is requesting a response within ten days from the date of the notice so the information can be incorporated into the plan when initially submitted to the Director. Provide the estimated date the plan will be submitted to Director. Provide the following statement: "The earliest possible date the Director may approve the plan is 16 calendar days after it is submitted to Director, although typically, the plan is reviewed for at least 45 calendar days following plan submittal before the Director approves the plan."

(E) A statement that the Native American groups may participate in the plan review process by submitting written comments to the Director before close of public comment period.

(F) A statement that locations of sites disclosed will be kept confidential.

(G) A statement that a Confidential Archaeological Addendum (CAA) will be prepared for the plan and a copy of pertinent information contained within the CAA may, at the discretion of the Director, be obtained from the Director.

(3) Shall provide a professional archaeologist or a person with archaeological training (in accordance with 14 CCR § 949.4) to conduct a field survey for archaeological and historical sites within the site survey area. Previous archaeological surveys within the site survey area may also be used to partially or entirely satisfy this requirement.

(4) Shall ensure that research is conducted prior to the field survey, including review of appropriate literature and contacting knowledgeable individual, concerning potential archaeological or historical sites occurring on the property.

(b) Provide Notification to Native Americans if a Native American Archaeological or Cultural Site is located within the plan. On a plan that contains a Native American archaeological or cultural site as defined in 14 CCR § 895.1 the RPF or the RPF's supervised designee shall:

(1) provide a written notice to Native Americans informing them of the presence of Native American cultural resources within the site survey area. This notification shall include:

(A) The RPF's name, address, and telephone number.

(B) The name, number, or other designator of the plan.

(C) A list of all known Native American archaeological or cultural sites located within the site survey area, including a name, number or other designator and brief description of each site.

(D) A brief discussion of how each site shall be protected or avoided.

(E) The address and phone number of the appropriate CDF office to contact as well as a statement that written comments may be submitted to Director for consideration prior to the close of public comment.

(F) The estimated earliest date the Director may approve the plan.

(2) submit a copy of all letters sent pursuant to 14 CCR § 949.1(b)(1) to the Director. The Director shall allow a minimum of 15 days from the date of the notification letter for receipt of responses to notices sent pursuant to 14 CCR § 949.1(b)(1) prior to the close of public comment.

(c) Submitting a Confidential Archaeological Addendum for a plan.

The RPF shall include the following information in a Confidential Archaeological Addendum with the proposed plan:

(1) Administrative Information which is not confidential and may be released to the public. This includes:

(A) The name, affiliation, address, and phone number of the archaeological surveyor.

(B) The name, affiliation, address, and phone number of the RPF, if different than the archaeological surveyor.

(C) The plan name ascribed by the RPF, plan number (if known), type, and approximate acreage.

(D) The county, legal description, and name of USGS 7.5′ Quad(s) within which the project is located.

(E) The date the CAA was completed.

(F) The name of the author of the CAA.

(G) The signature of the RPF or archaeological surveyor.

(2) Archaeological Records Check Information. A copy of the records check and written reply (including mapped information) from the Information Center shall be attached, or a justification as to why that is not possible shall be included.

(A) If the records check request and written reply from the Information Center are attached, no additional information is required.

(B) If the records check request and written reply from the Information Center are not attached, the following information shall be included:

(1) Justification why records check request and written reply could not be attached.

(2) The date the records check was conducted at the Information Center.

(3) The Information Center File Number.

(4) Summary of records check results discussing whether or not archaeological or historical sites are known or suspected to exist within the site survey area and whether or not the site survey area has a previous archaeological investigation on record.

(3) Results of notification to Native Americans pursuant to 14 CCR § 949.1(a)(2)(B). This shall include:

(A) An example of a notification letter and project maps submitted to Native American contacts.

(B) Copies of any written responses received from Native American contacts.

(C) A list of the individuals or groups that were provided written notification and the date of the Native American Contact List being used.

(D) Date the notification was sent.

(E) Results of the information request, specifically addressing the results of information received from the NAHC, if those results have been received.

(4) Results of notification to Native Americans of the existence of a Native American archaeological or cultural site on the plan, if required, pursuant to 14 CCR § 949.1(b).

(5) A list of the research done prior to field survey. This list shall include literature reviewed and persons contacted in addition to the required archaeological records check with Information Center and Native Americans, and a summary of the results of this research.

(6) Information on the current or previous archaeological surveyor(s), which is not confidential. This shall include:

(A) the name of the current archaeological surveyors and an indication of whether or not the person either meets the specifications of a professional archaeologist as defined in 14 CCR § 895.1 or meets the requirements specified in 14 CCR § 949.4.

(B) the name of any previous archaeological surveyors, if known.

(7) Description of archaeological survey methods and procedures including survey strategy, time spent conducting archaeological field survey, the date or dates the survey was conducted, survey coverage intensity, and ground visibility or other limitations.

(8) A list and description of all archaeological or historical sites identified within the site survey area including information on the site(s) size, type, and condition. The designations used in this listing of sites found shall be consistently used throughout the CAA.

(9) An Archaeological Coverage Map or maps prepared in accordance with the specifications identified in the definition of an Archaeological Coverage Map in 14 CCR § 895.1.

(10) A preliminary determination of significance of identified archaeological and historical sites, if damaging effects from timber operations cannot be avoided. This determination shall be based upon the criteria for a significant archaeological or historical site listed in 14 CCR § 895.1.

(11) Description of any specific enforceable protection measures to be implemented both within the site boundaries and within 100 feet of the site boundaries.

(12) Information concerning the proposed on–site meeting between the RPF or supervised designee familiar with on–site conditions and the LTO to discuss protection of archaeological and historical resources, if required, pursuant to 14 CCR § 949.2(b).

(13) Information concerning site recording requirements pursuant to 14 CCR § 949.1(d) and (g).

(14) Other applicable information, if any, concerning the archaeological survey for this project.

(15) List of attachments to the CAA.

(d) Site Records.

Upon submission of a plan, the RPF or the RPF's supervised designee shall submit completed site records for each site proposed to be a significant archaeological or historical site in a manner consistent with the recording standards identified in the State Office of Historical Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(e) Emergency Notice of 3 Acres Or More.

(1) Prior to submitting an Emergency Notice of three acres or more, the RPF:

(A) Shall ensure that an archaeological field survey is, or has been previously conducted by a professional archaeologist or person with archaeological training (pursuant to 14 CCR § 949.4) within the site survey area.

(2) Prior to submitting an Emergency Notice of three acres or more, the RPF or the RPF's supervised designee:

(A) Shall complete a current archaeological records check. This check may be conducted by telephone. If the Information Center is unable to provide the information within three business days following receipt of an RPF's request for an Emergency Notice records check, the records check requirement is waived.

(B) Shall submit a Confidential Archaeological Letter that includes the information required by 14 CCR § 949.1(c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 949.1(g) and 949.5.

(C) Shall send a copy of the Emergency Notice to Native Americans.

(f) Emergency Notice of Less Than 3 Acres.

(1) Prior to submitting an Emergency Notice of less than three acres, the RPF or the RPF's supervised designee shall:

(A) Conduct an archaeological survey for said area to determine whether it contains any significant archaeological sites using the criteria for a significant archaeological or historical site defined in 14 CCR § 895.1.

(B) Send a copy of the Notice to Native Americans.

(2) An archaeological records check, Confidential Archaeological Addendum, or Confidential Archaeological Letter, is not required.

(3) No timber operations shall occur within the boundaries of any significant archaeological or historical sites as determined by the RPF or the RPF's supervised designee.

(g) Submitting Archaeological and Historical Information to Information Centers.

Within 30 days following the Director's approval of a plan or acceptance of an Emergency Notice of three acres or larger, the Director shall send to the appropriate Information Center of the California Historical Resource Information System the following information provided by the RPF:

(1) a complete Confidential Archaeological Addendum which includes all changes and additions required in the plan review process and which identifies the plan number, or, for Emergency Notices of three acres or larger, a Confidential Archaeological Letter.

(2) two copies each of any completed archaeological or historical site records for:

(A) archaeological sites determined to be significant, or

(B) sites that a person elects to record, but for which no determination of significance has been made.

The records shall be completed by a person who satisfies the requirements specified in 14 CCR § 949.4 in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(3) The RPF or supervised designee shall ensure that the site records are completed in the manner specified in subsection (2).

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and section filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 949.2. Protection Measures for Plans and Emergency Notices 3 Acres and Larger.

(a)(1) The RPF shall describe in the separate Confidential Archaeological Addendum or Letter, measures to be taken to mitigate or avoid substantial adverse change to any known significant archaeological or historical sites.

(2) The RPF may propose, and the Director may agree to, site specific protection measures for any identified archaeological or historical site without evaluating the significance of the site. These proposed protection measures shall be designed to ensure protection of such archaeological and historical sites from damaging effects. Avoidance of activities which will cause damaging effects is a preferred protection measure.

(b) The RPF or supervised designee familiar with on–site conditions shall meet with the LTO prior to the start of timber operations at each archaeological or historical site that is described in the plan or notice that requires avoidance or other protection measures and do the following:

(1) show the LTO the location, extent and boundaries of each archaeological or historical site requiring protection,

(2) discuss with the LTO the protection measures,

(3) apprise the LTO of the confidentiality requirements for any information concerning the physical location of archaeological or historical sites.

(c) If the RPF or supervised designee is unable to perform the duties in 14 CCR § 949.2(b), the RPF shall:

(1) explain the reasons in the emergency notice, plan, or as a minor amendment to the plan,

(2)(A) meet with the plan submitter, timberland owner, or their authorized agent, and review in the field, the items described in 14 CCR § 949.2(b),

(B) if the plan submitter, timberland owner, or their authorized agent will not comply with the RPF's or RPF's supervised designee's request for a meeting, the RPF shall notify the Director.

(3) except for an emergency notice, notify the plan submitter in writing that it is the plan submitter's responsibility to transfer the information in 14 CCR § 949.2(b) to the LTO per 1035(h),

(4) notify the Director in writing.

(d) The LTO shall not conduct timber operations within the boundaries of any archaeological or historical site identified in the CAA unless such operations are described in the CAA and made part of the plan approved by the Director.

(e) In the event that the CAA authorizes limited timber operations within the boundaries of archaeological or historical sites identified in the plan, the LTO and the RPF, if so stated in the plan, shall be responsible for ensuring that specific protection measures and timber operations are conducted in the manner described in the CAA.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21001, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading, repealer and new section, and amendment of NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and subsections (b), (c) and (c)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section heading and subsections (c), (c)(2) and (c)(3) and new subsections (d)–(e) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 949.3. Post Review Site Discovery.

If a person discovers a potentially significant archaeological or historical site after a plan, Emergency Notice, or Exemption is accepted by the Director, the following procedures apply:

(a) The person who made the discovery shall immediately notify the Director, LTO, RPF, or timberland owner of record.

(b) The person first notified in (a) shall immediately notify the remaining parties in (a).

(c) No timber operations shall occur within 100 feet of the identified boundaries of the new site until the plan submitter proposes, and the Director agrees to, protection measures pursuant to 14 CCR § 949.2.

(d) A minor deviation shall be filed to the plan. The minimum information provided shall include:

(1) A statement that the information is confidential.

(2) The mapped location of the site.

(3) A description of the site.

(4) Protection measures, and

(5) Site records, if site records are required pursuant to 14 CCR §§ 949.1(g)(2)(b) and 949.5.

(e) Upon receipt, the Director shall immediately provide the proposed minor deviation or portions of the minor deviation, to Native Americans when Native American archaeological or cultural sites are involved.

NOTE: Authority cited: Sections 4551, 4551.5, 4583.2 and 4591.1, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph and subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section and NOTE filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 949.4. Archaeological Training Requirements.

To meet the requirement of 14 CCR § 949.1, archaeological surveys of a plan or Emergency Notice areas for archaeological or historical sites shall be conducted only by a professional archaeologist or a person who has attended a training program approved by the Director within five years prior to submission of the plan or Emergency Notice. The training program must meet the following standards:

(a) The course shall use education materials approved by the Director which address the current regulations and procedures for the identification, recordation, and protection of archaeological and historical resources during timber operations.

(b) The course may require that the applicant demonstrate, in the field, and in a final written examination, the ability to conduct a record search, perform field identification, complete an archaeological site record, and to identify appropriate mitigation and protection measures for archaeological or historical sites covered in the course.

(c) The Director shall issue verification to all students that satisfactorily complete the training course.

(d) Following an individual's successful completion of an archaeological training course approved by the Director, he or she may enroll in a refresher training course, approved by the Director, to renew a 5–year archaeological training certification.

(e) The Director may conduct the archaeological training courses (in addition to or in–lieu of approving programs conducted by others) at least annually.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of first paragraph and subsections (a) and (b), new subsections (b) and (c), and subsection relettering filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of first paragraph and subsection (c) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 949.5. Site Recording.

The Director shall ensure that all archaeological or historical sites determined to be significant and located within the site survey area on plans, or Emergency Notices are recorded by the RPF or supervised designee in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference. The recording may also be done by a professional archaeologist or any person who has successfully completed appropriate training which is afforded or approved by the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 949.6. Protection of Sites During Timber Operations.

No person, except as otherwise permitted by law, who is involved in timber operations shall excavate, collect artifacts from, vandalize or loot archaeological or historical sites located within the THP, Emergency Notice or Exemption boundary.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 949.7. Determination of Significance.

(a) A determination of significance shall be made for an identified archaeological or historical site within the site survey area on a THP, or Emergency Notice by a person who satisfies the requirements specified in 14 CCR 949.4 if damaging effects from timber operations cannot be avoided.

(b) The determination of significance shall:

(1) Be based upon criteria defined for significant archaeological or historical sites in 14 CCR 895.1

(2) Utilize any information provided by Native Americans, archaeological, historical or ethnographic data pertinent to the region and to the cultural resource, and the physical characteristics of the archaeological or historical site.

(c) If required by subsection (a), a preliminary determination of significance shall be made by the RPF or the RPF's supervised designee and provided in the Confidential Archaeological Addendum.

(d) Where the Director determines that timber operations may cause a substantial adverse change to a significant archaeological or historical site and the RPF and the Director cannot agree upon protection measures, a professional archaeologist provided by the THP submitter shall make a survey and prepare a report on the potentially affected site or sites and the potential impacts of the proposed timber operations. The part of the report that relates to archaeological sites is confidential. This report, if it discusses impacts on Native American archaeological sites, shall be provided by the Director to Native American and the NAHC. This report shall contain recommendations for mitigation, the elimination of impacts, or for the reduction of impacts to avoid or prevent substantial adverse change to significant archaeological or historical resources. The report shall meet the standards of the Preservation Planning Bulletin, Number 4, December 1989 (Office of Historic Preservation), entitled Archaeological Resource Management Reports (ARMR): Recommended Contents and Format. The Director shall make the final determination of significance and substantial adverse change based on advice of a professional archaeologist.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsections (a), (c) and (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Subchapter 6. Southern Forest District Rules*

* Regulations adopted by Board of Forestry.

Article 1. Introduction

§ 951. Statement of Purposes.

The purpose of these rules is to establish district forest practice rules and to establish standards in accordance with the policies set forth in Articles 1 and 4 of the Z'berg–Nejedly Forest Practice Act of 1973 (Sections 4511–4517 and 4551–4555 incl. of the Public Resources Code). Rules promulgated herein apply only to timberlands.

NOTE: Authority cited: Sections 740, 4531 and 4551, Public Resources Code. Reference: Sections 4512, 4513, 4531 and 4551.5, Public Resources Code.

HISTORY

1. Repealer of Subchapter 6 (Sections 951–961.8 not consecutive) and new Subchapter 6 (Sections 951–961.8 not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For history of former Subchapter 6, see Registers 78, Nos. 14 and 3; 75, No. 30.
2. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

Article 2. Ratings and Standards

§ 952. Definitions.

NOTE: Authority cited for Article 2 (Sections 952–952.7, not consecutive): Sections 4551, 4562, 4562.5 and 31118.5, Public Resources Code.

HISTORY

1. Amendment filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment filed 9–9–88; operative 10–9–88 (Register 88, No. 38).
4. Amendment of "Commercial species" to include Pacific Yew filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
5. Repealer of "Lake," "Seed Tree," "Tractor roads and skid trails" and "Waterbreaks" filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. Pacific Yew under "Commercial species" repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
7. Repealer of "Commercial timberland" filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
8. Amendment of article heading, relocation of definitions in former section 952 to section 895.1 and repealer of section 952 filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 952.5. Procedure for Estimating Surface Soil Erosion Hazard Rating.

A proposed plan shall show the estimated erosion hazard ratings of the plan area, by areas, down to 20 acres (8.1 ha) if such a breakdown will change the estimated erosion hazard of individual areas.

To estimate the erosion hazard rating of any plan or portion thereof, the RPF or supervised designee shall follow the procedures and requirements contained in Board Technical Rule Addendum #1, dated February 1, 1990. Appropriate weights for the factors in the Estimated Surface Soil Erosion Hazard, Form I, in the Addendum shall be calculated and the factors shall be summed to give the rating. A copy of the calculations from Form I shall be attached to the timber harvesting plan. A copy of the Board Technical Rule Addendum #1 can be obtained from the State Board of Forestry at the Resources Building, 1416 9th Street, Room 1506–14, Sacramento, CA 95814.

NOTE: Authority cited: Sections 4551 and 4562.5, Public Resources Code. Reference: Section 4562.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 7–2–82; designated effective 1–1–83 (Register 82, No.27).
2. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 952.7. Resource Conservation Standards for Minimum Stocking.

The following resource conservation standards constitute minimum acceptable stocking in the Southern Forest District after timber operations have been completed.

(a) Rock outcroppings, meadows, wet areas, or other areas not normally bearing commercial species shall not be considered as requiring stocking and are exempt from such provisions.

(b) An area on which timber operations have taken place shall be classified as acceptably stocked if either of the standards set forth in (1) or (2) below are met within five (5) years after completion of timber operations unless otherwise specified in the rules.

(1) An area contains an average point count of 300 per acre on Site I, II and III lands or 150 on Site IV and V lands to be computed as follows:

(A) Each countable tree [Ref. PRC § 4528(b)] which is not more 4 inches d.b.h. counts 1 point.

(B) Each countable tree over 4 inches and not more than 12 inches d.b.h. counts 3 points.

(C) Each countable tree over 12 inches d.b.h. counts 6 points.

(D) Root crown sprouts over 1 foot in height will be counted, using the average stump diameter at 1 foot above the average ground level of the original stump, counting 1 sprout for each foot of stump diameter to a maximum of 6 per stump.

(2) The average residual basal area, measured in stems 1 inch or larger in diameter, is at least 85 square feet per acre on Site I lands and 50 square feet per acre on lands of Site II classification or lower. Site classification shall be determined by the RPF who prepared the plan.

(3) To the extent basal area standards are specified in the rules in excess of 14 CCR § 952.7(b)(2), up to 15 square feet of basal area of those standards higher than the minimum may be met by counting snags, and decadent or deformed trees of value to wildlife in the following sizes:

(A) 30 inches or greater dbh and 50 feet or greater in height on site I and II lands;

(B) 24 inches or greater dbh and 30 feet or greater in height on site III lands; and

(C) 20 inches or greater dbh and 20 feet or greater in height on site IV and V lands.

(c) The substitution provided for in 14 CCR § 952.7(b)(3) may only be done when the potential spread of insects and diseases will not have a significantly adverse impact on long term productivity or forest health.

(d) The resource conservation standards of the rules may be met with Group A and/or B commercial species. The percentage of the stocking requirements met with Group A species shall be no less than the percentage of the stand basal area they comprised before harvesting. The site occupancy provided by Group A species shall not be reduced relative to Group B species. When considering site occupancy, the Director shall consider the potential long term effects of relative site occupancy of Group A species versus Group B species as a result of harvest. if Group A species will likely recapture the site after harvest, Group B species do not need to be reduced. The time frames for recapturing the site shall be consistent with achieving MSP. The Director may prohibit the use of Group A and/or B commercial species which are non–indigenous or are not physiologically suited to the area involved. Exceptions may be approved by the Director if the THP provides the following information and those exceptions are agreed to by the timberland owner:

(1) Explain and justify with clear and convincing evidence how using Group A nonindigenous, or Group B species to meet the resource conservation standards will meet the intent of the Forest Practice Act as described in PRC § 4513. The discussion shall include:

(A) the management objectives of the post–harvest stand;

(B) a description of the current stand, including species composition and current stocking levels within the area of Group B species. The percentage can be measured by using point–count, basal area, stocked plot, or other method agreed to by the Director.

(C) the percentage of the post–harvest stocking to be met with Group B species. Post harvest percentages will be determined on the basis of stocked plots. Only the methods provided by 14 CCR §§ 1070–1075 shall be used in determining if the standards of PRC § 4561 have been met.

(D) a description of what will constitute a countable tree, as defined by PRC § 4528 for a Group B species and how such a tree will meet the management objectives of the post–harvest stand.

The Director, after an initial inspection pursuant to PRC § 4604 shall approve use of Group B species, as exceptions to the pre–harvest basal area percentage standard, if in his judgement the intent of the Act will be met, and there will not be an immediate significant and long–term harm to the natural resources of the state.

NOTE: Authority cited: Sections 4551, 4553 and 4561.1, Public Resources Code. Reference: Sections 4561 and 4561.1, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Editorial correction of NOTE filed 12–2–82 (Register 82, No. 49).
3. Editorial correction filed 8–29–84; effective thirtieth day thereafter (Register 84, No. 35).
4. Amendment filed 9–9–88; operative 10–9–88 (Register 88, No. 38).
5. Amendment of subsections (c)–(c)(1) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. Amendment of subsection (c) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
7. Amendment of subsections (b)(1)(A)–(B), new subsection (b)(3)–(c) and subsection relettering filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
8. Change without regulatory effect amending subsections (b)(3) and (c) filed 11–25–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 48).

[The next page is 329.]

§ 952.9. Cumulative Impacts Assessment Checklist.

STATE OF CALIFORNIA
BOARD OF FORESTRY
CUMULATIVE IMPACTS ASSESSMENT

(1) Do the assessment area(s) of resources that may be affected by the proposed project contain any past, present, or reasonably foreseeable probable future projects?

Yes____ No____

If the answer is yes, identify the project(s) and affected resource subject(s).

(2) Are there any continuing, significant adverse impacts from past land use activities that may add to the impacts of the proposed project?

Yes____ No____

If the answer is yes, identify the activities, describing their location, impacts and affected resource subject(s).

(3) Will the proposed project, as presented, in combination with past, present, and reasonably foreseeable probable future projects identified in items (1) and (2) above, have a reasonable potential to cause or add to significant cumulative impacts in any of the following resource subjects?

	Yes after mitigation (a)	No after mitigation (b)	No reasonably potential significant effects (c)
1. Watershed	_____	_____	_____
2. Soil Productivity	_____	_____	_____
3. Biological	_____	_____	_____
4. Recreation	_____	_____	_____
5. Visual	_____	_____	_____
6. Traffic	_____	_____	_____
7. Other	_____	_____	_____

a) Yes, means that potential significant adverse cumulative impacts are left after application of the forest practice rules and mitigations or alternatives proposed by the plan submitter.

b) No after mitigation means that any potential for the proposed timber operation to cause or add to significant adverse cumulative impacts by itself or in combination with other projects has been reduced to insignificance or avoided by mitigation measures or alternatives proposed in the THP and application of the forest practice rules.

c) No reasonably potential significant cumulative effects means that the operations proposed under the THP do not have a reasonable potential to join with the impacts of any other project to cause, add to, or constitute significant adverse cumulative impacts.

(4) If column (a) is checked in (3) above describe why the expected impacts cannot be feasibly mitigated or avoided and what mitigation measures or alternatives were considered to reach this determination. If column (b) is checked in (3) above describe what mitigation measures have been selected which will substantially reduce or avoid reasonably potential significant cumulative impacts except for those mitigation measures or alternatives mandated by application of the rules of the Board of Forestry.

(5) Provide a brief description of the assessment area used for each resource subject.

(6) List and briefly describe the individuals, organizations, and records consulted in the assessment of cumulative impacts for each resource subject. Records of the information used in the assessment shall be provided to the Director upon request.

BOARD OF FORESTRY
TECHNICAL RULE ADDENDUM NO. 2
CUMULATIVE IMPACTS ASSESSMENT

Introduction

The purpose of this addendum is to guide the assessment of cumulative impacts as required in 14 CCR 898 and 1034 that may occur as a result of proposed timber operations. This assessment shall include evaluation of both on–site and off–site interactions of proposed project activities with the impacts of past and reasonably foreseeable future projects.

In conducting an assessment, the RPF must distinguish between on–site impacts that are mitigated by application of the Forest Practice Rules and the interactions of proposed activities (which may not be significant when considered alone) with impacts of past and reasonably foreseeable future projects.

Resource subjects to be considered in the assessment of cumulative impacts are described in the Appendix.

The RPF preparing a THP shall conduct an assessment based on information that is reasonably available before submission of the THP. RPFs are expected to submit sufficient information to support their findings if significant issues are raised during the Department's review of the THP.

Information used in the assessment of cumulative impacts may be supplemented during the THP review period. Agencies participating in plan review may provide input into the cumulative impacts assessment based upon their area of expertise. Agencies should support their recommendations with documentation.

The Department, as lead agency, shall make the final determination regarding assessment sufficiency and the presence or absence of significant cumulative impacts. This determination shall be based on a review of all sources of information provided and developed during review of the Timber Harvesting Plan.

Identification of Resource Areas

The RPF shall establish and briefly describe the geographic assessment area within or surrounding the plan for each resource subject to be assessed and shall briefly explain the rationale for establishing the resource area. This shall be a narrative description and shall be shown on a map where a map adds clarity to the assessment.

Identification of Information Sources

The RPF shall list and briefly describe the individuals, organizations, and records used as sources of information in the assessment of cumulative impacts, including references for listed records and the names, affiliations, addresses, and phone numbers of specific individuals contacted. Records of information used in the assessment shall be provided to the Director upon request.

Common sources of information for cumulative effects assessment are identified below. Sources to be used will depend upon the complexity of individual situations and the amount of information available from other plans. Sources not listed below may have to be consulted based on individual circumstances. Not all sources of information need to be consulted for every THP.

1. Consultation with Experts and Organizations:

(a) County Planning Department; (b) Biologists;
(c) Geologists; (d) Soil Scientists;
(e) Hydrologists; (f) Federal Agencies;
(g) State Agencies; (h) Public and private utilities.

2. Records Examined:

(a) Soil Maps; (b) Geology Maps;
(c) Aerial Photographs; (d) Natural Diversity Data Base;
(e) THP Records; (f) Special Environmental Reports;
(g) Basin Plans; (h) Fire History Maps;
(i) Relevant Federal Agency Documents or Plans

As provided in Section 898 of the rules, the RPF or supervised designee and the plan submitter must consult information sources that are reasonably available.

Past and Future Activities

Past and future projects included in the cumulative impacts assessment shall be described as follows:

A. Identify and briefly describe the location of past and reasonably foreseeable probable future projects as defined in 14 CCR § 895.1 within described resource assessment areas. Include a map or maps and associated legend(s) clearly depicting the following information:

1. Township and Range numbers and Section lines.

2. Boundary of the planning watershed(s) within which the plan area is located along with the CALWATER 2.2 identification number.

3. Location and boundaries of past, present and reasonably foreseeable probable future timber harvesting projects on land owned or controlled by the timberland owner of the proposed timber harvest within the planning watershed(s) depicted in section (2) above. For purposes of this section, past projects shall be limited to those projects submitted within ten years prior to submission of the THP.

4. Silvicultural methods for each of the timber harvesting projects depicted in section (3) above. Each specific silvicultural method must be clearly delineated on the map(s), and associated THP number referenced in the legend or an annotated list. In addition, shading, hatching, or labeling shall be used which clearly differentiates silvicultural methods into one of the four categories outlined in Table 1.

5. A north arrow and scale bar (or scale text).

6. Source(s) of geographical information.

The map scale shall be large enough to clearly represent one planning watershed per page or of a scale not less than 1:63,360. Planning watersheds with densely situated or overlapping harvest units, or those which are large or irregular in size, may require multiple maps to achieve clarity. Map(s) shall be reproducible on black & white copiers, and submitted on an 8 1/2 x 11 page(s).

Table 1

Silvicultural Category	*Silvicultural Method*
Evenaged Management 14 CCR § 953.1	Clearcutting, Seed Tree Seed Step, Seed Tree Removal Step, Shelterwood Preparatory Step, Shelterwood Seed Step, Shelterwood Removal Step
Unevenaged Management 14 CCR § 953.2	Selection, Group Selection, Transition
Intermediate Treatments 14 CCR § 953.3	Commercial Thinning, Sanitation–Salvage
Special Prescriptions and Other Management 14 CCR § 953.4	Special Treatment Area Prescriptions, Rehabilitation of Understocked Area Prescription, Fuelbreak/Defensible Space, Southern Subdistrict Special Harvesting Method (14 CCR § 913.8), Variable Retention, Conversion

Alternative Prescriptions shall be put into the category within which the most nearly appropriate or feasible silvicultural method in the Forest Practice Rules is found pursuant to 14 CCR § 953.6(b)(3).

B. Identify and give the location and description of any known, continuing significant environmental problems caused by past projects as defined in 14 CCR § 895.1. The RPF who prepares the plan or supervised designee shall obtain information from plan submitters (timberland or timber owner), and from appropriate agencies, landowners, and individuals about past, and future land management activities and shall consider past experience, if any, in the assessment area related to past impacts and the impacts of the proposed operations, rates of recovery, and land uses. A poll of adjacent land owners is encouraged and may be required by the Director to determine such activities and significant adverse environmental problems on adjacent ownerships.

Appendix

Technical Rule Addendum #2

In evaluating cumulative impacts, the RPF shall consider the factors set forth herein.

A. Watershed Resources

Cumulative Watershed Effects (CWEs) occur within and near bodies of water or significant wet areas, where individual impacts are combined to produce an effect that is greater than any of the individual impacts acting alone. Factors to consider in the evaluation of cumulative watershed impacts are listed below.

1. Impacts to watershed resources within the Watershed Assessment Area (WAA) shall be evaluated based on significant on–site and off–site cumulative effects on beneficial uses of water, as defined and listed in applicable Water Quality Control Plans.

2. Watershed effects produced by timber harvest and other activities may include one or more of the following:

- o Sediment.
- o Water temperature.
- o Organic debris.
- o Chemical contamination.
- o Peak flow.

The following general guidelines shall be used when evaluating watershed impacts. The factors described are general and may not be appropriate for all situations. Actual measurements may be required if needed to evaluate significant environmental effects. The plan must comply with the quantitative or narrative water–quality objectives set forth in an applicable Water Quality Control Plan.

a. Sediment Effects

Sediment–induced CWEs occur when earth materials transported by surface or mass wasting erosion enter a stream or stream system at separate locations and are then combined at a downstream location to produce a change in water quality or channel condition. The eroded materials can originate from the same or different projects. Potentially adverse changes are most likely to occur in the following locations and situations:

- Downstream areas of reduced stream gradient where sediment from a new source may be deposited in addition to sediment derived from existing or other new sources.
- Immediately downstream from where sediment from a new source is combined with sediment from other new or existing sources and the combined amount of sediment exceeds the transport capacity of the stream.
- Any location where sediment from new sources in combination with suspended sediment from existing or other new sources significantly reduces the survival of fish or other aquatic organisms or reduces the quality of waters used for domestic, agricultural, or other beneficial uses.
- Channels with relatively steep gradients which contain accumulated sediment and debris that can be mobilized by sudden new sediment inputs, such as debris flows, resulting in debris torrents and severe channel scouring.

Potentially significant adverse impacts of cumulative sediment inputs may include:

- Increased treatment needs or reduced suitability for domestic, municipal, industrial, or agricultural water use.
- Direct mortality of fish and other aquatic species.
- Reduced viability of aquatic organisms or disruption of aquatic habitats and loss of stream productivity caused by filling of pools and plugging or burying streambed gravel.
- Accelerated channel filling (aggradation) resulting in loss of streamside vegetation and stream migration that can cause accelerated bank erosion.
- Accelerated filling of downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors.
- Channel scouring by debris flows and torrents.
- Nuisance to or reduction in water related recreational activities.

Situations where sediment production potential is greatest include:

- Sites with high or extreme erosion hazard ratings.
- Sites which are tractor logged on steep slopes.
- Unstable areas.

b. Water Temperature Effects

Water temperature related CWEs are changes in water chemistry or biological properties caused by the combination of solar warmed water from two or more locations (in contrast to an individual effect that results from impacts along a single stream segment) where natural cover has been removed. Cumulative changes in water temperature are most likely to occur in the following situations:

- Where stream bottom materials are dark in color.
- Where water is shallow and has little underflow.

– Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more locations along a stream.

– Where removal of streamside canopy results in substantial, additional solar exposure or increased contact with warm air at two or more streams that are tributary to a larger stream.

– Where water temperature is near a biological threshold for specific species.

Significant adverse impacts of cumulative temperature increases include:

– Increases in the metabolic rate of aquatic species.

– Direct increases in metabolic rate and/or reduction of dissolved oxygen levels, either of which can cause reduced vigor and death of sensitive fish and other sensitive aquatic organisms.

– Increased growth rates of microorganisms that deplete dissolved oxygen levels or increased disease potential for organisms.

– Stream biology shifts toward warmer water ecosystems.

c. Organic Debris Effects

CWEs produced by organic debris can occur when logs, limbs, and other organic material are introduced into a stream or lake at two or more locations. Decomposition of this debris, particularly the smaller sized and less woody material, removes dissolved oxygen from the water and can cause impacts similar to those resulting from increased water temperatures. Introduction of excessive small organic debris can also increase water acidity.

Large organic debris is an important stabilizing agent that should be maintained in small to medium size, steep gradient channels, but the sudden introduction of large, unstable volumes of bigger debris (such as logs, chunks, and larger limbs produced during a logging operation) can obstruct and divert streamflow against erodible banks, block fish migration, and may cause debris torrents during periods of high flow.

Removing streamside vegetation can reduce the natural, annual inputs of litter to the stream (after decomposition of logging–related litter.) This can cause both a drop in food supply, and resultant productivity, and a change in types of food available for organisms that normally dominate the lower food chain of streams with an overhanging or adjacent forest canopy.

d. Chemical Contamination Effects

Potential sources of chemical CWEs include run–off from roads treated with oil or other dust–retarding materials, direct application or run–off from pesticide treatments, contamination by equipment fuels and oils, and the introduction of nutrients released during slash burning or wildfire from two or more locations.

e. Peak Flow Effects

CWEs caused by management induced peak flow increases in streams during storm events are difficult to anticipate. Peak flow increases may result from management activities that reduce vegetative water use or produce openings where snow can accumulate (such as clear–cutting and site preparation) or that change the timing of flows by producing more efficient runoff routing (such as insloped roads.) These increases, however, are likely to be small relative to natural peak flows from medium and large storms. Research to date on the effects of management activities on channel conditions indicates that channel changes during storm events are primarily the result of large sediment inputs.

3. Watercourse Condition

The watershed impacts of past upstream and on–site projects are often reflected in the condition of stream channels on the project area. Following is a list of channel characteristics and factors that may be used to describe current watershed conditions and to assist in the evaluation of potential project impacts:

o Gravel Embedded – Spaces between stream gravel filled with sand or finer sediments. Gravel are often in a tightly packed arrangement.

o Pools Filled – Former pools or apparent pool areas filled with sediments leaving few areas of deep or "quiet" water relative to stream flow or size.

o Aggrading – Stream channels filled or filling with sediment that raises the channel bottom elevation. Pools will be absent or greatly diminished and gravel may be embedded or covered by finer sediments. Streamside vegetation may be partially or completely buried, and the stream may be meandering or cutting into its banks above the level of the former streambed. Depositional areas in aggrading channels are often increasing in size and number.

o Bank Cutting – Can either be minor or severe and is indicated by areas of fresh, unvegetated soil or alluvium exposed along the stream banks, usually above the low–flow channel and often with a vertical or undercut face. Severe bank cutting is often associated with channels that are downcutting, which can lead to over–steepened banks, or aggrading, which can cause the channel to migrate against slopes that were previously above the high flow level of the stream.

o Bank Mass Wasting – Channels with landslides directly entering the stream system. Slide movement may be infrequent (single events) or frequent (continuing creep or periodic events).

o Downcutting – Incised stream channels with relatively clean, uncluttered beds cut below the level of former streamside vegetation and with eroded, often undercut or vertical, banks.

o Scoured – Stream channels that have been stripped of gravel and finer bed materials by large flow events or debris torrents. Streamside vegetation has often been swept away, and the channel has a raw, eroded appearance.

o Organic Debris – Debris in the watercourse can have either a positive or negative impact depending on the amount and stability of the material. Some stable organic debris present in the watercourse helps to form pools and retard sediment transport and downcutting in small to medium sized streams with relatively steep gradients. Large accumulations of organic debris can block fish passage, block or divert streamflow, or could be released as a debris flow.

o Stream–Side Vegetation – Stream–side vegetation and near–stream vegetation provide shade or cover to the stream, which may have an impact on water temperature, and provides root systems that stabilize streambanks and floodplains and filter sediment from flood flows.

o Recent Floods – A recent high flow event that would be considered unusual in the project area may have an impact on the current watercourse condition.

B. Soil Productivity

Cumulative soil productivity impacts occur when the effects of two or more activities, from the same or different projects, combine to produce a significant decrease in soil biomass production potential. These impacts most often occur on–site within the project boundary, and the relative severity of productivity losses for a given level of impact generally increases as site quality declines.

The primary factors influencing soil productivity that can be affected by timber operations include:

o Organic matter loss.

o Surface soil loss.

o Soil compaction.

o Growing space loss.

The following general guidelines may be used when evaluating soil productivity impacts.

1. Organic Matter Loss

Displacement or loss of organic matter can result in a long term loss of soil productivity. Soil surface litter and downed woody debris are the store–house of long term soil fertility, provide for soil moisture conservation, and support soil microorganisms that are critical in the nutrient cycling and uptake process. Much of the chemical and microbial activity of the forest nutrient cycle is concentrated in the narrow zone at the soil and litter interface.

Displacement of surface organic matter occurs as a result of skidding, mechanical site preparation, and other land disturbing timber operations. Actual loss of organic matter occurs as a result of burning or erosion. The effects of organic matter loss on soil productivity may be expressed in

terms of the percentage displacement or loss as a result of all project activities.

2. Surface Soil Loss

The soil is the storehouse of current and future site fertility, and the majority of nutrients are held in the upper few inches of the soil profile. Topsoil displacement or loss can have an immediate effect on site productivity, although effects may not be obvious because of reduced brush competition and lack of side–by–side comparisons or until the new stand begins to fully occupy the available growing space.

Surface soil is primarily lost by erosion or by displacement into windrows, piles, or fills. Mass wasting is a special case of erosion with obvious extreme effects on site productivity. The impacts of surface soil loss may be evaluated by estimating the proportion of the project area affected and the depth of loss or displacement.

3. Soil Compaction

Compaction affects site productivity through loss of large soil pores that transmit air and water in the soil and by restricting root penetration. The risk of compaction is associated with:

- Depth of surface litter.
- Soil organic matter content.
- Soil texture.
- Soil structure.
- Presence and amount of coarse fragments in the soil.
- Soil moisture status.

Compaction effects may be evaluated by considering the soil conditions, as listed above, at the time of harvesting activities and the proportion of the project area subjected to compacting forces.

4. Growing Space Loss

Forest growing space is lost to roads, landings, permanent skid trails, and other permanent or non–restored areas subjected to severe disturbance and compaction.

The effects of growing space loss may be evaluated by considering the overall pattern of roads, etc., relative to feasible silvicultural systems and yarding methods.

C. Biological Resources

Biological assessment areas will vary with the species being evaluated and its habitat. Factors to consider in the evaluation of cumulative biological impacts include:

1. Any known rare, threatened, or endangered species or sensitive species (as described in the Forest Practice Rules) that may be directly or indirectly affected by project activities.

Significant cumulative effects on listed species may be expected from the results of activities over time which combine to have a substantial effect on the species or on the habitat of the species.

2. Any significant, known wildlife or fisheries resource concerns within the immediate project area and the biological assessment area (e.g. loss of oaks creating forage problems for a local deer herd, species requiring special elements, sensitive species, and significant natural areas).

Significant cumulative effects may be expected where there is a substantial reduction in required habitat or the project will result in substantial interference with the movement of resident or migratory species.

The significance of cumulative impacts on non–listed species viability should be determined relative to the benefits to other non–listed species. For example, the manipulation of habitat results in conditions which discourage the presence of some species while encouraging the presence of others.

3. The aquatic and near–water habitat conditions on the THP and immediate surrounding area. Habitat conditions of major concern are:

- o Pools and riffles.
- o Large woody material in the stream.
- o Near–water vegetation.

Much of the information needed to evaluate these factors is described in the preceding Watershed Resources section. A general discussion of their importance is given below:

a. Pools and Riffles

Pools and riffles affect overall habitat quality and fish community structure. Streams with little structural complexity offer poor habitat for fish communities as a whole, even though the channel may be stable. Structural complexity is often lower in streams with low gradients, and filling of pools can reduce stream productivity.

b. Large Woody Material

Large woody debris in the stream plays an important role in creating and maintaining habitat through the formation of pools. These pools comprise important feeding locations that provide maximum exposure to drifting food organisms in relatively quiet water. Removal of woody debris can reduce frequency and quality of pools.

c. Near–Water Vegetation

Near–water vegetation provides many habitat benefits, including: shade, nutrients, vertical diversity, migration corridors, nesting, roosting, and escape. Recruitment of large woody material is also an important element in maintaining habitat quality.

4. The biological habitat condition of the THP and immediate surrounding area. Significant factors to consider are:

- o Snags/den trees
- o Downed, large woody debris
- o Multistory canopy
- o Road density
- o Hardwood cover
- o Late seral (mature) forest characteristics
- o Late seral habitat continuity

The following general guidelines may be used when evaluating biological habitat. The factors described are general and may not be appropriate for all situations. The THP preparer must also be alert to the need to consider factors which are not listed below. Each set of ground conditions are unique and the analysis conducted must reflect those conditions.

a. Snags/Den/Nest Trees: Snags, den trees, nest trees and their recruitment are required elements in the overall habitat needs of more than 160 wildlife species. Many of these species play a vital role in maintaining the overall health of timberlands. Snags of greatest value are > 16″ DBH and 20 feet in height. The degree of snag recruitment over time should be considered. Den trees are partially live trees with elements of decay which provide wildlife habitat. Nest trees have importance to birds classified as a sensitive species.

b. Downed large, woody debris: Large downed logs (particularly conifers) in the upland and near–water environment in all stages of decomposition provide an important habitat for many wildlife species. Large woody debris of greatest value consists of downed logs > 16″ diameter at the large end and > 20 feet in length.

c. Multistory canopy: Upland multistoried canopies have a marked influence on the diversity and density of wildlife species utilizing the area. More productive timberland is generally of greater value and timber site capability should be considered as a factor in an assessment. The amount of upland multistoried canopy may be evaluated by estimating the percent of the stand composed of two or more tree layers on an average per acre basis.

Near–water multistoried canopies in riparian zones that include conifer and hardwood tree species provide an important element of structural diversity to the habitat requirements of wildlife. Near–water multistoried canopy may be evaluated by estimating the percentage of ground covered by one or more vegetative canopy strata, with more emphasis placed on shrub species along Class III and IV streams (14 CCR 916.5, 936.5, or 956.5).

d. Road Density: Frequently traveled permanent and secondary roads have a significant influence on wildlife use of otherwise suitable habitat. Large declines in deer and bear use of areas adjacent to open roads are frequently noted. Road density influence on large mammal habitat may be evaluated by estimating the miles of open permanent and temporary roads, on a per–section basis, that receive some level of maintenance and are open to the public. This assessment should also account for the effects of vegetation screening and the relative importance of an area to wildlife on a seasonal basis (e.g. winter range).

e. Hardwood Cover: Hardwoods provide an important element of habitat diversity in the coniferous forest and are utilized as a source of food

and/or cover by a large proportion of the state's bird and mammal species. Productivity of deer and other species has been directly related to mast crops. Hardwood cover can be estimated using the basal area per acre provided by hardwoods of all species.

Post–harvest deciduous oak retention for the maintenance of habitats for mule deer and other hardwood–associated wildlife shall be guided by the Joint Policy on Hardwoods between the California Board of Forestry and California Fish and Game Commission (5/9/94). To sustain wildlife, a diversity of stand structural and seral conditions, and tree size and age classes of deciduous oaks should be retained in proportions that are ecologically sustainable. Regeneration and recruitment of young deciduous oaks should be sufficient over time to replace mortality of older trees. Deciduous oaks should be present in sufficient quality and quantity, and in appropriate locations to provide functional habitat elements for hardwood–associated wildlife.

f. Late Seral (Mature) Forest Characteristics: Determination of the presence or absence of mature and over–mature forest stands and their structural characteristics provides a basis from which to begin an assessment of the influence of management on associated wildlife. These characteristics include large trees as part of a multilayered canopy and the presence of large numbers of snags and downed logs that contribute to an increased level of stand decadence. Late seral stage forest amount may be evaluated by estimating the percentage of the land base within the project and the biological assessment area occupied by areas conforming to the following definitions:

Forests not previously harvested should be at least 80 acres in size to maintain the effects of edge. This acreage is variable based on the degree of similarity in surrounding areas. The area should include a multi–layered canopy, two or more tree species with several large coniferous trees per acre (smaller subdominant trees may be either conifers or hardwoods), large conifer snags, and an abundance of large woody debris.

Previously harvested forests are in many possible stages of succession and may include remnant patches of late seral stage forest which generally conform to the definition of unharvested forests but do not meet the acreage criteria.

g. Late Seral Habitat Continuity: Projects containing areas meeting the definitions for late seral stage characteristics must be evaluated for late seral habitat continuity. The fragmentation and resultant isolation of late seral habitat types is one of the most significant factors influencing the sustainability of wildlife populations not adapted to edge environments.

This fragmentation may be evaluated by estimating the amount of the on–site project and the biological assessment area occupied by late seral stands greater than 80 acres in size (considering the mitigating influence of adjacent and similar habitat, if applicable) and less than one mile apart or connected by a corridor of similar habitat.

h. Special Habitat Elements: The loss of a key habitat element may have a profound effect on a species even though the habitat is otherwise suitable. Each species may have several key limiting factors to consider. For example, a special need for some large raptors is large decadent trees/snags with broken tops or other features. Deer may have habitat with adequate food and cover to support a healthy population size and composition but dependent on a few critical meadows suitable for fawning success. These and other key elements may need special protection.

D. Recreational Resources: The recreational assessment area is generally the area that includes the logging area plus 300 feet.

To assess recreational cumulative impacts:

1. Identify the recreational activities involving significant numbers of people in and within 300 feet of logging area (e.g., fishing, hunting, hiking, picnicking, camping).

2. Identify any recreational Special Treatment Areas described in the Board of Forestry rules on the plan area or contiguous to the area.

E. Visual Resources: The visual assessment area is generally the logging area that is readily visible to significant numbers of people who are no further than three miles from the timber operation. To assess visual cumulative effects:

1. Identify any Special Treatment Areas designated as such by the Board of Forestry because of their visual values.

2. Determine how far the proposed timber operation is from the nearest point that significant numbers of people can view the timber operation. At distances of greater than 3 miles from viewing points, activities are not easily discernible and will be less significant.

3. Identify the manner in which the public identified in 1 and 2 above will view the proposed timber operation (from a vehicle on a public road, from a stationary public viewing point or from a pedestrian pathway).

F. Vehicular Traffic Impacts: The traffic assessment area involves the first roads not part of the logging area on which logging traffic must travel. To assess traffic cumulative effects:

1. Identify whether any publicly owned roads will be used for the transport of wood products.

2. Identify any public roads that have not been used recently for the transport of wood products and will be used to transport wood products from the proposed timber harvest.

3. Identify any public roads that have existing traffic or maintenance problems.

4. Identify how the logging vehicles used in the timber operation will change the amount of traffic on public roads, especially during heavy traffic conditions.

NOTE: Authority cited: Sections 4551, 4551.9 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4551.9, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172; and *Laupheimer* v. *State* (1988) 200 Cal.App.3d 440; 246 Cal.Rptr. 82.

HISTORY

1. New section, Technical Rule Addendum #2, and Appendix filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
2. Editorial correction (Register 97, No. 48).
3. Amendment of section and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
5. Amendment of appendix technical rule addendum #2, paragraph c.4.e. filed 11–18–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 47).
6. Amendment filed 10–28–2004; operative 1–1–2005 (Register 2004, No. 44).

§ 952.10. Pacific Yew.

HISTORY

1. New section filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

Article 3. Silvicultural Methods

§ 953. Silvicultural Objectives.

The objectives of this article are to describe standard silvicultural systems and to provide for alternatives that when applied shall meet the objectives of the FPA (PRC 4512 and 4513). The RPF shall select systems and alternatives which provide for maximum sustained production of high quality timber products.

The THP shall designate one or a combination of regeneration methods, prescriptions or intermediate treatments described by this article. If a method, prescription or treatment not defined in the rules (see 14 CCR 895.1), is to be used an alternative prescription shall be included in the plan.

The assessment of maximum sustained production of high quality timber products is guided by:

(a). Regeneration methods, intermediate treatments and prescriptions described in the rules which establish standards. These methods, treatments, prescriptions, and standards shall not be utilized to permit harvesting of growing stock in a manner that will significantly delay reaching or maintaining maximum sustained production.

(b). Published yield tables or other tools which can be validated and which serve as a point of reference for evaluating and selecting silvicultural systems and their implementation.

(c). The Sustained Yield Plan. The SYP establishes the flow of forest products from managed timberlands, and shall demonstrate the achievement of maximum sustained production.

(d) An assessment of maximum sustained production of high quality timber products is not required for a harvest designated as, and meeting the definition of fuelbreak/defensible space under 14 CCR 913.4 [933.4, 953.4] Special Prescriptions. Because these lands are designated as defensible space areas, the wood production potential of these lands is compatible with the lowest site classifications and they shall be considered site IV timberland for stocking purposes.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4552 and 4561, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
4. Amendment filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
5. New subsection (d) filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

§ 953.1. Regeneration Methods Used in Evenaged Management.

The following types of regeneration methods are designed to replace a harvestable stand with well spaced growing trees of commercial species. Evenaged management systems shall be applied with the limitations described by this rule:

(a) Timber stands harvested under an evenaged regeneration method shall meet the following standards:

(1) Where a regeneration step harvest of evenaged management will occur on stands younger than 50 years of age for Class I lands, 60 years of age for Class II and III lands, or 80 years of age for Class IV and V lands, or equivalent age of trees, based on height, as determined according to the appropriate site class, the RPF preparing the THP or SYP must demonstrate how the proposed harvest will achieve MSP pursuant to 14 CCR § 953.11(a) or (b); provided, however, that the Director may grant an exemption from this section, based upon hardship.

(2) The regeneration harvest of evenaged management shall be limited to 20 acres for tractor yarding.

Aerial or cable yarding may be 30 acres. Tractor yarding may be increased to 30 acres where the EHR is low and the slopes are <30%. The RPF may propose increasing these acreage limits to a maximum of 40 acres, and the Director may agree where measures contained in the THP provide substantial evidence that the increased acreage limit does any one of the following:

(A) by using additional on–site mitigation measures, reduce the overall detrimental effects of erosion thereby providing better protection of soil, water, fish and/or wildlife resources; or

(B) provide for the inclusion of "long corners", or;

(C) create a more natural logging unit by taking maximum advantage of the topography; or

(D) will increase long–term sustained yield, or;

(E) provide feasible off–site mitigation measures that can be incorporated in the plan to restore or enhance previously impacted resource areas or other environmental enhancements that will result in demonstrable net environmental benefits within the planning watershed. These measures may include, but are not limited to, watercourse restoration, soil stabilization, road surface stabilization, road outsloping, road abandonment, road reconstruction, enhancement of wildlife habitats and vegetation management.

To qualify for an exemption, the plan submitter is not required to demonstrate that the other feasible options are not available.

(3) Evenaged regeneration units within an ownership shall be separated by a logical logging unit that is at least as large as the area being harvested or 20 acres, whichever is less, and shall be separated by at least 300 feet in all directions.

(4) Within ownership boundaries, no logical logging unit contiguous to an evenaged management unit may be harvested using an evenaged regeneration method unless the following are met:

(A) The prior evenaged regeneration unit has an approved report of stocking, and the dominant and codominant trees average at least five feet tall or are at least five years of age from the time of establishment on the site, either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent evenaged management may occur.

(5) Except for the clearcut method, all trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to felling operations. A sample area shall be marked prior to a preharvest inspection. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type, and must be representative of the range of conditions present in the area. The marking requirement may be waived by the Director if the trees to be harvested are easily distinguished from the trees to be retained, when explained and justified by the RPF in the plan.

(6) Special consideration for aesthetic enjoyment shall be given to selection of silvicultural treatments and timber operations within 200 feet of the edge of the traveled surface of any permanent road maintained by the County or the State.

(7) Special consideration for aesthetic enjoyment and protection of adjacent stand vigor shall be given to the selection of silvicultural methods and timber operations within 200 feet of adjacent non–federal lands not zoned TPZ.

(b) Clearcutting. The clearcutting regeneration method involves the removal of a stand in one harvest. Regeneration after harvesting shall be obtained by direct seeding, planting, sprouting, or by natural seed fall. When practical, clearcuts shall be irregularly shaped and variable in size in order to mimic natural patterns and features found in landscapes. Site preparation and slash disposal measures, if necessary for successful regeneration, shall be described in the plan.

(c) Seed Tree. The seed tree regeneration method involves the removal of a stand in one harvest except for well distributed seed trees of desired species which are left singly or in groups to restock the harvested area. The seed step is utilized to promote natural reproduction from seed and to initiate the establishment of an evenaged stand. The removal step may be utilized to remove the seed trees after a fully stocked stand of reproduction has become established.

(1) Seed Tree Seed Step.

The seed tree seed step is the regeneration step and shall meet the following requirements:

(A) Retention of at least the following basal area of seed trees per acre which are 18 inches dbh or greater:

1. Fifteen square feet basal area on site I, II and III lands and
2. Twelve square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 150 feet from a seed tree.

(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 952.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

(2) Seed Tree Removal Step.

Not more than 15 predominant trees per acre may be removed in the seed tree removal step. Not more than 50 sq. ft. of basal area of predominant trees per acre may be removed in the seed tree removal step. The seed tree removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 952.7(b)(1). Regeneration shall not be harvested under the seed tree method unless the trees are dead, dying or diseased or substantially damaged during timber operations. The minimum stocking standards of 14 CCR § 952.7(b)(1) shall be met immediately upon completion of operations. The seed tree removal step shall only be used once in the life of the stand unless otherwise agreed to by the Director. If the extent and intensity of the soil and vegetation disturbance caused by the harvest is similar to what would have been caused by a clearcut, the size limitations, separation (spacing) by logical logging unit requirements, and yarding equipment limitations of 14 CCR § 953.1(a) are applicable.

(d) Shelterwood. The shelterwood regeneration method reproduces a stand via a series of harvests (preparatory, seed, and removal). The preparatory step is utilized to improve the crown development, seed production capacity and wind formness of designated seed trees. The seed step is utilized to promote natural reproduction from seed. The removal step is utilized when a fully stocked stand of reproduction has become established, and this step includes the removal of the protective overstory trees.

The shelterwood regeneration method is normally utilized when some shade canopy is considered desirable for the establishment of regeneration.

(1) Shelterwood Preparatory Step. The shelterwood preparatory step shall meet the following minimum standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained.

1. Thirty square feet basal area on site I, II and III lands and
2. Twenty four square feet basal area on site IV and V lands.

The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

(C) Seed tree species shall be specified in the plan by the RPF.

(D) At least 100 square feet of basal area per acre on Site I lands, and 75 square feet of basal area per acre on Site II and III lands and 50 sq. ft. of basal area per acre on site IV and V lands shall be retained.

(E) The minimum stocking standards of 952.7(b)(1) shall be met immediately upon completion of operations. Within six months following completion of work described in the plan, a report of stocking shall be filed as stated in PRC § 4587.

(2) Shelterwood Seed Step. The shelterwood seed step is the regeneration step and shall meet the following standards:

(A) At least the following basal area of seed trees per acre which are 18 inches dbh or greater shall be retained.

1. Thirty square feet basal area on site I, II and III lands and
2. Twenty four square feet basal area on site IV and V lands.

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The seed trees must be of full crown, capable of seed production and representative of the best phenotypes available in the preharvest stand.

(B) No point within the logged area shall be more than 100 feet from a seed tree.

(C) Seed tree species and site preparation measures shall be specified in the plan by the RPF.

(D) Seed trees shall be marked by or under the supervision of an RPF prior to felling operations.

(E) If natural regeneration is inadequate within two years after the first August following completion of timber operations, seed trees may be harvested and artificial regeneration shall be used to meet the requirements of 14 CCR § 952.7(b)(1).

(F) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand.

The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in-lieu of retaining trees.

(3) Shelterwood Removal Step. The shelterwood removal step may be utilized when the regeneration present exceeds the minimum stocking requirements set forth in 14 CCR § 952.7(b)(1). Unless otherwise agreed to by the Director, the Shelterwood removal shall only be used once in the life of the stand. Regeneration shall not be harvested during the shelterwood removal step unless the trees are dead, dying or diseased or substantially damaged by timber operations. The minimum stocking standards of 14 CCR § 952.7(b)(1) shall be met immediately upon completion of operations.

If the extent and intensity of the ground disturbance caused by the harvest is essentially the same as would have been caused by a clearcut or will cause adverse cumulative effects on wildlife as determined by the RPF or Director the size limitations, and separation (spacing) by logical logging unit requirements, of 14 CCR § 953.1(a) are applicable unless the post-harvest stand, regardless of average diameter, meets the stocking standards of 14 CCR § 953.3(a)(1)(A) or (B).

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4582(h) and 4587, Public Resources Code.

HISTORY

1. New NOTE filed 2-21-79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1-11-83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect filed 5-24-89 (Register 89, No. 23).
4. Editorial correction of subsection (b)(2) (Register 91, No. 28).
5. Amendment of section heading and section filed 11-25-91 as an emergency; operative 11-25-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-24-92 or emergency language will be repealed by operation of law on the following day.
6. Repealer of emergency amendments filed 11-25-91 and reinstatement of prior text filed 9-22-92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
7. Amendment filed 1-7-94; operative 3-1-94 (Register 94, No. 1).
8. Amendment of subsections (a)(1)-(2)(A), (a)(4)(A) and (d)(3) filed 5-16-94; operative 5-16-94 (Register 94, No. 20).
9. Amendment of subsection (a)(4)(A) filed 11-7-96; operative 1-1-97 (Register 96, No. 45).
10. Editorial correction of subsection (a)(4)(A) and restoring text inadvertently deleted from last paragraph (Register 96, No. 50).
11. Amendment of subsections (a)(5), (c)(1)(D) and (d)(2)(D) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
12. Editorial correction deleting last sentence (Register 99, No. 26).
13. Amendment filed 11-14-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).

§ 953.1.5. Regeneration Methods Used in Even-Aged Management and Limitations.

NOTE: Authority cited: Sections 4551, 4553, 4561, and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4561 and 4582(h), Public Resources Code.

HISTORY

1. New section filed 11-25-91 as an emergency; operative 11-25-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-24-92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11-25-91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 953.2. Regeneration Methods Used in Unevenaged Management.

Unevenaged management is utilized to establish and maintain an unevenaged stand structure. Unevenaged management attributes include the establishment and/or maintenance of a multi-aged, balanced stand structure, promotion of growth on leave trees throughout a broad range of diameter classes, and encouragement of natural reproduction.

(a) Selection. Under the selection regeneration method the trees are removed individually or in small groups sized from .25 acres to 2.5 acres.

(1) Trees to be harvested or trees to be retained shall be marked by or under the supervision of the RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area.

(2) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. In no cases shall stocking be reduced below the following standards:

(A) Selection System.

1. On Site I lands at least 100 square feet per acre of basal area shall be retained.

2. On Site II and III lands at least 75 square feet per acre of basal area shall be retained.

3. On Site IV and V lands at least 50 square feet per acre of basal area shall be retained.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 953.11(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(B) Group Selection.

1. At least 80% of the stocked plots must meet the Basal Area standards of 14 CCR § 953.2(a)(2)(A).

2. Not more than 20% of the stocked plots may meet stocking standards utilizing the 300 point count standard with trees that are at least 10 (ten) years old.

3. An RPF or supervised designee may offset up to 8 plots per 40 plots where those plot centers are initially placed within small group clearings created during the current harvest. Unless substantially damaged by fire, the RPF or supervised designee shall not exclude small group clearings created by previous timber harvesting from the stocking survey.

4. Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 953.11(a) or (b), the residual stand shall contain sufficient trees to meet at least the basal area, size, and phenotypic quality of tree requirement specified under the seed tree method.

(3) Within any THP, small group clearings under the selection method shall be separated by a logical logging area.

(4) Following completion of timber operations (including site preparation) not more than 20 percent of the THP area harvested by this method shall be covered by small group clearings.

(5) Exceptions to stocking standards in 14 CCR § 953.2(a)(2) above may be granted only when proposed by the RPF and explained and justified in the plan, but in no case will the exceptions be less than those specified in 14 CCR § 952.7(b)(2). Exceptions may only be granted when the RPF clearly demonstrates that the existing stand will grow substantially

less than both the potential site productive capacity and the proposed post harvest stand.

(b) Transition. The transition method may be used to develop an unevenaged stand from a stand that currently has an unbalanced irregular or evenaged structure. The transition method involves the removal of trees individually or in small groups from irregular or evenaged stands to create a balanced stand structure and to obtain natural reproduction.

(1) Area for determination of preharvest seed tree retention levels shall be no greater than 20 acres in size.

(2) This method is to be used to increase stocking and improve the balance of age classes so as to allow the residual stand to be managed by the selection regeneration method. This method shall not be used more than two times for a stand. The RPF shall delineate areas previously treated by the transition method on the plan map.

(3) Stands suitable for the transition method contain adequate quantity and quality of seed producing trees to provide adequate regeneration for new age classes. Stands suitable for this method shall have no more than 50 sq. ft. of basal area greater than the selection basal area standards.

(4) Trees to be harvested or trees to be retained shall be marked by or under the supervision of a RPF before felling operations. A sample area must be marked before the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area up to a maximum of 20 acres per stand type which is representative of the range of conditions present.

(5) Immediately following the completion of timber operations, the minimum basal area standards in 14 CCR § 952.7(b)(2) shall be met.

(6) The post harvested residual stand shall contain at least 15 square feet of basal area per acre of seed trees at least 12 inches dbh or greater for timber sites I, II or III; or 12 square feet of basal area per acre of seed trees 12 inches dbh or greater for timber sites IV or V. Unless obviously stocked, these basal area requirements will be determined from sampling averaged across each harvested area required in 14 CCR § 953.2(b)(1). Unless the plan submitter demonstrates how the proposed harvest will achieve MSP pursuant to 14 CCR § 953.11(a) or (b), where present in the preharvest stand, disease free, undamaged seed trees 18 inches dbh or greater shall be retained post harvest until the stand exceeds the minimum seed tree requirements of 14 CCR § 953.1(c)(1)(A). The seed trees shall be full crown, capable of seed production and representative of the best phenotypes available in the present stand.

(7) Following completion of timber operations (including site preparation) not more than 20 percent of the Plan area harvested by this method shall be occupied by small group clearings.

(8) The Plan Submitter must provide the Director sufficient information such as growth and stand description to demonstrate that the standards of the selection regeneration method will be met by the third and subsequent entries of Plan areas harvested by the transition method.

(c) Within six months following completion of timber operations conducted pursuant to the selection and transition methods as described in the plan, a report of stocking shall be filed as stated in PRC Section 4587.

(d) In the absence of a Sustained Yield Plan, to maintain and improve tree species diversity, genetic material, and seed production, trees of each native commercial species where present at the time of harvest shall be retained after harvest. These leave trees shall be representative of the best phenotypes available in the preharvest stand. The RPF may propose and the Director may agree to a species specific plan in the THP which protects existing regeneration or provides for regeneration in–lieu of retaining trees.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4582(h) and 4587, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect of subsection (c) filed 5–24–89 (Register 89, No. 23).
4. Editorial correction of subsection (c) (Register 91, No. 28).
5. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. Amendment of subsections (a)(2)(A)4, (a)(2)(B)2 and 4 and (b)(5) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
7. Amendment of subsections (a)(2)(B)3. and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsection (a)(2)(B)3. (Register 97, No. 48).
9. Amendment filed 11–14–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 46).
10. New subsection (b)(1), subsection renumbering, amendment of newly designated subsections (b)(2)–(7), repealer of former subsections (b)(7)–(b)(7)(A), redesignation and amendment of former subsection (b)(7)(B) as new subsection (b)(8) and amendment of NOTE filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

§ 953.2.5. Even–Aged Size Limits.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Sections 4512, 4513, 4561, 4582(h) and 21001, Public Resources Code.

HISTORY

1. New section filed 11–25–91 as an emergency; operative 11–25–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3–24–92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11–25–91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 953.3. Intermediate Treatments.

(a) Commercial Thinning. Commercial thinning is the removal of trees in a young–growth stand to maintain or increase average stand diameter of the residual crop trees, promote timber growth, and/or improve forest health. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand.

(1) Post harvest stand stocking levels shall be stated in the THP. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. Generally stands will develop stand structures with considerably higher levels of basal area than provided in these minimum standards as stand age increases. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 inches DBH:

1. On Site I mixed conifer lands at least 125 sq.ft. per acre of basal area shall be left, and on Site I land where greater than 50% of the basal area is pine, at least 100 square feet per acre of basal area shall be left.

2. On Site II mixed conifer lands at least 100 sq.ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 square feet per acre of basal are shall be left.

3. On Site III mixed conifer lands at least 75 sq.ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 square feet per acre of basal area shall be left.

4. On Site IV and V mixed conifer lands, at least 50 sq.ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 square feet per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees less than 14 inches DBH, a minimum of 100 trees per acre over 4 inches DBH shall be retained for site I, II and III. For site IV and V 75 trees per acre over 4 inches DBH shall be retained.

(2) Exceptions to these stocking standards may be proposed by the RPF when explained and justified in the plan, but in no case will the standards be below those specified in 14 CCR 952.7(b)(2).

(3) For stands harvested in compliance with 14 CCR 953.3(a)(1)(A), the trees to be harvested or the trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. For all thinning proposals, a sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the thinning area up to a maximum of 20 acres which is representative of the range of conditions present in the area. The Director may waive the marking requirements for the remainder of the THP area when explained and justified in the THP.

(4) Within six months following completion of timber operations as described in the plan, a report of stocking shall be filed as stated in PRC Section 4587.

(b) Sanitation–Salvage. Sanitation is the removal of insect–attacked or diseased trees in order to maintain or improve the health of the stand. Salvage is the removal of only those trees which are dead, dying or deteriorating, because of damage from fire, wind, insects, disease, flood or other injurious agents. Salvage provides for the economic recovery of trees prior to a total loss of their wood product value. Sanitation and salvage may be combined into a single operation. The following requirements apply to the use of the sanitation–salvage treatment:

(1) The RPF shall estimate in the THP the expected level of stocking to be retained upon completion of operations.

(2) Immediately upon completion of operations, the area shall meet the stocking standards of 14 CCR 952.7(b) unless explained and justified in the plan. If stocking is to be met immediately following completion of operations, a report of stocking shall be filed within 6 months of completion. If this standard cannot met, the area must be planted during the first planting season following completion of operations and the minimum stocking standards of 14 CCR 952.7(b)(1) must be met within 5 years following completion of operations.

(3) Trees to be harvested or trees to be retained shall be marked by or under the supervision of an RPF prior to felling operations. When openings greater than .25 acres will be created, the boundaries of the small group(s) may be designated in lieu of marking individual trees within the small group areas. A sample area must be marked prior to a preharvest inspection for evaluation. The sample area shall include at least 10% of the area, up to a maximum of 20 acres per stand type, whichever is less, which is representative of the range of conditions present in the area. The director may waive the marking requirement for the remainder of the THP area when explained and justified in the THP.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4582(d), (h) and 4587, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. New subsection (c) filed 1–23–85; effective thirtieth day thereafter (Register 85, No. 4).
4. Change without regulatory effect filed 5–24–89 (Register 89, No. 23).
5. Editorial correction of subsections (a)(2) and (c)(2)(B) (Register 91, No. 28).
6. Amendment filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
7. Editorial correction of subsection (b)(2) (Register 96, No. 50).
8. Amendment of subsections (a)(3) and (b)(3) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 953.4. Special Prescriptions.

The following special harvesting methods are appropriate under certain conditions:

(a) Special Treatment Area Prescriptions. Special consideration in Special Treatment Areas shall be given to selection of a regeneration method or intermediate treatment compatible with the objectives for which the special area was established. Such areas shall be identified in the plan. To assure the integrity of legally designated historical and archaeological sites and legally designated ecological reserves, and that the objectives of the special treatment areas are met, the RPF and the Director may agree, after on–the–ground inspection, if requested by either party, on specific silvicultural and logging practices to protect such areas. The Director shall notify affected agencies or groups with expertise in the resource involved in the special treatment area of any such areas located during the THP review process.

(b) Rehabilitation for Understocked Area Prescription. Rehabilitation is a procedure for restoring and enhancing the productivity of commercial timberlands which do not meet the stocking standards in 14 CCR 952.7, prior to any timber operations. On such lands an area may be harvested provided it is restocked in accordance with Subsections (1) or (2). To facilitate restocking, a regeneration plan must be included in the THP. The regeneration plan shall include site preparation, method of regeneration and other information appropriate to evaluate the plan.

(1) If the area meets the standards of 14 CCR 952.7 within five years of completion of timber operations, the area shall be considered acceptably stocked, or shall be considered acceptably stocked if it contains at least 10 planted countable trees for each tree harvested on sites I, II, and III, and 5 planted countable trees for each tree harvested on site IV and V.

(2) On understocked timber lands where no countable conifer trees are to be harvested and the broadleaf species are not designated for management, the area shall be planted to equal or exceed the stocking standards of 14 CCR 952.7(b)(1) and shall be considered acceptably stocked if within five years of completion of timber operations it contains at least an average point count of 150 of Group A species on all site classifications.

(c) Fuelbreak/Defensible Space. Where some trees and other vegetation and fuels are removed to create a shaded fuel break or defensible space in an area to reduce the potential for wildfires and the damage they might cause. Minimum stocking standards within the timber operating area shall be met immediately after harvest and shall be those found in 14 CCR 952.7. The RPF shall describe in the plan specific vegetation and fuels treatment, including timing, to reduce fuels to meet the objectives of the Community Fuelbreak area.

(d) Variable Retention. Variable retention is an approach to harvesting based on the retention of structural elements or biological legacies (trees, snags, logs, etc.) from the pre–harvest stand for integration into the post–harvest stand to achieve various ecological, social and geomorphic objectives. The major variables in the variable retention harvest system are retention types, densities, and spatial arrangement of retained structures; aggregated retention is the retention of structures or biological legacies as intact forest patches within the harvest unit; dispersed retention is the retention of structures or biological legacies in a dispersed or uniform pattern. Retained trees may be intended to become part of future stands managed by the Selection regeneration method. Retained trees are often designated as decadent tree or snag recruitment hence not ever intended for harvest. Regeneration after harvest outside of aggregated retention patches may be obtained by direct seeding, planting, sprouting, or by natural seedfall.

(1) In the plan, the RPF shall describe in sufficient detail to provide for review and evaluation: the trees and elements retained, the objectives intended to be achieved by retention, the distribution and quantity of retained trees, the intended time period of retention, and any potential future conditions or events the RPF believes would allow harvest of retained trees. The RPF may explain and justify, and the Director may approve a plan which indicates up to 50% of retained trees are intended for harvest during future Intermediate Treatments of the regenerated portion of the harvest area where such harvest(s) are consistent with stated Variable Retention objectives.

(2) The retention standards for Dispersed Retention shall be measured in average basal area per acre. Where retention is aggregated in groups (greater than or equal to one–tenth acre), percentage of harvest unit area shall be the standard. Sum of all areas within groups divided by harvest unit acres will be used to determine percentage of aggregated retention in the harvest unit. Area and trees located within any standard width WLPZ will be excluded from calculating retention.

(3) The following retention standards shall be met:

(A) Minimum dispersed Variable Retention standard is 20 percent of the Resource Conservation Standards basal area levels stated in 14 CCR § 952.7(b) (2), 10 percent of harvest area in aggregated retention or combinations thereof. Variable Retention harvests at the minimum retention level shall be limited to 30 acres.

(B) Table 1 shall be used for Determining the Maximum Size Harvest Area for Variable Retention. For areas with a combination of dispersed and aggregated retention types for determination of permissible unit size, the percentage of basal area in dispersed retention portions of the com-

bination area may be reduced proportionately to the area in aggregated retention indicated in Table 1.

Table 1

Dispersed Retention	*Aggregated Retention*	*Maximum Size Harvest Area*
>20% of 952.7(b)(2)	>10% Area	30 Acres
>30% of 952.7(b)(2)	>15% Area	40 Acres
>35% of 952.7(b)(2)	>20% Area	60 Acres
>45% of 952.7(b)(2)	>25% Area	80 Acres
>55% of 952.7(b)(2)	>30% Area	120 Acres
>75% of 952.7(b)(2)	>40% Area	200 Acres

(C) Aggregated retention areas that conform to the definition of Late Succession Forest Stands under 14 CCR § 895.1, with the exception of the minimum 20 acre threshold size, may be counted as contributing 1.5 times the acres they actually occupy toward providing retention.

(D) Retention trees classified as Dunning's Class 3, 4, 5, or 7 which exceed the size standards of 14 CCR § 952.7 may be counted as contributing 1.5 times their actual basal area toward providing retention.

(E) Retention standards shall be met on each 20–acre maximum area(s) within each harvest unit. Retention standards may be met by either dispersed, aggregated or a combination of the two types of retention.

(F) Unless explained and justified by the RPF in the plan, and approved by the Director, no point within the harvest area where retention standards are met by dispersed retention shall be more than 300 feet from a retention tree.

(G) With the exception of 14 CCR § 953.4(d)(3)(J) below, the average height of dispersed retention trees shall be at least (the average height of dominants and codominants of like species in the pre–harvest stand.

(H) For areas where the plan relies on natural seedfall to obtain regeneration, dispersed retention trees shall meet the standards of 14 CCR § 953.1(c)(1). Where retention is aggregated, retained aggregates shall meet the standards of Commercial Thinning required under 14 CCR § 953.3(a) including (a)(1)(A) or (a)(1)(B).

(I) Where specific WHR habitat elements are insufficient to provide functional wildlife habitat, the RPF may explain and justify and the Director may approve alternatives to the standards of subsections 14 CCR § 953.4(d)(3)(G) and (H).

(J) Decadent and Deformed Trees of Value to Wildlife, and Snags which meet the standards of 14 CCR § 952.7(b)(3)(A,B or C) and 14 CCR § 952.7(c) may be counted to meet up to 15 square feet of basal area per acre of retention in excess of the minimum variable retention standards (ref. 14 CCR § 953.4(d)(3)(A)).

(K) Trees shall be retained for at least 50 years unless a shorter period of time is described in the plan, explained and justified by the RPF, and approved by the Director.

(4) Retention standards shall be met immediately after harvest and if retention trees are to be used to meet stocking, at the time the stocking report is approved.

(5) The stocking standards of 14 CCR § 952.7(b)(1) within five years following completion of operations.

(6) Retention trees shall be protected to the extent feasible during timber operations consistent with 14 CCR §§ 954.1; 954.2(e); 954.3; 955.2; 955.3 and 957.7.

(7) The plan shall indicate the estimated average pre–harvest and post–harvest basal area by species and diameter class. Diameter class designations shall be grouped in no greater than 6″ classes.

(8) Where retention is aggregated in groups, the RPF shall provide in the plan a general description of group locations and/or a map showing the approximate location of the groups. This information shall be provided for each logging unit.

(9) All trees to be harvested or all retention trees shall be marked by, or under the supervision of, an RPF prior to felling operations. Where timber harvesting does not occur within retained aggregates, the boundaries of retained aggregates may be designated in lieu of marking individual trees within retained aggregates. A sample area must be marked prior to a pre–harvest inspection for evaluation. The sample area shall include at least 10% of the harvest area for each stand type represented in the range of conditions present in the area. Where necessary to evaluate the proposed retention, the Director may require additional marking before plan approval.

(10) To facilitate restocking, a regeneration plan must be included in the plan. The regeneration plan shall include site preparation, method of regeneration, and other information appropriate to evaluate the plan. Site preparation activities shall be designed to protect retention elements and maintain ground cover to the extent practicable while at the same time result in seedling establishment on the site and encourage long–term site occupancy of the regenerated trees.

(11) Another Variable Retention harvest may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report except as specified in: (i) a THP that has been approved pursuant to 14 CCR § 953.11(a), (ii) an SYP, (iii) a PTEIR or, (iv) an NTMP).

(12) Within ownership boundaries, no logical logging unit contiguous to a previously harvested Variable Retention harvest area may be harvested by a Variable Retention method unless the previously harvested Variable Retention unit has an approved report of stocking and the dominant and codominant trees, not counting retention trees, average at least five years of age or average at least five feet tall and three years of age from the time of establishment on the site either by the planting or by natural regeneration. If these standards are to be met with trees that were present at the time of the harvest, there shall be an interval of not less than five years following the completion of operations before adjacent Variable Retention management may occur.

(13) A Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may not be applied to the Variable Retention harvest area for at least 50 years for Class I, 60 years for Class II or III, or 80 years for Class IV and V site class lands after acceptance by the Director of the completion report.

(14) Within an ownership, at least 10 years must pass after a Variable Retention harvest that exceeds the size standards of 14 CCR § 953.1(a)(2) before a Regeneration Method Used in Evenaged Management, other than Shelterwood Preparatory Step, may occur in an adjacent logical harvest area.

(15) Within an ownership, the separation requirements and adjacency limitations of 14 CCR § 953.1(a)(3, 6 and 7) shall apply equally to Variable Retention harvest areas and evenaged regeneration units.

(16) Alternative Prescriptions proposed under 14 CCR § 953.6 may not reference Variable Retention as the most nearly feasible method (ref. 14 CCR § 953.6(b)(3 and 4)). Alternative Prescriptions which approach but do not fully meet the minimum standards of Variable Retention shall be considered Alternatives to a Regeneration Method Used in Evenaged Management.

NOTE: Authority cited: Sections 4551, 4553 and 4561, Public Resources Code. Reference: Section 4582.5, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
3. Change without regulatory effect of subsection (b) filed 5–24–89 (Register 89, No. 23).
4. Amendment of subsection (a) and NOTE filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
5. Amendment of section heading and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
6. New subsection (c) filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

7. New subsections (d)–(d)(16) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).

§ 953.5. Stocking Status.

Under any regeneration method where artificial regeneration is specified in the plan to restock the logged area, a preliminary report on the degree of stocking shall be submitted to the Director annually, between October 1 and December 31, beginning two years following completion of logging by the timber owner or his/her agent until the stocking standard of 14 CCR 952.7 is met or exceeded or as otherwise required. This report shall indicate the degree of stocking achieved and any additional measures that will be taken to stock the logged area.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561, 4587 and 4588, Public Resources Code.

HISTORY

1. Renumbering of former section 953.5 to section 953.11 and new section 953.5 filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 953.6. Alternative Prescriptions.

(a) An alternative prescription shall be included in a THP when, in the judgment of the RPF, an alternative regeneration method or intermediate treatment offers a more effective or more feasible way of achieving the objectives of Section 953 than any of the standard silvicultural methods provided in this Article.

(b) An alternative prescription, as defined in 14 CAC 895.1, shall normally contain at least the following information:

(1) A description of the stand before timber operations, including:

(A) The RPF's professional judgment of the species composition of the stand before harvest.

(B) The RPF's professional judgment of the current stocking on the area expressed in basal area or a combination of basal area and point count.

(C) The RPF's estimate of the basal area per acre to be removed from the stand during harvest.

(2) A description of stand management constraints such as animal, insect, disease, or other natural damage, competing vegetation, harsh site conditions, or other problems which may affect stand management.

(3) A statement of which silvicultural method in the current District rules is most nearly appropriate or feasible and an explanation of why it is not appropriate or feasible.

(4) An explanation of how the proposed alternative prescription will differ from the most nearly feasible method in terms of securing regeneration; protection of soil, water quality, wildlife habitat, and visual appearance; and in terms of fire, insect and disease protection.

(5) A description of the stand expected after completion of timber operations, including the following:

(A) The management objective under which the post–harvest stand is to be managed (even–aged, uneven–aged, or neither);

(B) The desired tree species composition of the post–harvest stand and the RPF's judgment as to the remaining stocking after harvest expressed as basal area or a combination of basal area and point count.

(6) The treatment of the stand to be used in harvesting including:

(A) The guidelines to be used in determining which trees are to be harvested or left;

(B) The type of field designation to be followed, such as marking, sample marking of at least 20 percent of the trees to be harvested or left, professional supervision of fallers or other methods; and

(C) The site preparation and regeneration method and timetable to be used for restocking.

(c) If an alternative prescription will have the practical on–the–ground effect of a clearcut, regardless of name or description, then the acreage limitations, and requirement for separation by a typical logging unit, yarding equipment limitations, exceptions, and stocking requirements for the clearcut regeneration method shall apply.

(d) All trees to be harvested or all trees to be retained shall be marked by, or under the supervision of, an RPF prior to harvest. A sample area must be marked prior to the preharvest inspection for evaluation. The sample area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area. The Director may waive the requirements for the remainder of the area when explained and justified by the RPF in the THP.

(e) The Director shall approve the alternative if in his judgment it complies with 14 CCR 898 and if, considering the entire area to which the alternative is to be applied, it would: (1) when compared with the standard most closely related method identified in subsection (b)(3) above have the effect equal to or more favorable than such standard method would achieve in the areas of values relating to soil, the quality and beneficial uses of water, wildlife and fisheries,

(2) not create a significant adverse change in range and forage, and recreation and aesthetic values; and

(3) not reduce the after harvest stocking standards or evenaged prescription limitation below the most closely associated standard, unless the RPF demonstrates that either:

(A) the harvest will result in stand conditions that will increase long term sustained yield as compared to the long term sustained yield achieved by utilizing the stocking standards of the method identified in subsection (b)(3); or

(B) the yield over 20 years of a "No Harvest" alternative would be less than the yield over 20 years of the proposed alternative.

(4) not lead to the direct or indirect conversion of the timberland to other land uses not associated with timber growing and harvesting and compatible uses unless a timberland conversion permit is approved before submission of the THP; and

(5) not result in violations of any of the other standards in the rules of the Board.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5 and 4561, Public Resources Code.

HISTORY

1. Repealer and new section filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).
2. Repealer of subsection (e) and new subsections (d)–(e)(5) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
3. Amendment of subsections (e), (e)(1), (3) and (4) and new subsection (e)(3)(B) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
4. Editorial correction implementing action described in HISTORY 3 (Register 96, No. 50).
5. Amendment of subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of subsection (d) (Register 97, No. 48).

§ 953.7. Riparian Vegetation.

All noncommercial riparian vegetation found along streams and lakes and within meadows and wet areas shall be retained and protected insofar as practical.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561 and 4562.7, Public Resources Code.

HISTORY

1. Repealer of Section 953.7 and renumbering of former Section 953.9 to Section 953.7 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3). For prior history, see Register 79, No. 9.
2. Editorial correction of NOTE (Register 96, No. 50).

§ 953.8. Exceptions.

The requirements of this Article shall not prohibit the timber operator from cutting or removing trees for purposes of:

(a) Clearing the rights–of–way, log landings, campsites, or firebreaks necessary for the conduct of timber operations.

(b) The harvesting of Christmas trees and construction of an integral part of a public fire protection agency fuelbreak is also permitted.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Section 4584, Public Resources Code.

HISTORY

1. Renumbering of former section 953.10 to section 953.8 filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 13.
2. Amendment filed 11–19–97; operative 1–1–98 (Register 97, No. 47).

§ 953.9. Successive Cutting.

Relogging of an area in less than the period of five years required for meeting stocking standards can be done only under either of the following conditions:

(a) sanitation–salvage cutting, or

(b) when stocking requirements have been met and a report of satisfactory stocking (ref. 14 CAC 1076) has been issued by the Director.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

HISTORY

1. Renumbering of former Section 953.9 to Section 953.7 and renumbering and amendment of former Section 953.12 to Section 953.9 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3). For prior history, see Register 79, No. 9.

§ 953.10. Timberland Productivity.

The goal of this section is to restore, enhance and maintain the productivity of the state's timberlands, where feasible.

(a) Where feasible, the productivity of timberlands shall be maintained on a site–specific basis by

(1) meeting the stocking standards of the selected silvicultural or regeneration method, or that level of stocking above the minimum that will achieve long term sustained yield (LTSY) that is proposed in 913.11 a or b.

(2) proposing and implementing an appropriate silvicultural system and regeneration method for the site,

(3) protecting the soil resource and its ability to grow commercial tree species and provide sustainable associated forest values.

(b) Timberland productivity is restored by mitigating the adverse effects of catastrophic events or previous land use activities in order to improve the site capacity to grow for harvest commercial tree species and provide forest values.

(c) Timberland productivity is enhanced by such means as planting, thinning, stand manipulation, stream channel improvement, or other techniques that will lead to increased tree growth and yield, accumulation of growing stock and production of associated forest values.

(d) Measures implemented to mitigate or avoid adverse environmental impacts of timber harvesting contribute to restoration and enhancement of timberland productivity. Plan submitters are encouraged, but not required, to undertake additional measures to restore and enhance timberland productivity. CDF may advise plan submitters of measures which could be undertaken at the plan submitters' option to further restore and enhance timberland productivity.

(e) This section does not impose any additional obligation on owners of timberlands where wildfires, insects, disease, wind, flood, or other blight caused by an act of nature reduces stocking levels below any applicable stocking requirements.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 94, No. 1.
2. Editorial correction implementing action described in HISTORY 1 (Register 96, No. 50).

§ 953.11. Maximum Sustained Production of High Quality Timber Products.

The goal of this section is the achieve Maximum Sustained Production of High Quality Timber Products (MSP). MSP is achieved by meeting the requirements of either (a) or (b) or (c) in a THP, SYP or NTMP, or as otherwise provided in Article 6.8.

(a) Where a Sustained Yield Plan (14 CCR § 1091.1) or Nonindustrial Timber Management Plan (NTMP) has not been approved for an ownership, MSP will be achieved by:

(1) Producing the yield of timber products specified by the landowner, taking into account biologic and economic factors, while accounting for limits on productivity due to constraints imposed from consideration of other forest values, including but not limited to, recreation, watershed, wildlife, range and forage, fisheries, regional economic vitality, employment and aesthetic enjoyment.

(2) Balancing growth and harvest over time, as explained in the THP for an ownership, within an assessment area set by the timber owner or timberland owner and agreed to by the Director. For purposes of this subsection the sufficiency of information necessary to demonstrate the balance of growth and harvest over time for the assessment area shall be guided by the principles of practicality and reasonableness in light of the size of the ownership and the time since adoption of this section using the best information available. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield.

(3) Realizing growth potential as measured by adequate site occupancy by species to be managed and maintained given silvicultural methods selected by the landowner.

(4) Maintaining good stand vigor.

(5) Making provisions for adequate regeneration. At the plan submitters option, a THP may demonstrate achievement of MSP pursuant to the criteria established in (b) where an SYP has been submitted but not approved.

(b) Where a SYP or NTMP is submitted for an ownership, an approved SYP or NTMP achieves MSP by providing sustainable harvest yields established by the landowner which will support the production level of those high quality timber products the landowner selects while at the same time:

(1) meeting minimal stocking, and basal area standards for the selected silvicultural methods as provided in these rules as described;

(2) protecting the soil, air, fish and wildlife, water resources and any other public trust resources;

(3) giving consideration to recreation, range and forage, regional economic vitality, employment and aesthetic enjoyment;

(4) balancing growth and harvest over time. The projected inventory resulting from harvesting over time shall be capable of sustaining the average annual yield achieved during the last decade of the planning horizon. The average annual projected yield over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every ten years, shall not exceed the projected long–term sustained yield. A THP which relies upon and is found to be consistent with an approved SYP shall be deemed adequate to achieve MSP.

(c) In a THP or NTMP, MSP is achieved by:

(1) for evenage management, meeting the minimum stand age standards of 14 CCR § 953.1(a)(1), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules; or

(2) for unevenaged management, complying with the seed tree retention standards pursuant to 14 CCR §§ 953.1(c)(1)(A) or 953.2(b)(6), meeting minimum stocking and basal area standards for the selected silvicultural methods as contained in these rules only with group A species, and protecting the soil, air, fish and wildlife, water resources and other public trust resources through the application of these rules.

(3) for intermediate treatments and special prescriptions, complying with the stocking requirements of the individual treatment or prescription.

(4) Timberland ownerships totaling 50,000 acres or less may use subsection (c) to show MSP.

(5) Timberland ownerships of 50,000 acres or more may use subsection (c) through December 31, 1999. Thereafter they may use subsection (c) if an SYP or demonstration of achievement of MSP pursuant to 14 CCR § 953.11(a) has been filed with the department and has not been returned unfiled or approved.

(6) For scattered parcels on timberland ownerships of 50,000 acres or more, subsection (c) may be used to show MSP.

NOTE: Authority cited: Sections 4551 and 4554.5, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. Renumbering of former section 953.11 to section 953.12 and new section filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 94, No. 1.
2. Editorial correction of subsections (c)(1) and (c)(2) (Register 96, No. 46).
3. Amendment of subsections (c)(4) and (c)(5) and amendment of NOTE filed 11–13–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 46).
4. Amendment of first paragraph filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
5. Editorial correction inserting inadvertently omitted last paragraph (Register 96, No. 48).
6. Amendment of subsection (c)(5) and new subsection (c)(6) filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
7. Amendment of subsection (c)(5) filed 11–18–98; operative 1–1–99 (Register 98, No. 47).
8. Amendment of subsections (a), (c)(1)–(2) and (c)(5) filed 11–16–2005; operative 1–1–2006 (Register 2005, No. 46).

§ 953.12. High Use Subdistrict.

In the "high use subdistrict," the selection regeneration method, or sanitation–salvage or commercial thinning treatments may be used. An RPF may propose a modification of the selection regeneration method or sanitation–salvage intermediate treatments when explained and justified in the plan. (See 14 CCR 953 for alternative prescriptions.) In these areas, no trees shall be cut unless first marked on both the bole and stump with either paint, tags or blazes so as to be plainly visible. Such marking shall be done by an RPF or supervised designee sufficiently in advance of cutting to allow for inspection by the Director's representatives. In these areas, the leave stand will be at least 50% of the number of trees 12 in. or larger d.b.h. standing prior to the time of harvesting. These leave trees should be in Dunning's tree classes 1, 2, or 3 (Ref. 14 CCR 952 def. Dunning's classification). The composition and distribution of the leave stand shall be maintained as nearly as practical, giving consideration to the aesthetics of the areas. Only sanitation–salvage treatment shall be allowed in the cutover areas for 10 years following the harvest.

NOTE: Authority cited: Sections 4551, 4561 and 4561.1, Public Resources Code. Reference: Sections 4561, 4586 and 4588, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 953.11 to section 953.12 filed 5–16–94; operative 5–16–94 (Register 94, No. 20). For prior history, see Register 83, No. 3.
2. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

[The next page is 341.]

§ 953.13. Exceptions.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Section 4584, Public Resources Code.

HISTORY

1. New NOTE filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Renumbering of Section 953.13 to Section 953.10 filed 1–11–83; effective thirtieth day thereafter (Register 83, No. 3).

Article 4. Harvesting Practices and Erosion Control

§ 954. Purposes.

Timber operations shall be conducted to: meet the goal of maximum sustained production of high quality timber products; minimize breakage of merchantable timber; prevent unreasonable damage to residual trees, fish and wildlife habitat as identified in the THP or contained in the rules, reproduction, and riparian vegetation; to prevent degradation of the quality and beneficial uses of water; and maintain site productivity by minimizing soil loss. The following provisions shall be applied in a manner which achieves this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: 33 U.S.C.A. Section 1288; Sections 4512, 4513, 4514.3, 4527, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Repealer of Article 4 (Sections 954–954.9) and new Article 4 (Sections 954–954.9, not consecutive) filed 8–4–83; designated effective 10–1–83 (Register 83, No. 31).
2. Amendment filed 124–89; operative 2–1–90 (Register 89, No. 50).

§ 954.1. Felling Practices.

The following standards are applicable to felling practices:

(a) To the fullest extent possible and with due consideration given to topography, lean of trees, landings, utility lines, local obstructions, and safety factors, trees shall be felled to lead in a direction away from watercourses and lakes.

(b) Desirable residual trees and tree seedlings of commercial species, and those oak trees requiring protection pursuant to 14 CAC 953.10 shall not be damaged or destroyed by felling operations, except where unavoidable due to safety factors, lean of trees, location of obstructions or roads, or lack of sufficient openings to accommodate felled trees.

(c) Trees shall be felled in conformance with watercourse and lake protection measures incorporated in timber harvesting plans and consistent with Article 6 of these rules.

(d) Felling practices shall conform to requirements of 914.4, 934.4, 954.4 to protect bird nesting sites.

(e) In the Southern Forest District stumps shall be kept to a height of 30.5 cm (12 inches), and in the High Use Subdistrict stumps shall be kept to a height of 20.3 cm (8 inches), or less on the side adjacent to the highest ground level, except where safety, imbedded metal, or unmerchantable wood make this impractical.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5 and 4562.7, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, 4581, 4582 and 4582.5, Public Resources Code.

§ 954.2. Tractor Operations.

The following standards are applicable to tractor operations:

(a) Tractor operations shall be conducted in a manner which complies with 14 CCR 954.

(b) Tractor, or other heavy equipment which is equipped with a blade, shall not operate on skid roads or slopes that are so steep as to require the use of the blade for braking.

(c) Tractor roads shall be limited in number and width to the minimum necessary for removal of logs. When less damage to the resources specified in 14 CCR 954 will result, existing tractor roads shall be used instead of constructing new tractor roads.

(d) Heavy equipment shall not operate on unstable areas. If such areas are unavoidable, the RPF shall develop specific measures to minimize the effect of operations on slope instability. These measures shall be explained and justified in the plan and approved by the Director, and must meet the requirements of 14 CCR 954.

(e) Slash and debris from timber operations shall not be bunched adjacent to residual trees required for silvicultural or wildlife purposes or placed in locations where they could be discharged into a Class I or II watercourse, or lake.

(f) Tractor operations shall be subject to the following limitations:

(1) Heavy equipment shall be prohibited where any of the following conditions are present:

(i) slopes steeper than 65%

(ii) slopes steeper than 50% where the erosion hazard rating is high or extreme

(iii) slopes over 50% which lead without flattening to sufficiently dissipate water flow and trap sediment before it reaches a watercourse or lake.

(2) On slopes between 50 percent and 65 percent where the erosion hazard rating is moderate, and all slope percentages are for average slope steepness based on sample areas that are 20 acres, or less if proposed by the RPF or required by the Director, heavy equipment shall be limited to:

(i) existing tractor roads that do not require reconstruction, or

(ii) new tractor roads that have been flagged by an RPF or supervised designee prior to use.

(3) The RPF may propose exceptions to the limitations on tractor operations described above if the proposed exception will comply with 14 CCR 954, and if the THP both clearly explains the proposed exception and justifies why application of the standard rule is either not feasible, or would not comply with 14 CCR 954. The location of tractor roads to be used under such exceptions shall be flagged prior to the pre–harvest inspection or, when a pre–harvest inspection is not required, prior to the start of timber operations.

(g) Where tractor roads are constructed, timber operators shall use tractor roads only, both for skidding logs to landings and on return trips.

(h) Timber operators shall exercise due diligence so that desirable residual trees and seedlings will not be damaged or destroyed in tractor operations.

(i) Where waterbreaks cannot effectively disperse surface runoff, other erosion controls shall be installed as needed.

(j) Except where terracing will disturb less than 50 percent of the soil surface, mechanical site preparation shall not be conducted on any of the following:

(1) Any slopes over 40%.

(2) Slopes over 30% which lead without flattening to a class I or Class II watercourse or to a lake.

(3) Areas having average slopes over 30%, where the erosion hazard rating is high or extreme. The area sampled for the average shall not exceed 20 acres.

(k) The Director may approve exceptions to (j)(1), (j)(2), and (j)(3) above when damage to soil and water quality caused by the use of heavy equipment will not exceed that caused by other site preparation methods if explained and justified in the THP.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsection (d) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
3. New subsection (i) and subsection relettering filed 9–23–91; operative 9–23–91 (Register 92, No. 25).
4. Amendment of subsections (d) and (f)–(f)(3) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
5. Amendment of subsection (f)(2)(ii) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of HISTORY1 and HISTORY 3 (Register 98, No. 21).
7. Change without regulatory effect restoring subsections (j) and (k) (formerly designated as subsections (i) and (j), respectively) filed 5–20–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 21).

§ 954.3. Cable Yarding.

The following standards are applicable to cable yarding:

(a) Due diligence shall be exercised in the installing, and operating, of cable lines so that residual trees will not incur unreasonable damage by such installation or use.

(b) Residual trees required to be left upon completion of timber operations shall not be used for rub trees, corner blocks, rigging or other cable ties unless effectively protected from damage.

(c) The practice of tight-lining for the purpose of changing location of cable lines is prohibited unless such practice can be carried on without damaging residual trees.

(d) Cable yarding settings shall take maximum advantage of the natural topography and timber types so that yarding operations will protect residual trees.

(e) Tractors shall not be used in areas designated for cable yarding except to pull trees away from streams, to yard logs in areas where deflection is low, where swing yarding is advantageous, to construct firebreaks and/or layouts, and to provide tail-holds. Such exception(s) shall be explained and justified in the THP, and require Director's approval.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (e) filed 12-8-95; operative 12-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 954.4. Site Preparation Addendum.

Where site preparation will occur on the logging area, the THP shall incorporate a site preparation addendum which includes the following information:

(a) Whether site preparation will be required to meet stocking.

(b) The general methods of site preparation to be used.

(c) The types of equipment (if any) is be used for mechanical site preparation and firebreak construction.

(d) The methods for protecting any desirable residual trees in accordance with 14 CCR 917.7.

(e) Explanations and justifications for any exceptions or alternatives to the standard rules.

(f) A map identifying the boundaries of site preparation areas, if different from logging area boundaries, and distinguishing areas by type of site preparation activity.

(g) The name, address, and telephone number of the person responsible for conduct of site preparation activities.

(h) The estimated timing of site preparation operations.

NOTE: Authority cited; Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12-4-89; operative 2-1-90 (Register 89, No. 50).

§ 954.5. Servicing of Logging Equipment, Disposal of Refuse, Litter, Trash and Debris.

The following standards shall be adhered to in servicing logging equipment and disposing of refuse, litter, trash and debris:

(a) Equipment used in timber operations shall not be serviced in locations where servicing will allow grease, oil, or fuel to pass into lakes or watercourses.

(b) Non-biodegradable refuse, litter, trash, and debris resulting from timber operations, and other activity in connection with the operations shall be disposed of concurrently with the conduct of timber operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 954.6. Waterbreaks *[Effective until 1-1-2000].*

The following standards are applicable to the construction of waterbreaks:

(a) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations, except as otherwise provided for in the rules.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient %*				*Metric Measure Road or Trail Gradient %*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.86	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

The appropriate waterbreak spacing shall be based upon the erosion hazard rating and road or trail gradient.

(d) Cable roads that are so deeply cut as to divert and carry water away from natural drainage patterns for more than 100 feet shall have waterbreaks installed on them at 100 feet intervals, or other appropriate erosion control measures may be applied if specified in the plan.

(e) Waterbreaks shall be installed at all natural watercourses on tractor roads and firebreaks regardless of the maximum distances specified in this section except where permanent drainage facilities are provided.

(f) Waterbreaks shall be located to allow water to be discharged into some form of vegetative cover, duff, slash, rocks, or less erodible material wherever possible, and shall be constructed to provide for unrestricted discharge at the lower end of the waterbreak so that water will be discharged and spread in such a manner that erosion shall be minimized. Where waterbreaks cannot effectively disperse surface runoff, including where waterbreaks on roads and skid trail cause surface run-off to be concentrated on downslopes, roads or skid trails, other erosion controls shall be installed as needed to comply with 14 CCR 954.

(g) Waterbreaks shall be cut diagonally a minimum of 15.2 cm (6 inches) into the firm roadbed, cable road, skid trail or firebreak surface and shall have a continuous firm embankment of at least 15.2 cm (6 inches) in height immediately adjacent to the lower edge of the waterbreak cut. In the Southern Subdistrict of the Coast Forest District, on truck roads having firmly compacted surfaces, waterbreaks installed by hand methods need not provide the additional 15.2 cm (6 inch) embankment provided the waterbreak ditch is constructed so that it is at least 15.2 cm (6 inches) deep and 15.2 cm (6 inches) wide on the bottom and provided there is ample evidence based on slope, material amount of rainfall, and period of use that the waterbreaks so constructed will be effective in diverting water flow from the road surface without the embankment.

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8–9–90; operative 9–10–90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17). *Text of version effective through 12–31–99 retained for reference.*

§ 954.6. Waterbreaks *[Effective 1–1–2000].*

The following standards are applicable to the construction of waterbreaks:

(a) except as otherwise provided for in the rules:

(1) All waterbreaks shall be installed no later than the beginning of the winter period of the current year of timber operations.

(2) Installation of drainage facilities and structures is required from October 15 to November 15 and from April 1 to May 1 on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

(b) Waterbreaks shall be constructed concurrently with the construction of firebreaks and immediately upon conclusion of use of tractor roads, roads, layouts, and landings which do not have permanent and adequate drainage facilities, or drainage structures.

(c) Distances between waterbreaks shall not exceed the following standards:

MAXIMUM DISTANCE BETWEEN WATERBREAKS

Estimated Hazard Rating	*U.S. Equivalent Measure Road or Trail Gradient (in percent)*				*Metric Measure Road or Trail Gradient (in percent)*			
	10 or less	*11–25*	*26–50*	*>50*	*10 or* less	*11–25*	*26–50*	*>50*
	Feet	Feet	Feet	Feet	Meters	Meters	Meters	Meters
Extreme	100	75	50	50	30.48	22.86	15.24	15.24
High	150	100	75	50	45.72	30.48	22.86	15.24
Moderate	200	150	100	75	60.96	45.72	30.48	22.35
Low	300	200	150	100	91.44	60.96	45.72	30.48

(h) Waterbreaks or any other erosion controls on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas shall be maintained during the prescribed maintenance period and during timber operations as defined in PRC sections 4527 and 4551.5 so that they continue to function in a manner which minimizes soil erosion and slope instability and which prevents degradation of the quality and beneficial uses of water. The method and timing of waterbreak repair and other erosion control maintenance shall be selected with due consideration given to protection of residual trees and reproduction and the intent of 14 CCR 914.

(i) The prescribed maintenance period for waterbreaks and any other erosion control facilities on skid trails, cable roads, layouts, firebreaks, abandoned roads, and site preparation areas, shall be at least one year.

The Director may prescribe a maintenance period extending as much as three years after filing of the work completion report in accordance with 14 CCR 1050.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4562.5, 4562.7, and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (h) and new subsection (i) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (d) filed 8–9–90; operative 9–10–90 (Register 90, No. 41).
3. Amendment of subsection (f) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
4. New subsection (a), redesignation and amendment of former subsection (a) to new subsection (a)(1), new subsection (a)(2) and amendment of table headings filed 4–21–99; operative 1–1–2000 pursuant to Public Resources Code section 4554.5 (Register 99, No. 17).

§ 954.7. Timber Operations, Winter Period.

During the winter period:

(a) Mechanical site preparation and timber harvesting, shall not be conducted unless winter period operating plan is incorporated in the timber harvesting plan and is followed, or unless the requirements of subsection (c) are met. Cable, helicopter and balloon yarding methods are exempted.

(b) The winter period operating plan shall include the specific measures to be taken in winter timber operations to minimize damage due to erosion, soil movement into watercourses and soil compaction from felling, yarding, loading, mechanical site preparation, and erosion control activities. A winter period operating plan shall address the following subjects:

(1) Erosion hazard rating.
(2) Mechanical site preparation methods.
(3) Yarding system (constructed skid trails).
(4) Operating period.
(5) Erosion control facilities timing.
(6) Consideration of form of precipitation–rain or snow.
(7) Ground conditions (soil moisture condition, frozen).
(8) Silvicultural system–ground cover.
(9) Operations within the WLPZ.
(10) Equipment use limitations.
(11) Known unstable areas.

(c) In lieu of a winter period operating plan, the RPF can specify the following measures in the THP:

(1) Tractor yarding or the use of tractors of constructing layouts, firebreaks or other tractor roads shall be done only during dry, rainless periods where soils are not saturated.

(2) Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to the end of the day if the U.S. Weather Service forecast is a "chance" (30 percent or more) of rain before the next day, and prior to weekend or other shutdown periods. The provisions of this subsection do not apply to mechanical site preparation.

(3) Site specific mitigation measures needed to comply with 14 CCR 954 for operations within the WLPZ and unstable areas during the winter period.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsections (a), (b) and (c)(3) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 954.8. Tractor Road Watercourse Crossing.

Watercourse crossing facilities on tractor roads shall be planned, constructed, maintained, and removed according to the following standards:

(a) The number of crossings shall be kept to a minimum. Existing crossing locations shall be used wherever feasible.

(b) A prepared watercourse crossing using a structure such as a bridge, culvert, or temporary log culvert shall be used to protect the watercourse from siltation where tractor roads cross a watercourse in which water may be present during the life of the crossing.

(c) Crossing facilities on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and for unrestricted passage of water. Such crossing facilities shall be fully described in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) Watercourse crossing facilities not constructed to permanent crossing standards on tractor roads shall be removed before the beginning of the winter period. If a watercourse crossing is to be removed, it shall be removed in accordance with 14 CCR 963.3(d).

(e) If the watercourse crossing involves a culvert, the minimum diameter shall be stated in the THP and the culvert shall be of a sufficient length to extend beyond the fill material.

(f) Consistent with the protection of water quality, exceptions may be provided through the Fish and Game Code and shall be indicated in the plan.

(g) The amendments to 14 CCR § 954.8 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4562.5, 4562.7 and 4582, Public Resources Code.

HISTORY

1. Amendment of subsection (d) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
2. Amendment of subsection (e) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
3. Amendment of subsections (a) and (c) and new subsection (g) filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
4. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph and amendment of NOTE filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
9. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 954.9. Alternatives to Standard Rules.

(a) Alternative practices may be developed by the RPF on a site–specific basis provided the following conditions are complied with and the alternative practices will achieve environmental protection at least equal to that which would result from using measures stated in Sections 954.1–954.8.

(1) Environmental impacts with potential for significant adverse effects on the beneficial uses of water, on the residual timber, and on the soil productivity are identified and measures proposed to mitigate such impacts are included in an approved THP. The THP shall also contain a clear statement as to why alternative harvesting and erosion control measures are needed.

(2) The alternative practice(s) must be explained in sufficient detail and standards provided in the THP so that they can be adequately evaluated and enforced by the Director and implemented by the licensed timber operator.

(3) On a THP in which alternatives covering harvesting and erosion control measures have been incorporated, the timber operator shall agree to the alternative specifications by signing and filing with the Director a copy of the plan, the amended plan or a facsimile thereof, prior to beginning or continuing operations on the portion of the plan to which the alternatives apply.

(b) The Director shall not accept for inclusion in a THP alternative harvesting and erosion control measures proposed under this section which do not meet the standard of subsection (a) of this section. In the event that there is more than one written negative position showing that the alternative practice(s) does (do) not meet the standard of subsection (a) received from among the agencies listed in 14 CAC 1037.3 and the Department of Forestry, which participated in the review of the plan including on–the–ground inspection, the Director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4562.5, 4562.7 and 21080, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4552, 4562.5, 4562.7, 4582, 21002 and 21080.5, Public Resources Code; *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1975) 59 C.A. 3rd 959, 131 Cal. Rptr., 172.

Article 5. Site Preparation

§ 955. Purposes.

Site preparation shall be planned and conducted in a manner which encourages maximum timber productivity, minimizes fire hazard, prevents substantial adverse effects to soil resources and to fish and wildlife habitat, and prevents degradation of the quality and beneficial uses of water. The following provisions shall be applied in a manner which complies with this standard.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 955.1. Use of Heavy Equipment for Site Preparation.

(a) Use of heavy equipment for site preparation shall comply with the provisions set forth in 14 CCR 954.2.

(b) Heavy equipment shall not be used for site preparation under saturated soil conditions or when it cannot operate under its own power due to wet conditions.

(c) Watercourse crossings for heavy equipment shall be planned, constructed, maintained, and removed in accordance with the requirements for tractor roads in 14 CCR Section 954.8.

(d) Undisturbed areas or energy dissipators shall be used to control and disperse concentrated runoff from roads, landings, tractor roads, firebreaks and erosion control facilities where it flows into site preparation areas.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 955.2. Treatment of Vegetative Matter.

(a) Piling, burning, and other treatment of snags, slash and vegetative matter and protection of desirable residual trees during site preparation shall comply with 14 CCR Sections 957 through 957.7.

(b) Broadcast burning shall not fully consume the largest organic debris which retains soil on slopes and stabilizes watercourse banks. The Director may approve exceptions to individual requirements when such exceptions are explained and justified in the THP and the exceptions

would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50). For prior history, see Register 83, No. 32.

§ 955.3. Protection of Natural Resources.

(a) Site preparation activities shall comply with the watercourse and lake protection requirements in 14 CCR Article 6 and 957.3.

(b) Site preparation activities shall comply with the wildlife and habitat protection provisions of 14 CCR Article 9.

(c) Site preparation shall be performed in a manner which does not deleteriously affect species which are threatened, endangered, or designated by the Board as species of special concern. The director may allow exceptions to this standard, if explained and justified in the plan, after consultation with the Department of Fish and Game pursuant to the California Endangered Species Act (F&G Code 2050–2098).

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50).

§ 955.4. Site Preparation Addendum.

Where site preparation will occur on the logging area, the THP shall incorporate a site preparation addendum which includes the following information:

(a) Whether site preparation will be required to meet stocking.

(b) The general methods of site preparation to be used.

(c) The types of equipment (if any) to be used for mechanical site preparation and firebreak construction.

(d) The methods for protecting any desirable residual trees in accordance with 14 CCR 957.7.

(e) Explanations and justifications for any exceptions or alternatives to the standard rules.

(f) A map identifying the boundaries of site preparation areas, if different from logging area boundaries, and distinguishing areas by type of site preparation activity.

(g) The name, address, and telephone number of the person responsible for conduct of site preparation activities shall be provided prior to conducting site preparation activities.

(h) The estimated timing of site preparation operations.

NOTE: Authority cited: Sections 4551, 4551.5 and 4551.7, Public Resources Code. Reference: Sections 4512, 4513, 4527, 4551.5, 4551.7, 4562.5 and 4562.7, Public Resources Code.

HISTORY

1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
2. Amendment of subsection (g) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

Article 6. Watercourse and Lake Protection

§ 956. Intent of Watercourse and Lake Protection.

The purpose of this article is to ensure that the beneficial uses of water, native aquatic and riparian species, and the beneficial functions of riparian zones are protected from potentially significant adverse site–specific and cumulative impacts associated with timber operations.

It is the intent of the Board to restore, enhance, and maintain the productivity of timberlands while providing equal consideration for the beneficial uses of water. Further, it is the intent of the Board to clarify and assign responsibility for recognition of potential and existing impacts of timber operations on watercourses and lakes, native aquatic and riparian–associated species, and the beneficial functions of riparian zones and to ensure adoption of feasible measures to effectively achieve compliance with this article. Further, it is the intent of the Board that the evaluations that are made, and the measures that are taken or prescribed, be documented in a manner that clearly and accurately represents those existing conditions and those measures. "Evaluations made" pertain to the assessment of the conditions of the physical form, water quality, and biological characteristics of watercourses and lakes, including cumulative impacts affecting the beneficial uses of water on both the area of planned logging operations and in the Watershed Assessment Area (WAA). "Measures taken" pertain to the procedures used or prescribed for the restoration, enhancement, and maintenance of the beneficial uses of water.

All provisions of this article shall be applied in a manner, which complies with the following:

(a) During and following timber operations, the beneficial uses of water, native aquatic and riparian–associated species, and the beneficial functions of riparian zones shall be maintained where they are in good condition, protected where they are threatened, and insofar as feasible, restored where they are impaired.

(b) Protection of the quality and beneficial uses of water during the planning, review, and conduct of timber operations shall comply with all applicable legal requirements including those set forth in any applicable water quality control plan adopted or approved by the State Water Resources Control Board. At a minimum, the LTO shall not do either of the following during timber operations:

(1) Place, discharge, or dispose of or deposit in such a manner as to permit to pass into the waters of the state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water;

(2) Remove water, trees or large woody debris from a watercourse or lake, the adjacent riparian area, or the adjacent flood plain in quantities deleterious to fish, wildlife, beneficial functions of riparian zones, or the quality and beneficial uses of water.

(c) Protecting and restoring native aquatic and riparian–associated species, the beneficial functions of riparian zones and the quality and beneficial uses of water shall be given equal consideration as a management objective within any prescribed WLPZ and within any ELZ or EEZ designated for watercourse or lake protection.

(d) The measures set forth in this Section are meant to enforce the public's historical and legal interest in protection for wildlife, fish, and water quality and are to be used to guide timberland owners in meeting their legal responsibilities to protect public trust resources.

(e) The amendments to 14 CCR §§ 956 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4552, 4562.5, 4562.7, 21001(b), (f), 21002 and 21002.1, Public Resources Code; and Sections 100, 1243, 1243.5, 13001, 13050(f), 13146 and 13147, Water Code.

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment filed 12–2–99; operative 1–1–2000 pursuant to Government Code section 11343.4(a) and Public Resources Code section 4554.5 (Register 99, No. 49).
4. Amendment of section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
5. Amendment of subsection (e) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsection (e) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (e) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (e) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
10. Amendment of subsection (e) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 956.1. In Lieu Practices.

In rule sections where provision is made for site specific practices to be approved by the director and included in the THP in lieu of a stated rule, the RPF shall reference the standard rule, shall explain and describe

each proposed practice, how it differs from the standard practice, and the specific locations where it shall be applied; and shall explain and justify how the protection provided by the proposed practice is at least equal to the protection provided by standard rule.

(a) The in lieu practice(s) must provide for the protection of the beneficial uses of water to the standards of 14 CCR 956.3(b) and 956.4(b).

(b) In lieu practices stated in an approved THP shall have the same enforceability and legal authority as those practices required by the standard rules.

(c) Any in lieu practices which propose less than standard rule WLPZ widths for Class I watercourses shall include 14 CCR 956.5(e) "A" & "D" protection measures.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21001(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment and new subsection (c) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).

§ 956.2. Protection of the Beneficial Uses of Water and Riparian Functions.

(a) The measures used to protect each watercourse and lake in a logging area shall be determined by the presence and condition of the following values:

(1) The existing and restorable quality and beneficial uses of water as specified by the applicable water quality control plan and as further identified and refined during preparation and review of the plan.

(2) The restorable uses of water for fisheries as identified by the DFG or as further identified and refined during preparation and review of the plan.

(3) Riparian habitat that provides for the biological needs of native aquatic and riparian–associated species as specified in 14 CCR 956.4(b).

(4) Sensitive conditions near watercourses and lakes as specified in 14 CCR 956.4(a).

These values shall be protected from potentially significant adverse impacts from timber operations and restored to good condition, where needed, through a combination of the rules and plan–specific mitigation. The RPF shall propose and the Director may require, adequate protection of overflow and changeable channels which are not contained within the channel zone.

(b) The State's waters are grouped into four classes based on key beneficial uses. These classifications shall be used to determine the appropriate minimum protection measures to be applied during the conduct of timber operations. The basis for classification (characteristics and key beneficial uses) are set forth in 14 CCR 956.5, Table 1 and the range of minimum protective measures applicable to each class are contained in 14 CCR 956.3, 956.4, and 956.5.

(c) When the protective measures contained in 14 CCR 956.5 are not adequate to provide protection to beneficial uses, feasible protective measures shall be developed by the RPF or proposed by the Director under the provisions of 14 CCR 956.6, Alternative Watercourse and Lake Protection, and incorporated in the plan when approved by the Director.

(d) The amendments to 14 CCR § 956.2 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of section heading, repealer of subsection (a), new subsections (a)(1)–(4), and amendment of subsection (c) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Amendment of section heading, section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
5. Amendment of subsection (d) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
6. Amendment of subsections (a)(4) and (d) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
7. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
8. Amendment of subsection (d) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
9. Amendment of subsection (d) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
10. Amendment of subsection (d) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 956.3. General Limitations near Watercourses, Lakes, Marshes, Meadows and Other Wet Areas.

The quality and beneficial uses of water shall not be unreasonably degraded by timber operations. During timber operations, the timber operator shall not place, discharge, or dispose of or deposit in such a manner as to permit to pass into the water of this state, any substances or materials, including, but not limited to, soil, silt, bark, slash, sawdust, or petroleum, in quantities deleterious to fish, wildlife, or the quality and beneficial uses of water. All provisions of this article shall be applied in a manner which complies with this standard.

(a) When there is reasonable expectation that slash, debris, soil, or other material resulting from timber operations, falling or associated activities, will be deposited in Class I and Class II waters below the watercourse or lake transition line or in watercourses which contain or conduct Class IV water, those harvest activities shall be deferred until equipment is available for its removal, or another procedure and schedule for completion of corrective work is approved by the Director.

(b) Accidental depositions of soil or other debris in lakes or below the watercourse or lake transition line in waters classed I, II, and IV shall be removed immediately after the deposition or as approved by the director.

(c) The timber operator shall not construct or reconstruct roads, construct or use tractor roads or landings in Class I, II, III or IV watercourses, in the WLPZ, marshes, wet meadows, and other wet areas unless explained and justified in the THP by the RPF, and approved by the Director, except as follows:

(1) At prepared tractor road crossings as described in 954.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et seq.)

Use of existing roads is addressed in 956.4(a).

(d) Vegetation, other than commercial species, bordering and covering meadows and wet areas shall be retained and protected during timber operations unless explained and justified in the THP and approved by the director. Soil within the meadows and wet areas shall be protected to the maximum extent possible.

(e) Trees cut within the WLPZ shall be felled away from the watercourse by pulling or other mechanical methods if necessary, in order to protect the residual vegetation in the WLPZ. Exceptions may be proposed in the THP and used when approved by the director.

(f) Where less than 50% canopy exists in the WLPZs of Class I and II waters before timber operations, only sanitation salvage which protects the values described in 14 CCR 956.4(b) shall be allowed.

(g) Recruitment of large woody debris for instream habitat shall be provided by retaining at least two living conifers per acre at least 16 inches diameter breast high and 50 feet tall within 50 feet of all Class I and II watercourses.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. New section filed 8–17–81; effective thirtieth day thereafter (Register 81, No. 34).

2. Repealer and new section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
3. Editorial correction of 5–31–83 order filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
4. Amendment of subsection (a) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
5. Amendment of first paragraph and subsection (a), repealer of subsection (c), new subsection (c), amendment of subsection (e), repealer of subsection (f), and new subsection (f) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
6. Amendment of subsection (c) and new subsections (c)(1)–(4) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 956.4. Watercourse and Lake Protection.

(a) The RPF or supervised designee shall conduct a field examination of all lakes and watercourses and shall map all lakes and watercourses which contain or conduct Class I, II, III or IV waters.

(1) As part of this field examination, the RPF or supervised designee shall evaluate areas near, and areas with the potential to directly impact, watercourses and lakes for sensitive conditions including, but not limited to, existing and proposed roads, skidtrails and landings, unstable and erodible watercourse banks, unstable upslope areas, debris, jam potential, inadequate flow capacity, changeable channels, overflow channels, flood prone areas, and riparian zones wherein the values set forth in 14 CCR §§ 956.4(b) are impaired. The RPF shall consider these conditions, and those measures needed to maintain, and restore to the extent feasible, the functions set forth in 14 CCR §§ 956.4(b), when proposing WLPZ widths and protection measures. The plan shall identify such conditions, including where they may interact with proposed timber operations, that individually or cumulatively significantly and adversely affect the beneficial uses of water, and shall describe measures to protect and restore to the extent feasible, the beneficial uses of water. In proposing, reviewing, and approving such measures, preference shall be given to measures that are on–site, or to offsite measures where sites are located to maximize the benefits to the impacted portion of a watercourse or lake.

(2) As part of this field examination, the RPF or supervised designee shall map the location of spawning and rearing habitat for anadromous salmonids, and the condition of the habitat shall be evaluated using habitat typing that at a minimum identifies the pool, flatwater, and riffle percentages. The opportunity for habitat restoration shall be described within the plan for each Class I watercourse, and for each Class II watercourse that can be feasibly restored to a Class I.

(3) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to permit the Director and the other review team representatives to evaluate the potential environmental impacts of timber operations, the proposed mitigation measures and the proposed restoration measures.

(4) The mapping of conditions identified in subsection (a)(1) and (a)(2) above, and their protective measures, shall be sufficiently clear and detailed to provide direction and clear guidance to the timber operator.

(5) The mapping of conditions identified in 14 CCR § 956.4 subsections (a)(1) and (a)(2), and their protective and restoration measures, should be done at a scale of 1:2,400. In site–specific cases, the mapping of critical locations of corrective work and logging operation impacts shall be done at a scale of at least 1:240 when the Director determines it is necessary to evaluate the plan.

(6) One set of photocopies of recent stereo aerial photographs of the plan area may be required by the Director.

(b) The standard width of the WLPZ and/or the associated basic protection measures shall be determined from Table I (14 CCR 956.5), or Section 956.4(c), and shall be stated in the plan. A combination of the rules, the plan, and mitigation measures shall provide protection for the following:

a. Water temperature control.
b. Streambed and flow modification by large woody debris.
c. Filtration of organic and inorganic material.
d. Upslope stability.
e. Bank and channel stabilization.
f. Spawning and rearing habitat for salmonids
g. Vegetation structure diversity for fish and riparian wildlife habitat, possibly including but not limited to,
1. Vertical diversity
2. Migration corridor
3. Nesting, roosting, and escape
4. Food abundance
5. Microclimate modification
6. Snags
7. Surface cover

(1) Measures and the appropriate zone widths for the protection of the State's waters which have been taken from Table I (14 CCR 956.5) or developed under Section 956.4(c) shall be stated in the THP.

(2) All timber operations shall conform to the marking, flagging and other identification of protective measures specified in CCR 956.4 and 956.5 and the THP. Conformance shall be determined based on the evaluation of no less than a 200 foot lineal segment of each watercourse or lake.

(3) The width of the WLPZ shall be measured along the surface of the ground from the watercourse or lake transition line or in the absence of riparian vegetation from the top edge of the watercourse bank.

(4) Slopes shall be measured in percent for the proposed WLPZ. If topography within the proposed WLPZ is variable, segments of the proposed WLPZ should be segregated by slope class as indicated in Table I, 14 CCR 956.5.

(5) If requested by either party, and after on–the–ground inspection, the RPF and the Director may increase or decrease the width of a proposed WLPZ. A decrease shall not exceed 25 percent of the width as determined by the procedure prescribed in Sections 14 CCR 956.4(c), and 956.5. Such changes in zone width shall be based on considerations of soil, slope, biologic, hydrologic, and geologic values listed in Section 14 CCR 916.4(b), silvicultural methods, yarding systems, road location, and site preparation activities. In no case shall the width be adjusted to less than 50 feet for Class I and II waters. Where soil surfaced roads exist within the standard WLPZ, no in–lieu reduction of WLPZ width shall be approved.

(6) Within the WLPZ, at least 75 percent surface cover and undisturbed area shall be retained to act as a filter strip for raindrop energy dissipation, and for wildlife habitat.

This percentage may be adjusted to meet site specific conditions when proposed by the RPF and approved by the Director or where broadcast burning is conducted under the terms of a project type burning permit and in compliance with 14 CCR 955.2(b).

(c) The protection and WLPZ widths for Class III and Class IV waters shall prevent the degradation of the downstream beneficial use of water and shall be determined on a site–specific basis.

(1) Where operations occur adjacent to Class III watercourses, the RPF shall designate in the THP an equipment limitation zone (ELZ) of at least 25 feet where sideslope steepness is less than 30% and at least 50 feet where sideslope steepness is 30% or greater unless explained and justified otherwise in the THP and approved by the director. Class III watercourses within logging areas where the EHR is Low and the slopes are less than 30% shall not require an ELZ unless proposed by the RPF or required by the Director. The RPF shall describe the limitations on the use of heavy equipment in the THP. Where appropriate to protect the beneficial uses of water the RPF shall describe additional protection measures which may include surface cover retention, vegetation protection and timber falling limitations. The location of the areas of heavy equipment use in any ELZ shall be clearly described in the plan, or flagged or marked on the ground before the preharvest inspection. When necessary to protect the beneficial use of water, the RPF shall designate and the Director may require a WLPZ for Class III and Class IV waters or an ELZ for Class IV waters.

(2) The width of the WLPZ for Class III and Class IV waters shall be determined from on–site inspection. Minimum protective measures re-

quired when Class III and Class IV protection zones are necessary are contained in Table I 14 CCR 956.5.

(3) Soil deposited during timber operations in a Class III watercourse other than at a temporary crossing shall be removed and debris deposited during timber operations shall be removed or stabilized before the conclusion of timber operations, or before October 15. Temporary crossings shall be removed before the winter period, or as approved by the Director.

(4) When approved by the Director on an individual plan basis as provided in Section 14 CCR 956.4(c)(1) Class IV waters shall be exempted from required protection when such protection is inconsistent with the management objectives of the owner of the manmade watercourse.

(d) Heavy equipment shall not be used in timber falling, yarding, or site preparation within the WLPZ unless such use is explained and justified in the THP, and approved by the Director.

(e) Flagging for heavy equipment use within the WLPZ adjacent to Class I waters and for all tractor road watercourse crossings of all watercourses must be completed before the preharvest inspection, if one is conducted or start of operations, whichever comes first. Flagging for heavy equipment use within the WLPZ adjacent to Class II, III and IV waters may be done at the option of the RPF or as required by the director on a site-specific basis.

(f) Subsection (d) does not apply to (1)–(4) below. Subsection (e) does not apply to (2)–(4) below.

(1) At prepared tractor road crossings as described in 954.8(b).

(2) Crossings of Class III watercourses which are dry at the time of timber operations.

(3) At existing road crossings.

(4) At new tractor and road crossings approved as part of the Fish and Game Code process (F&GC 1600 et. seq.)

NOTE: Authority cited: Sections 4551, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5 and 21001(f), Public Resources Code; Sections 1600 and 5650(c), Fish and Game Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. New section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction filed 6–16–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. Amendment of subsection (d) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
4. Amendment and new subsection (b)(6) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
5. Amendment of subsections (d)–(d)(2) and new final subsections (1)–(4) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
6. Repealer and new subsection (c)(1), amendment of subsection (d), redesignation and amendment of former sections (d)(1)–(d)(2) as new subsection (e), and new subsection (f) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
7. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
8. Editorial correction of subsection (d) (Register 99, No. 26).
9. Redesignation and amendment of portion of subsection (a) as (a)(1), new subsections (a)(2)–(6), amendment of subsection (b), new subsection (b)f. and subsection relettering filed 12–1–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 956.5. Procedure for Determining Watercourse and Lake Protection Zone (WLPZ) Widths and Protective Measures.

The following procedure for determining watercourse and lake protection zone (WLPZ) widths and protective measures. The following procedure for determining WLPZ widths and protective measures shall be followed:

(a) The following information shall be determined from field investigation:

(1) The location of all lakes and watercourses including man made watercourses.

(2) The existing and restorable beneficial uses of the waters to be protected as identified in subsection (1) above.

(3) The side slope classes for the individual class waters to be protected (e.g. < 30%, 30–50%,), where side slope is measured from the watercourse or lake transition line to a point 100 feet upslope from the watercourse or lake transition line, or, in the absence of riparian vegetation, from the top of the watercourse bank. Where slope configurations are variable, a weighted average method shall be used to determine sideslope percent.

(b) The beneficial uses noted from the field investigations in subsection (a) shall be compared to the characteristics or key beneficial uses listed in Row 1 of Table I (14 CCR 956.5) to determine the water classes (e.g. I, II, III, IV, Row 2).

(c) The standard protection zone width differentiated by slope classes determined in subsection (a) are shown in Rows 4–7, Table I (14 CCR 956.5). These widths may be modified as stated in 14 CCR 956.4(b)(5).

(d) The alphabetical letter designations A through I in Rows 4–7, Table 1 14 CCR 956.5, and described in subsection (e) to Table I indicate the standard protective measures to be applied to the classes of water as determined in subsection (b) above.

(e) The letter designations shown in the "Protective Measures and Widths" column in Table I correspond to the following:

"A" WLPZ shall be clearly identified on the ground by the RPF who prepared the plan, or supervised designee, with paint, flagging, or other suitable means prior to the preharvest inspection. For nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 956.4 and 956.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

TABLE I—14 CCR 956.5
PROCEDURES FOR DETERMINING
WATERCOURSE AND LAKE PROTECTION ZONE
WIDTHS AND PROTECTIVE MEASURES[1]

Water Class Characteristics or key indicator Beneficial Use	1) Domestic supplies on site and/or within 100 feet downstream of the operations area and/or 2) Fish always or seasonally present onsite includes habitat to sustain fish migration and spawning	1) Fish always or seasonally present offsite within 1,000 feet downstream and/or 2) Aquatic habitat for non-fish aquatic species. 3) Excludes Class III waters that are tributary to Class I waters.	No aquatic life present, watercourse showing evidence of being capable of sediment transport downstream to waters Class I or II waters under normal high water flow conditions after completion of timber operations.	Man-made watercourses, usually downstream established domestic, agricultural, hydro-electric supply, or other beneficial use.

WATER CLASS	*CLASS I*		*CLASS II*		*CLASS III*	*CLASS IV*
SLOPE CLASS (%)	WIDTH FEET	PROTECTION MEASURE	WIDTH FEET	PROTECTION MEASURE	WIDTH FEET MEASURE	WIDTH FEET MEASURE
					See 956.4(c)	See 956.4(c)
<30	75	BDG	50	BEI	See CFH	See CFI
30–50	100	BDG	75	BEI	See CFH	See CFI
>50	150[2]	ADG	100[3]	BEI	See CFH	See CFI

[1]See Section 916.5(e) for letter designations applicable to this table.
[2]Subtract 50 feet width for cable yarding operations
[3]Subtract 25 feet width for cable yarding operations

"B" WLPZ shall be clearly identified on the ground by an RPF or supervised designee, with paint, flagging, or other suitable means, prior to the start of timber operations. In watersheds with threatened or impaired values, on the ground identification of the WLPZ shall be completed prior to the preharvest inspection. For all nonindustrial timber management plans, sample identification of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and be consistent with the applicable provisions of 14 CCR §§ 956.4 and 956.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample identification is adequate for plan evaluation during the preharvest inspection. If sample identification is allowed, the remaining WLPZ shall be identified by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"C" In site-specific cases, the RPF may provide in the plan, or the director may require, that the WLPZ be clearly identified on the ground with flagging or by other suitable means prior to the start of timber operations.

"D" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi-storied stand for protection of values described in 14 CCR § 956.4(b), residual or harvest trees shall be marked, including a base mark below the cut-line within the WLPZ by the RPF, or supervised designee. Outside of watersheds with threatened or impaired values, sample marking prior to the preharvest inspection is satisfactory in those cases where the Director determines it is adequate for plan evaluation. When sample marking has been used, the remaining WLPZ shall be marked in advance of falling operations by the RPF, or supervised designee. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions of 14 CCR §§ 956.4 and 956.5, representing the range of conditions found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF, or supervised designee, prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"E" To ensure retention of shade canopy filter strip properties of the WLPZ and the maintenance of a multi-storied stand for protection of values described in 14 CCR § 956.4(b), residual or harvest trees shall be marked, including a base mark below the cut line, within the WLPZ by the RPF or supervised designee. Outside of watersheds with threatened or impaired values, tree marking shall be done prior to timber falling operations. In watersheds with threatened or impaired values, trees shall be marked in advance of the preharvest inspection. For all nonindustrial timber management plans, sample marking of the WLPZ prior to the preharvest inspection may be allowed. The sample shall be based upon a field examination and shall be consistent with the applicable provisions of 14 CCR §§ 956.4 and 956.5, representing the range of conditions

found within the WLPZ. The Director shall determine if the sample mark is adequate for plan evaluation during the preharvest inspection. If sample marking is allowed, the remaining WLPZ shall be marked by an RPF or supervised designee prior to the start of timber operations within or adjacent to the WLPZ. The RPF shall notify the Department when the WLPZ has been identified.

"F" Residual or harvest tree marking within the WLPZ may be stipulated in the THP by the RPF or required by the Director in site-specific cases to ensure retention of filter strip properties or to maintain soil stability of the zone. The RPF shall state in the THP if marking was used in these zones.

"G" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the overstory and 50% of the understory canopy covering the ground and adjacent waters shall be left in a well distributed multi-storied stand composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Species composition may be adjusted consistent with the above standard to meet on-site conditions when agreed to in the THP by the RPF and the Director.

"H" At least 50 percent of the understory vegetation present before timber operations shall be left living and well distributed within the WLPZ to maintain soil stability. This percentage may be adjusted to meet on-site conditions when agreed to by the RPF and the Director. Unless required by the Director, this shall not be construed to prohibit broadcast burning with a project type burning permit for site preparation.

"I" To protect water temperature, filter strip properties, upslope stability, and fish and wildlife values, at least 50% of the total canopy covering the ground shall be left in a well distributed multi-storied stand configuration composed of a diversity of species similar to that found before the start of operations. The residual overstory canopy shall be composed of at least 25% of the existing overstory conifers. Due to variability in Class II watercourses these percentages and species composition may be adjusted to meet on-site conditions when agreed to by the RPF and the Director in the THP.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4513, 4551.5 and 21001(f), Public Resources Code; Sections 100, 13000 and 13050(f), Water Code; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. New section filed 5-31-83; designated effective 7-1-83 (Register 83, No. 23).
2. Editorial correction of 5-31-83 order filed 6-16-83 redesignating effective date from 7-1-83 to 10-1-83 (Register 83, No. 27).
3. Amendment of section heading, section, and Table I filed 9-23-91; operative 10-23-91 (Register 92, No. 25).
4. Amendment of subsections (e)"B," "D" and "E" filed 11-19-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
5. Amendment of subsection (e) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Editorial correction of subsection (e) (Register 97, No. 48).
7. Editorial correction of table heading (Register 99, No. 26).
8. Amendment of subsection (e) filed 11-16-2006; operative 1-1-2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).

§ 956.6. Alternative Watercourse and Lake Protection.

(a) Alternative prescriptions for the protection of watercourses and lakes may be developed by the RPF or proposed by the Director on a site-specific basis provided the following conditions are complied with and the alternative prescriptions will achieve compliance with the standards set forth in 956.3 and 956.4(b):

(1) The following information regarding an alternative prescription shall be included in the THP:

(A) An identification of each standard prescription which would be replaced by the alternative prescription.

(B) An identification of any beneficial uses of water or other features listed in 14 CCR 956.4(b), which may be adversely affected by the replaced standard prescription and the alternative practice.

(C) An evaluation of any significant effects on such beneficial uses or features due to implementation of the alternative prescription.

(D) A clear and complete explanation and justification as to the reasons why, given site-specific technical, environmental, economic, or institutional considerations, an alternative prescription is needed. The reasons given must include at least one of the following:

1. Implementation of the specified standard prescriptions would not be feasible.

2. Implementation of the specified standard prescriptions) would not adequately prevent or reduce damage to the quality and beneficial uses of water.

3. Implementation of the proposed alternative prescription(s) would provide equal or greater protection, including all proposed mitigations for the quality and beneficial uses of water and those features listed in 956.4(b), than would implementation of the specified standard prescriptions.

(E) A plan for evaluating the results of the proposed alternative practice by either the plan submitter or the Director. The plan must include the criteria and procedures for evaluating and inspecting each approved alternative practice.

(2) The alternative measures stated in the plan shall be written so that they provide clear, enforceable standards for the guidance of the timber operator.

(3) Prior to beginning or continuing an operation in which alternative measures have been added to an approved THP in regard to watercourse and lake protection measures, the timber operator shall acknowledge the new specifications by signing and filing with the director, a copy of the amended plan.

(b) The director shall not accept for inclusion in a THP alternative watercourse and lake protection measures which do not meet the standard of subsection (a) of this section. In the event that written comments received from two or more agencies listed in 4582.6 PRC and 14 CCR 1037.3 and which participated in review of the plan, including on-the-ground inspection, lead to the conclusion that the proposed alternative does not meet the criteria of Section 956.5, and is therefore not consistent with rules of the Board, the director shall reject the proposed alternative.

(c) Alternative practices stated in an approved THP shall have the same force and authority as those practices required by the standard rule.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513 and 4551.5, Public Resources Code; and USC Section 1288(b)(2)(F).

HISTORY

1. New section filed 5-31-83; designated effective 7-1-83 (Register 83, No. 23).
2. Editorial correction of 5-31-83 order filed 6-30-83 redesignating effective date from 7-1-83 to 10-1-83 (Register 83, No. 27).
3. Amendment of subsection (a), repealer of subsection (a)(1), new subsections (a)(1)(A)-(E), and amendment of subsection (b) filed 9-23-91; operative 10-23-91 (Register 92, No. 25).

§ 956.7. Reduction of Soil Loss.

Within the watercourse and lake protection zone adjacent to Class I and Class II waters, areas where mineral soil exceeding 800 continuous square feet in size, exposed by timber operations, shall be treated for reduction of soil loss. Treatment shall be done prior to October 15th except that such bare areas created after October 15th shall be so treated within 10 days, or as agreed to by the director. Stabilization measures shall be included and explained in the THP or other required notices. Stabilization measures shall be selected that will prevent significant movement of soil into Class I and II waters and may include, but need not be limited to, mulching, rip-rapping, grass seeding, or chemical soil stabilizers.

(a) This section does not apply to the traveled surface of roads. Erosion control measures on road surfaces are specified in 14 CCR 963.

(b) Where mineral soil has been exposed by timber operations on approaches to watercourse crossings of Class I or II waters, or Class III waters if an ELZ or WLPZ is required, the disturbed area shall be stabilized to the extent necessary to prevent the discharge of soil into watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

(c) Where necessary to protect beneficial uses of water from timber operations, protection measures, such as seeding, mulching, or replanting, shall be specified to retain and improve the natural ability of the ground cover within the standard width of the WLPZ to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 35.1505; and 33 USC Section 1288(b)(2)(F).

HISTORY

1. New section filed 5–31–83; designated effective 7–1–83 (Register 83, No. 23).
2. Editorial correction of 5–31–83 order filed 6–30–83 redesignating effective date from 7–1–83 to 10–1–83 (Register 83, No. 27).
3. New subsections (a) and (b) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
4. Editorial correction of subsection (b) (Register 95, No. 41).
5. Editorial correction inserting inadvertently omitted first paragraph (Register 96, No. 50).
6. New subsection (b) and subsection relettering filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 956.8. Sensitive Watersheds.

The Board, at a public hearing, shall determine whether nominated planning watersheds are "sensitive" to further timber operations. Classifications of a water shed as "sensitive" shall be supported by substantial evidence that a condition, or conditions, exist(s) where further timber operations within the planning watershed will create a reasonable potential to cause, or contribute to ongoing, significant adverse cumulative effect(s) on the resources identified in 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)], and as set forth in Technical Rule Addendum No. 2 (14 CCR 912.9) [932.9, 952.9] and that mitigation of such significant cumulative effects requires the application of protection measures not required by the Forest Practice Rules. For all planning watersheds classified as "sensitive", the Board shall identify the specific resources which are sensitive to further timber operations and specific mitigation measures that will provide the necessary protection of the sensitive resource(s). A Board finding that a planning watershed is no longer sensitive shall be supported by substantial evidence that such conditions no longer exist. Unless and until a planning watershed(s) is classified as sensitive and any necessary rulemaking completed, the existing rules shall apply.

(a) Nomination process:

The Director, local, state, or federal agencies and the public may nominate planning watersheds to the Board and shall provide evidence supporting classification of the watershed as sensitive. The nominator shall discuss the effects that further timber operations will have on the specific resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3), 956.8(a)(3)] which are at risk within the nominated watershed and specify those effects not sufficiently addressed under the forest practice rules and discuss the significance of the effects in light of the condition of the resources in areas adjacent to the planning watershed. Such nominations must be accompanied by the following information, descriptions, documents, or maps as appropriate:

1. Name, approximate size and location of the watershed(s) identified by county, township and range, and name(s) of USGS topographic map(s) on which the planning watershed is found.

2. The name of the higher–order stream, if any, to which the watershed is tributary.

3. Specific resources that are significantly threatened by further timber operations on non–federal timberland in the nominated watershed, including, as appropriate, but not limited to:

A. fish, aquatic organisms, aquatic habitat, or riparian habitat;

B. domestic and other water supplies, water quality, other beneficial uses of water existing at the time of nomination or factors related to the stream system and channel morphology.

C. downstream reservoirs, navigable channels, water diversion and transport facilities, estuaries, and harbors;

D. wildlife species, or the habitat of species, listed under state or federal law as rare, threatened or endangered, candidate, or sensitive, including discussion of the habitat features threatened by timber operations;

E. wildlife species with narrow geographic range, low density, low reproductive rates, and highly dependent on localized habitat features, including discussion of the habitat features threatened by timber operations and a discussion of why protective measures are required to prevent a loss of population viability.

4. Natural or management–induced conditions present in the watershed which pose a significant threat to the resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, including, as appropriate, but not limited to:

A. steep slopes and easily destabilized soils;

B. continuing landslide or soil erosion problems related to past or ongoing land–use activities;

C. extensive ground disturbance, particularly associated with roads, skid trails, landings, and watercourse crossings;

D. accelerated aggradation, streambank erosion, and channel scouring;

E. changes in the habitat or condition of wildlife species identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above.

F. accelerated rates of proposed road construction or timber harvesting within a watershed or near streams or springs.

5. Approved Habitat Conservation Plans or other documents approved or under review by public agencies within the nominated watershed which provide for maintenance or improvement over time of management induced conditions within or adjacent to the planning watershed or forest district.

6. Suggested, feasible mitigation measures needed, in addition to current forest practice rules, to provide adequate protection for resources identified in 14 CCR 916.8(a)(3) [936.8(a)(3) and 956.8(a)(3)], above, and to mitigate or avoid new or continuing significant cumulative effects related to timber operations, including, but not limited to, restoration or rehabilitation of degraded resources within any portion of the proposed sensitive watershed.

7. Other information about the watershed that may assist the Board to evaluate the nomination.

8. Literature citations, expert written opinion, and other relevant sources of information and, where possible, copies of information used to complete the nomination.

9. A list of names and mailing addresses of the following:

A. landowners of 40 acres or more of lands zoned for timber production in the planning watershed;

B. public water purveyors and known private purveyors within the planning watershed;

C. commonly known watershed associations within the planning watershed;

D. commonly known neighborhood or community associations within the planning watershed;

E. chairman, county board of supervisors;

F. chairman, county planning commission;

G. local manager for any public agency having custodial responsibility for timberlands within the planning watershed; and

H. district or local representatives for review team agencies.

10. A draft notice for newspaper publication containing the information in (a)(1)–(3), a statement that a public hearing will be scheduled before the Board within 60 days of Board receipt of a nomination forwarded by the committee, and a statement that further information can be obtained from the local Department Ranger Unit Headquarters.

(b) Notice Process

The Board shall mail notice of the nominated watershed, as provided in (a)10, to the addresses of parties described in 9 A–H and shall publish the provided notice one time in a newspaper with general circulation in the county containing the planning watershed. Such notice shall be provided following a determination that information contained in the nomination meets the requirements of 14 CCR 916.8(a) [936.8(a) and 956.8(a)], above.

(c) Screening Process:

Before consideration by the Board, nominations shall be screened for compliance with the informational requirements by a nominations review committee, which may consist of the appropriate District Technical Advisory Committee or other Board Committee, as determined by the Board. The nominations review committee shall consult with CDF, the appropriate Regional Water Quality Control Board, the Department of

Fish and Game, the Division of Mines and Geology, and other(s) as deemed necessary to determine whether the nomination is supported by substantial evidence. The nominations review committee shall then forward a recommendation for approval or denial of the nomination to the Board within 120 days of the date of receipt by the committee, or such longer time provided by the Board. The nominations review committee shall describe its specific reason(s) for recommending approval or denial of the nomination. In the event that the committee forwards a recommendation for approval, it shall describe the substantial evidence which supports nomination, including specific reasons why the current forest practice rules are inadequate to protect the specific resources at risk and shall provide the following information:

1. A list of which resource is threatened and by which timber operations;

2. if possible, performance standard(s) for timber operations that will avoid or mitigate new or continuing significant cumulative effects;

3. additional information that is needed for evaluating the impacts of proposed timber operations and is to be included in harvesting plans submitted in the planning watershed;

4. Onsite mitigation measures in addition to the current forest practice rules, which can be required by the Director to mitigate the impacts of timber operations within the watershed;

5. Offsite mitigation measures that can be applied within or outside of the sensitive watershed area to offset adverse on–site impacts of timber operations. If such mitigation measures are proposed to protect the resources discussed in subdivision (a)(3)(A) and (B), they must occur in the same drainage. Such measures may include, but are not limited to, voluntary mitigation agreements among ownerships.

6. If needed, recommended alternatives to evaluate the implementation and effectiveness of mitigations required under this section.

7. Exemptions for ownerships, emergencies, or land–use classifications that are different than those provided in the current forest practice regulations and that may be applied in the watershed.

(d) Public hearing Process:

The Board shall consider the recommendations of the nominations review committee at a public hearing on classification of the planning watershed, which will be held within 60 days of receipt from the committee. The watershed nomination and recommendations of the committee will be made available to the public between the date of receipt by the Board and the public hearing. Recommendations adopted by the Board which have the effect of a regulation shall be processed in accordance with the Administrative Procedures Act (Section 11340. et seq. Gov. Code).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.

§ 956.9. Protection and Restoration in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon where the standards listed under 916.9.1 and 916.9.2 shall apply:

(a) GOAL — Every timber operation shall be planned and conducted to prevent deleterious interference with the watershed conditions that primarily limit the values set forth in 14 CCR 956.2(a) (e.g., sediment load increase where sediment is a primary limiting factor; thermal load increase where water temperature is a primary limiting factor; loss of instream large woody debris or recruitment potential where lack of this value is a primary limiting factor; substantial increase in peak flows or large flood frequency where peak flows or large flood frequency are primary limiting factors). To achieve this goal, every timber operation shall be planned and conducted to meet the following objectives where they affect a primary limiting factor:

(1) Comply with the terms of a Total Maximum Daily Load (TMDL) that has been adopted to address factors that may be affected by timber operations if a TMDL has been adopted, or not result in any measurable sediment load increase to a watercourse system or lake.

(2) Not result in any measurable decrease in the stability of a watercourse channel or of a watercourse or lake bank.

(3) Not result in any measurable blockage of any aquatic migratory routes for anadromous salmonids or listed species.

(4) Not result in any measurable stream flow reductions during critical low water periods except as part of an approved water drafting plan pursuant to 14 CCR 956.9(r).

(5) Consistent with the requirements of 14 CCR § 916.9(i), 14 CCR § 936.9(i), or 14 CCR § 956.9(i); protect, maintain, and restore trees (especially conifers), snags, or downed large woody debris that currently, or may in the foreseeable future, provide large woody debris recruitment needed for instream habitat structure and fluvial geomorphic functions.

(6) Consistent with the requirements of 14 CCR § 916.9(g), 14 CCR § 936.9(g), or 14 CCR § 956.9(g); protect, maintain, and restore the quality and quantity of vegetative canopy needed to: (A) provide shade to the watercourse or lake, (B) minimize daily and seasonal temperature fluctuations, (C) maintain daily and seasonal water temperatures within the preferred range for anadromous salmonids or listed species where they are present or could be restored, and (D) provide hiding cover and a food base where needed.

(7) Result in no substantial increases in peak flows or large flood frequency.

(b) Pre–plan adverse cumulative watershed effects on the populations and habitat of anadromous salmonids shall be considered. The plan shall specifically acknowledge or refute that such effects exist. Where appropriate, the plan shall set forth measures to effectively reduce such effects.

(c) Any timber operation or silvicultural prescription within 150 feet of any Class I watercourse or lake transition line or 100 feet of any Class II watercourse or lake transition line shall have protection, maintenance, or restoration of the beneficial uses of water or the populations and habitat of anadromous salmonids or listed aquatic or riparian–associated species as significant objectives.

Additionally, for evenaged regeneration methods and rehabilitation with the same effects as a clearcut that are adjacent to a WLPZ, a special operating zone shall retain understory and mid–canopy conifers and hardwoods. These trees shall be protected during falling, yarding and site preparation to the extent feasible. If trees that are retained within this zone are knocked down during operations, that portion of the trees that is greater than 6″ in diameter shall remain within the zone as Large Woody Debris. The zone shall be 25 feet above Class I WLPZs with slopes 0–30% and 50 feet above Class I WLPZs with slopes > 30%.

(d)(1) The plan shall fully describe: (A) the type and location of each measure needed to fully offset sediment loading, thermal loading, and potential significant adverse watershed effects from the proposed timber operations, and (B) the person(s) responsible for the implementation of each measure, if other than the timber operator.

(2) In proposing, reviewing, and approving such measures, preference shall be given to the following: (A) measures that are both onsite (i.e., on or near the plan area) and in–kind (i.e., erosion control measures where sediment is the problem), and (B) sites that are located to maximize the benefits to the impacted portion of a watercourse or lake. Out–of–kind measures (i.e., improving shade where sediment is the problem) shall not be approved as meeting the requirements of this subsection.

(e) Channel zone requirements

(1) There shall be no timber operations within the channel zone with the following exceptions:

(A) timber harvesting that is directed to improve salmonid habitat through the limited use of the selection or commercial thinning silvicultural methods with review and comment by DFG.

(B) timber harvesting necessary for the construction or reconstruction of approved watercourse crossings.

(C) timber harvesting necessary for the protection of public health and safety.

(D) to allow for full suspension cable yarding when necessary to transport logs through the channel zone.

(E) Class III watercourses where exclusion of timber operations is not needed for protection of listed salmonids.

(2) In all instances where trees are proposed to be felled within the channel zone, a base mark shall be placed below the cut line of the harvest trees within the zone. Such marking shall be completed by the RPF that prepared the plan prior to the preharvest inspection.

(f) The minimum WLPZ width for Class I waters shall be 150 feet from the watercourse or lake transition line. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other WLPZ widths on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

(g) Within a WLPZ for Class I waters, at least 85 percent overstory canopy shall be retained within 75 feet of the watercourse or lake transition line, and at least 65 percent overstory canopy within the remainder of the WLPZ. The overstory canopy must be composed of at least 25% overstory conifer canopy post–harvest. Where a proposed THP is located within the Sacramento or San Joaquin river drainages, and the Director and DFG concur; the RPF may explain and justify other canopy retention standards on areas where even aged regeneration methods, seed tree removal, shelterwood removal, alternative prescriptions, or rehabilitation will not be utilized adjacent to watercourse and lake protection zones and where slopes are less than 30%.

Harvesting of hardwoods shall only occur for the purpose of enabling conifer regeneration.

(h) For Class I waters, any plan involving timber operations within the WLPZ shall contain the following information:

(1) A clear and enforceable specification of how any disturbance or log or tree cutting and removal within the Class I WLPZ shall be carried out to conform with 14 CCR 956.2(a) and 956.9(a).

(2) A description of all existing permanent crossings of Class I waters by logging roads and clear specification regarding how these crossings are to be modified, used, and treated to minimize risks, giving special attention to allowing fish to pass both upstream and downstream during all life stages.

(3) Clear and enforceable specifications for construction and operation of any new crossing of Class I waters to prevent direct harm, habitat degradation, water velocity increase, hindrance of fish passage, or other potential impairment of beneficial uses of water.

(i) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the THP area that lies within 50 feet of the watercourse transition line. Where the THP boundary is an ownership boundary, a class I watercourse, and the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 952.7(b)(2); the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones within the THP area shall be retained within 50 feet of the watercourse transition line.

The RPF may propose alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must explain and justify in the THP why the proposed alternative is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(j) Where an inner gorge extends beyond a Class I WLPZ and slopes are greater than 55%, a special management zone shall be established where the use of evenaged regeneration methods is prohibited. This zone shall extend upslope to the first major break–in–slope to less than 55% for a distance of 100 feet or more, or 300 feet as measured from the watercourse or lake transition line, which ever is less. All operations on slopes exceeding 65% within an inner gorge of a Class I or II watercourse shall be reviewed by a Professional Geologist prior to plan approval, regardless of whether they are proposed within a WLPZ or outside of a WLPZ.

(k) From October 15 to May 1, the following shall apply: (1) no timber operations shall take place unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 954.7(a), (2) unless the winter period operating plan proposes operations during an extended period with low antecedent soil wetness, no tractor roads shall be constructed, reconstructed, or used on slopes that are over 40 percent and within 200 feet of a Class I, II, or III watercourse, as measured from the watercourse or lake transition line, and (3) operation of trucks and heavy equipment on roads and landings shall be limited to those with a stable operating surface.

(*l*) Construction or reconstruction of logging roads, tractor roads, or landings shall not take place during the winter period unless the approved plan incorporates a complete winter period operating plan pursuant to 14 CCR § 954.7(a) that specifically address such road construction. Use of logging roads, tractor roads, or landings shall not take place at any location where saturated soil conditions exist, where a stable logging road or landing operating surface does not exist, or when visibly turbid water from the road, landing, or skid trail surface or inside ditch may reach a watercourse or lake. Grading to obtain a drier running surface more than one time before reincorporation of any resulting berms back into the road surface is prohibited.

(m) All tractor roads shall have drainage and/or drainage collection and storage facilities installed as soon as practical following yarding and prior to either (1) the start of any rain which causes overland flow across or along the disturbed surface within a WLPZ or within any ELZ or EEZ designated for watercourse or lake protection, or (2) any day with a National Weather Service forecast of a chance of rain of 30 percent or more, a flash flood warning, or a flash flood watch.

(n) Within the WLPZ, and within any ELZ or EEZ designated for watercourse or lake protection, treatments to stabilize soils, minimize soil erosion, and prevent the discharge of sediment into waters in amounts deleterious to aquatic species or the quality and beneficial uses of water, or that threaten to violate applicable water quality requirements, shall be applied in accordance with the following standards:

(1) The following requirements shall apply to all such treatments.

(A) They shall be described in the plan.

(B) For areas disturbed from May 1 through October 15, treatment shall be completed prior to the start of any rain that causes overland flow across or along the disturbed surface.

(C) For areas disturbed from October 16 through April 30, treatment shall be completed prior to any day for which a chance of rain of 30 percent or greater is forecast by the National Weather Service or within 10 days, whichever is earlier.

(2) The traveled surface of logging roads shall be treated to prevent waterborne transport of sediment and concentration of runoff that results from timber operations.

(3) The treatment for other disturbed areas, including: (A) areas exceeding 100 contiguous square feet where timber operations have exposed bare soil, (B) approaches to tractor road watercourse crossings between the drainage facilities closest to the crossing, (C) road cut banks and fills, and (D) any other area of disturbed soil that threatens to discharge sediment into waters in amounts deleterious to the quality and beneficial uses of water, may include, but need not be limited to, mulching, rip–rapping, grass seeding, or chemical soil stabilizers. Where straw, mulch, or slash is used, the minimum coverage shall be 90%, and any treated area that has been subject to reuse or has less than 90% surface

cover shall be treated again prior to the end of timber operations. The RPF may propose alternative treatments that will achieve the same level of erosion control and sediment discharge prevention.

(4) Where the undisturbed natural ground cover cannot effectively protect beneficial uses of water from timber operations, the ground shall be treated by measures including, but not limited to, seeding, mulching, or replanting, in order to retain and improve its natural ability to filter sediment, minimize soil erosion, and stabilize banks of watercourses and lakes.

(o) As part of the plan, the RPF shall identify active erosion sites in the logging area, assess them to determine which sites pose significant risks to the beneficial uses of water, assess them to determine whether feasible remedies exist, and address in the plan feasible remediation for all sites that pose significant risk to the beneficial uses of water.

(p) The erosion control maintenance period on permanent and seasonal roads and associated landings that are not abandoned in accordance with 14 CCR § 963.8 shall be three years.

(q) Site preparation activities shall be designed to prevent soil disturbance within, and minimize soil movement into, the channels of watercourses. Prior to any broadcast burning, burning prescriptions shall be designed to prevent loss of large woody debris in watercourses, and vegetation and duff within a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. No ignition is to occur within any WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection. When burning prescriptions are proposed, the measures or burning restrictions which are intended to accomplish this goal shall be stated in the plan and included in any required burning permit. This information shall be provided in addition to the information required under 14 CCR § 955.4.

(r) Water drafting for timber operations from within a channel zone of a natural watercourse or from a lake shall conform with the following standards:

(1) The RPF shall incorporate into the THP:

(A) a description and map of proposed water drafting locations,

(B) the watercourse or lake classification, and

(C) the general drafting location use parameters (i.e., yearly timing, estimated total volume needed, estimated total uptake rate and filling time, and associated water drafting activities from other THPs).

(2) On Class I and Class II streams where the RPF has estimated that:

(A) bypass flows are less than 2 cubic feet per second, or

(B) pool volume at the water drafting site would be reduced by 10%, or

(C) diversion rate exceeds 350 gallons per minute, or

(D) diversion rate exceeds 10% of the above surface flow;

no water drafting shall occur unless the RPF prepares a water drafting plan to be reviewed and, if necessary a stream bed alteration agreement issued, by DFG and approved by the Director. The Director may accept the project description and conditions portion of an approved "Streambed Alteration Agreement" issued under the Fish and Game Code (F&GC 1600 et seq.) which is submitted instead of the water drafting plan described in 14 CCR § 916.9(r)(2)(D)(1–5).

The water drafting plan shall include, but not be limited to:

1. disclosure of estimated percent streamflow reduction and duration of reduction,

2. discussion of the effects of single pumping operations, or multiple pumping operations at the same location,

3. proposed alternatives and discussion to prevent adverse effects (e.g. reduction in hose diameter, reduction in total intake at one location, described allowances for recharge time, and alternative water drafting locations),

4. conditions for operators to include an operations log kept on the water truck containing the following information: Date, Time, Pump Rate, Filling Time, Screen Cleaned, Screen Conditions, and Bypass flow observations,

5. a statement by the RPF for a pre–operations field review with the operator to discuss the conditions in the water drafting plan.

(3) Intakes shall be screened in Class I and Class II waters. Screens shall be designed to prevent the entrainment or impingement of all life stages of fish or amphibians. Screen specifications shall be included in the plan.

(4) Approaches to drafting locations within a WLPZ shall be surfaced with rock or other suitable material to avoid generation of sediment.

(s) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under exemption notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code, or

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(t) No timber operations are allowed in a WLPZ, or within any ELZ or EEZ designated for watercourse or lake protection, under emergency notices except for:

(1) hauling on existing roads,

(2) road maintenance,

(3) operations conducted for public safety,

(4) construction or reconstruction of approved watercourse crossings,

(5) temporary crossings of dry Class III watercourses which do not require a "Streambed Alteration Agreement" under the Fish and Game Code,

(6) harvesting recommended in writing by DFG to address specifically identified forest conditions,

(7) the harvest of dead or dying conifer trees subject to the following conditions:

(A) Recruitment of large woody debris for aquatic habitat in Class I anadromous fish–bearing or restorable waters shall be ensured by retaining the ten largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones. The retained conifers shall be selected from within the area of operations that lies within 50 feet of the watercourse transition line. Where the area of operations is bounded by an ownership boundary that corresponds with a class I watercourse, and where the WLPZ on both sides of the watercourse currently meets the stocking standards listed under 14 CCR § 952.7(b)(2), the five (5) largest dbh conifers (live or dead) per 330 feet of stream channel length that are the most conducive to recruitment to provide for the beneficial functions of riparian zones shall be retained within 50 feet of the watercourse transition line within the area of operations.

The RPF may provide alternatives to substitute smaller diameter trees, trees that are more than 50 feet from the watercourse transition line, or other alternatives on a site specific basis. The RPF must provide with the notice an explanation and justification why the alternative provided is more conducive to current and long–term Large Woody Debris recruitment, shading, bank stability, and the beneficial functions of riparian zones.

(B) Within any WLPZ, ELZ, or EEZ designated for Class II or III watercourse protection, a minimum of two dead, dying, or diseased conifer trees per acre at least 16 inches diameter breast high and 50 feet tall shall be retained within 50 feet of the watercourse transition line.

(C) Trees to be harvested or retained shall be marked by, or under the supervision of, an RPF prior to timber operations within the WLPZ or ELZ/EEZ.

(D) Within the WLPZ, or ELZ/EEZ, if the stoking standards of 14 CCR § 952.7 are not met upon completion of timber operations, unless the area meets the definition of substantially damaged timberlands, at least ten trees shall be planted for each tree harvested but need not exceed an average point count of 300 trees per acre.

(u) No salvage logging is allowed in a WLPZ without an approved HCP, a PTEIR, an SYP, or an approved plan that contains a section that sets forth objectives, goals, and measurable results for streamside salvage operations.

(1) This section does not apply to emergency operations under 14 CCR § 1052.

(v) Nonstandard practices (i.e., waivers, exceptions, in–lieu practices, and alternative practices) shall comply with the goal set forth in subsection (a) above as well as with the other requirements set forth in the rules.

(w) The Director may approve alternatives provided the alternative practice will achieve the goal of this section. The Director shall not accept for inclusion in a plan any alternative practice as described in this section where two or more agencies listed in 4582.6 of the PRC and 14 CCR § 1037.3 have submitted written comments which lead to the Director's conclusion that the proposed alternative will not meet the goal of this section and the agency(ies) participated in the review of the plan, including an on–the–ground inspection.

(x) Other measures that would effectively achieve the goal set forth in 14 CCR § 956.9(a) may be approved in accordance with 14 CCR 916.6.

(y) The provisions of 14 CCR § 956.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(z) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
2. Amendment of subsection (y) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsections (a)(2)–(4), redesignation and amendment of former subsection (e)–(e)(5) as subsections (e)–(e)(2), amendment of subsections (f)–(g), (i), (j), (p), (s) and (y) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsections (f), (g), (r)(2)(D), (s) and (y) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (y) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsections (i)–(*l*), (p), (q) and (s), new subsections (s)(1)–(t)(7)(D), subsection relettering, amendment of newly designated subsections (u) and (w)–(y) and new subsection (u)(1) filed 11–16–2006; operative 1–1–2007 pursuant to Public Resources Code section 4554.5 (Register 2006, No. 46).
8. Amendment of subsection (z) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
9. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

§ 956.10. Domestic Water Supply Protection.

(a) When proposed timber operations may threaten to degrade a domestic water supply the Director shall evaluate any mitigations recommended prior to the close of the public comment period (PRC 4582.7) and shall require the adoption of those practices which are feasible and necessary to protect the quality and beneficial use of the supply.

(b) The Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the domestic water supply as a condition of plan approval. The Director shall require an evaluation at the request of the California Regional Water Quality Control Board, or any affected water purveyor, if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near streams or springs. The design and implementation of the evaluation shall be done in consultation with the Director, appropriate RWQCB, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 21000(b), (f), 21002 and 21002.1, Public Resources Code; and 33 USC 1288(b)(2)(F).

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.

§ 956.11. Effectiveness and Implementation Monitoring.

(a) Where timber operations will be conducted within a WLPZ, the Director may require a post–harvest evaluation of the effectiveness of the mitigations and practices designed to protect the watercourse(s) or lake(s) as a condition of plan approval. The Director shall require such an evaluation if the necessity for the evaluation is supported by substantial evidence in the record. This evidence may include, but is not limited to, potential land failures, accelerated rate of road construction or harvesting within a watershed, concentration or intensity of harvesting activity near watercourses, and potential for accelerated windthrow. The design and implementation of the evaluation shall be done in consultation with the Director, the RWQCB or DFG, and THP submitter, and the sufficiency of the information requested by the Director shall be judged in light of reasonableness and practicality. The evaluation may utilize procedures including, but not limited, to:

(1) Procedures for effectiveness and implementation monitoring,

(2) Existing landowner monitoring programs, or

(3) Photographic monitoring

(b) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22). For prior history, see Register 96, No. 45.
2. Amendment of subsection (b) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (b) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (b) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (b) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (b) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 956.12. Section 303(d) Listed Watersheds.

For any planning watershed in which timber operations could contribute to the pollutants or stressors which have been identified as limiting water quality in a water body listed pursuant to 303(d) Federal Clean Water Act, the following shall apply:

(a) The Department shall, in collaboration with the appropriate RWQCB and SWRCB, prioritize watersheds in which the following will be done: 1) conduct or participate in any further assessment or analysis of the watershed that may be needed, 2) participate in the development of Total Maximum Daily Load (TMDL) problem assessment, source assessment, or load allocations related to timber operations, and 3) if existing rules are deemed not to be sufficient, develop recommendations for watershed–specific silvicultural implementation, enforcement and monitoring practices to be applied by the Department.

(b) The Department shall prepare a report setting forth the Department's findings and recommendations from the activities identified pursuant to (a) above. The report shall be submitted to the Board and the appropriate RWQCB. The report shall be made available to the public upon request and placed on the Boards' website for a 90–day period.

(c) Where the Department has recommended that the adoption of watershed specific rules is needed, the Board shall consider that recommendation as a proposal for rulemaking under the Administrative Procedures Act (Section 11340 et. seq. Gov Code) and shall begin that process within 180 days following receipt of that report.

(d) These watershed specific rules shall be developed in collaboration with the appropriate RWQCB, the landowner(s) or designee with land in the planning watershed, and other persons or groups within the watershed, and may also be incorporated into a TMDL implementation plan.

(e) The watershed specific rules shall remain in effect until the water body has been removed from the 303(d) list, or that the Board finds, after consulting with the appropriate RWQCB, that timber operations are no longer a significant source of the pollutant or stressor that limits water quality in the listed water body.

(f) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
2. Amendment of subsection (f) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (f) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (f) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (f) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (f) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 956.13. Interim Watershed Mitigation Addendum (IWMA).

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.1. Consultation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.2. IWMA Evaluation Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.3. Contents of IWMA

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.4. Standards for IWMA Preparation.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.5. Submission of an IWMA as Part of a Plan.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.6. Compliance Monitoring and Expanded Completion Report.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.7. Subsequent Plans Within the IWMA Area.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

§ 956.13.8. Equivalent Analysis.

NOTE: Authority cited: Sections 4551, 4562.7, 21000(g) and 21080.5, Public Resources Code. Reference: Sections 751, 4512, 4513, 4551.5, 4582.6, 21000(g), 21001(b), 21002.1 and 21080.5, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; and Sections 1600 and 5650(c), Fish and Game Code; *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal. App. 3d 959; 131 Cal. Rptr. 172; and *Laupheimer v. State* (1988) 200 Cal. App. 3d; Cal. Rptr. 82.

HISTORY

1. New section filed 7–15–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 29).
2. Change without regulatory effect repealing section filed 11–18–2003 pursuant to section 100, title 1, California Code of Regulations (Register 2003, No. 47).

Article 7. Hazard Reduction

§ 957. Hazard Reduction [Southern Forest District].

(a) This article shall provide standards for the treatment of snags and logging slash in order to reduce the fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat.

(b) The plan submitter may apply either the general hazard reduction rules under 14 CCR § 957.2 through 957.8 or performance based rules under 14 CCR § 957.11 through 957.12. The application of performance based rules shall be at the discretion of the plan submitter. The plan shall specify whether the performance based rules apply or whether the general rules apply. The performance based rules shall expire December 31, 2008.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Amendment filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Amendment filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Designation of existing section as subsection (a) and new subsection (b) filed 11–30–2005; operative 1–1–2006 pursuant to Public Resources Code section 4554.5 (Register 2005, No. 48).

§ 957.1. Snag Disposal and Retention.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Repealer of section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 957.2. Treatment of Slash to Reduce Fire Hazard.

Except in the High–Use Subdistrict of the Southern Forest District, Southern Subdistrict of the Coast Forest District and Coastal Commission Special Treatment Areas of the Coast Forest District, the following standards shall apply to the treatment of slash created by timber operations within the plan area and on roads adjacent to the plan area, but excluding appurtenant roads. Lopping for fire hazard reduction is defined in 14 CCR 895.1.

(a) Slash to be treated by piling and burning shall be treated not later than April 1 of the year following its creation, or within 30 days following climatic access, or as justified in the plan.

(b) Within 100 feet of the edge of the traveled surface of public roads, and within 50 feet of the edge of the traveled surface of permanent and seasonal private roads open for public use where permission to pass is not required, slash created and trees knocked down by road construction or timber operations shall be treated by lopping for fire hazard reduction, piling and burning, chipping, burying or removal from the zone.

(c) All woody debris created by timber operations greater than one inch but less than eight inches in diameter within 100 feet of permanently located structures maintained for human habitation shall be removed or piled and burned; all slash created between 100–200 feet of permanently located structures maintained for human habitation shall be lopped for fire hazard reduction, removed, chipped or piled and burned; lopping may be required between 200–500 feet where unusual fire risk or hazard exist as determined by the Director or the RPF.

(d) An alternative to treating slash along roads and within 200 feet of structures may be approved by the Director when the RPF explains and justifies in the plans how equal fire protection will be provided. The alternative shall include a description of the alternate treatment(s) and the portion(s) of the plan area in which they will be utilized. In proposing alternate slash treatments the RPF shall consider the estimated amount and distribution of slash to be created by the operation, type of remaining vegetation, topography, climate, and degree of public exposure fire history.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former sections 957.2 and 957.3 to section 957.2 filed 6–19–84; effective upon filing pursuant to Government Code section 11346.2(d) (Register 84, No. 25).
2. Repealer and new section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

§ 957.3. Prescribed Broadcast Burning of Slash.

Outside the High Use Subdistrict, broadcast burning may be prescribed for slash treatment subject to the following conditions.

(a) Such burning shall be done only after the first heavy fall rains and shall be completed before April 1;

(b) It may occur within cleared firebreaks of not less than 10 feet (3.05 m) in width;

(c) Use of the broadcast burning prescription of the Stream and Lake Protection Zone for Class I, and Class II, is prohibited. Where necessary to protect downstream beneficial uses, the director may prohibit burning prescriptions in Class III watercourses;

(d) Exceptions to requirements (a), (b) and (c) above may be granted provided a project–type burning permit is obtained prior to burning and the terms of the permit are adhered to while burning.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5, 4562, and 4562.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 957.3 to Section 957.2 and renumbering and amendment of former Section 957.5 to Section 957.3 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).
2. Amendment of subsection (c) filed 124–89; operative 2–1–90 (Register 89, No. 50).
3. New subsection (f) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
4. Subsection (f) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).

§ 957.4. Treatment of Logging Slash in the High Use Subdistrict.

Slash in the High Use Subdistrict shall be treated as follows:

(a) Throughout the logging area, all limbs shall be lopped from the unutilized portions of felled trees and all other trees felled or pushed over during timber operations. This lopping shall be done concurrently with the timber operations and scattered so that no limb or stem larger than 4 inches (10.2 cm) in diameter will be covered with slash and no slash shall generally be more than 24 inches (61.0 cm) above the ground.

(b) Slash shall be treated by chipping, piling and burning, burying, or removal on the following areas within all distances measured along the surface of the ground.

(1) Within a distance of 200 feet (60.96 m) of structures used for habitation;

(2) Within 200 feet (60.96 m) of the edge of any road accessible to the public;

(3) Within 100 feet (30.48 m) of trails established for and used by the public;

(4) Within a distance of 200 feet (60.96 m) of areas established for and used by the public for picnicking or camping.

(c) Slash treatment must be done concurrently with logging or road construction. On areas logged between April 1st and October 1st, if the slash is not disposed of in some other manner, it shall be piled progressively for burning. Piling shall not take place earlier than the 15th day nor later than the 45th day following cutting. Between October 1st and April 1st of the following year, the slash to be burned shall be progressively piled and burned not later than 30 days following cutting.

(d) Prescribed broadcast burning of slash is allowed in the High Use Subdistrict when a permit is obtained from the Director or his representative.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 957.4 to Section 957.5 and renumbering and amendment of former Section 957.6 to Section 957.4 filed

6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 957.5. Piling and Burning.

When the option of burning piles or concentrations of slash is chosen to meet the slash treatment requirements as specified in these rules, such burning shall be done in the following manner:

(a) Piles shall be sufficiently free of earth and other non–combustible material for effective burning.

(b) The piled slash shall be burned at a safe time during the first wet fall or winter weather, or other safe period following piling and according to laws and regulations. Piles that fail to burn sufficiently to remove the fire hazard shall be further treated for disposal. All reasonable precautions shall be taken to confine such burning to the piled slash.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4423, 4513, 4551.5, and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 957.5 to Section 957.3 and renumbering and amendment of former Section 957.4 to Section 957.5 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 957.6. Notification of Burning.

The local representative of the Director shall be notified in advance of the time and place of any burning of logging slash. Any burning shall be done in the manner provided by law.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 957.6 to Section 957.4 and new section 957.6 filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 957.7. Protection of Residual Trees.

Slash burning operations and fire hazard abatement operations shall be conducted in a manner which will not damage residual trees and reproduction to the extent that they will not qualify to meet the silvicultural and stocking requirements of the rules.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 6–19–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 25).

§ 957.8. Slash Disposal to Control Forest Insects.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Section 4513, 4551.5, 4562 and 4592, Public Resources Code.

HISTORY

1. New section filed 5–3–89 as an emergency; operative 5–3–89 (Register 89, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–31–89.
2. Emergency language filed 5–3–89 expired by own terms on 7–16–89 (Register 89, No. 32).
3. New section filed 8–2–89 as an emergency; operative 8–2–89 (Register 89, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–30–89.
4. Repealed by operation of law (Register 90, No. 10).
5. New section filed 3–2–90 as an emergency; operative 3–2–90 (Register 90, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–2–90.
6. Repealed by operation of Government Code section 11346.1(g) 120 days from effective date (Register 91, No. 40).

§ 957.9. Preventive Practices.

Adverse insect and disease impacts shall be identified by the RPF in the timber harvesting plan, and mitigating measures shall be prescribed to improve the health and productivity of the timber stand. Timber operations shall be conducted to as to minimize the build–up of destructive insect populations or the spread forest diseases.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Repealer of former section 959, and renumbering and amendment of former section 959.1 to section 959 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. Repealer of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. Renumbering of former section 959 (mistakenly repealed) to section 957.9 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Appendix

BOARD OF FORESTRY TECHNICAL RULE
ADDENDUM NO. 3

BROOD MATERIAL

A. Hazard Determination

Tree mortality and top killing result when Ips beetle populations reproduce and increase in pine brood material[1] and then leave this material and attack pines in the residual stand. Hazard increases with the amount of pine brood material present.

Any suitable breeding material, including pine logs from recently felled trees, represents a hazard as long as it remains on site long enough for the beetles to complete a life cycle in it. During suitable weather, the life cycle may be as short as five weeks. Piling of brood material is more hazardous than leaving it spread–out on the ground.

Timing of brood material production may influence hazard. Hazard is presumed to be highest when pine brood material is produced from February through June and moderate when produced at other times of the year. At no time is hazard presumed to be low. In some parts of the Southern Forest District, hazard is presumed to be high year round, regardless of when the brood material was produced.

Age, size, and species of residual trees influence hazard. Young pole size stands of pine are most susceptible to damage. Tree species other than pine are not damaged by insects that breed in pine brood material. Brood material from tree species other than pine generally does not contribute to the build–up of damaging beetle populations.

Low vigor residual trees are at greatest risk. Historically, drought stressed, suppressed, and overstocked stands have been identified as high risk. Off–site, diseased, damaged, and overmature trees are also at risk.

If damaging insect populations are high, hazard will be greater. High beetle populations have the potential to damage more than just low vigor trees. Chronic pine mortality in the area should be evaluated to determine if high beetle populations are present. An established Zone of Infestation for pine bark beetles implies that conditions are appropriate for the build–up of beetle populations.

Potential for the spread of damaging insects to adjacent ownerships should be considered. The closer the ownership, the greater the risk. Generally, ownerships beyond one quarter of a mile will have little or no risk.

Value of residual trees should be considered. How much loss to residuals is acceptable?

B. Hazard Reduction Treatment Alternatives

Any treatment to reduce hazard should apply to the entire area where a hazard has been determined to exist, including the area where lopping for fire hazard reduction has been used. Treatment alternatives include modification of the brood material so that it is less suitable as a breeding site for beetles or methods to reduce beetle populations that have developed.

Specific Treatment Alternatives applied to pine brood material are as follows:

(1) The following treatments are acceptable provided they are completed before insect broods emerge from infested material. During weather that is suitable for brood development, a five week window is the maximum time that should elapse between creation of brood material and its treatment by one of the following methods: brood material can be removed from the site for processing or disposal; if left on–site, it can be piled and burned, chipped, debarked, treated with an appropriate pesticide, or piled and covered with clear plastic. If brood material is piled and covered, the plastic used must be a minimum of 6 mil thick; piles must be completely sealed by the plastic so that there are no openings to the outside and remain covered for 6 months (or 4 months if at least 2 summer months are included).

(2) The following treatment is acceptable, provided it is completed as soon after brood material creation as is practical, but not later than one week. Lop all branches from the sides and tops of those portions of main stems which are 3″ or more in diameter. Branches shall be scattered so that stems have maximum exposure to solar radiation. Do not pile brood material. Lopped stems could also be cut into short segments to decrease drying time and further reduce hazard.

(3) Burying brood material will prevent it from being colonized by beetles, but may not prevent emergence of the beetles. Therefore, it must be buried before becoming infested. During suitable weather, brood material must be buried concurrent with its creation.

[1]"Suitable" weather depends upon location. In areas that receive snowfall, suitable weather generally exists from April 15–October 15. In other areas, suitable weather exists from March 1–November 30.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513, and 4713, Public Resources Code.

HISTORY

1. New Appendix filed 8–5–91; operative 8–5–91 (Register 91, No. 50).

[The next page is 356.3.]

2. Editorial correction inserting inadvertently omitted Appendix A and adding HISTORY 1 (Register 96, No. 50).

§ 957.10. Locating and Reporting.

Timber operators, timber owners and foresters (RPF), if any employed on the operation, shall assist the State in determining the location of insect and disease outbreaks, and report such outbreaks to the Director or a representative of the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 959.2 to section 957.10 filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
2. Renumbering of former section 959.2 to section 957.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 957.11. Performance Based Hazard Reduction.

The purpose of these rules is to:

(a) provide a level of fire and pest protection to property and resources that meets or exceeds the intent of protection provided under 14 CCR § 957 through 957.8.

(b) provide for the treatment of snags and logging slash in order to reduce fire and pest safety hazards in the logging area, to protect such area from potential insect and disease attack, and to prepare the area for natural or artificial reforestation while retaining wildlife habitat and protection of the beneficial uses of water.

(c) provide direction to RPFs preparing plans which, for the purposes of this section, include THPs, MTHPs, NTMPs, PTEIRs, Notices of Emergency Timber Operations except 14 CCR § 1052.4, and any Exemptions Notices pursuant to 14 CCR § 1038 and 1104.1 except 1038(i),

(d) provide direction to the timber operator conducting timber operations,

(e) provide direction to the Department in its review, approval, inspection and monitoring programs.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 11–30–2005; operative 1–1–2006 pursuant to Public Resources Code section 4554.5 (Register 2005, No. 48).

§ 957.12. Treatment of Logging Slash to Reduce Fire Hazard.

The following shall apply to the treatment of slash created by timber operations within the plan area and on roads adjacent to the plan area, but excluding appurtenant roads.

(a) The RPF preparing the plan shall include a description of all slash treatments to be utilized and the portion(s) of the plan area in which each will be utilized. In proposing slash treatments, the RPF shall consider the estimated amount and distribution of slash to be created by the operation, type of remaining vegetation, topography, climate, and degree of public exposure fire history.

At a minimum, the plan shall address the following:

(1) The timing of treatment application including the time during which burning shall be accomplished.

(2) The necessary precautions to be employed to confine the burning to the piled slash or the area proposed for broadcast burning.

(3) The necessary precautions to be employed to protect other resources such as wildlife and the beneficial uses of water.

(4) The treatment of slash adjacent to the edge of the traveled surface of public roads and permanent and seasonal private roads open for public use where permission to pass is not required.

(5) The treatment of slash adjacent to permanently located structures maintained for human habitation.

(b) Treatment shall be conducted in accordance with the following:

(1) Burning shall be done at a safe time only after the heavy fall rains and shall be completed before the start of fire season in the area and according to laws and regulations, including air quality requirements.

(2) Piles and concentrations shall be sufficiently free of soil and other noncombustible material for effective burning.

(3) Piles and concentrations that fail to burn sufficiently to remove the fire hazard shall be further treated to eliminate that hazard.

(4) Slash burning operations and fire hazard abatement operations shall be conducted in a manner which will not damage residual trees and reproduction to the extent that they will not qualify to meet the silvicultural and stocking requirements of the rules.

(5) In order to determine whether the plan conforms with the Act and the Rules of the Board, the Director may request and the RPF shall supply the information the RPF considered under 14 CCR § 957.12(a) regarding the estimated amount and distribution of slash to be created by the operation, type of remaining vegetation, topography, climate, and degree of public exposure fire history.

(6) Where unusual fire risk or hazard exists as determined by the Director or the RPF, the Director may require the timberland owner to obtain a project–type burning permit prior to burning and the terms of the permit shall be adhered to while burning.

(7) The local representative of the Director shall be notified in advance of the time and place of any burning of logging slash. Any burning shall be done in the manner provided by Law.

NOTE: Authority cited: Sections 4551 and 4562, Public Resources Code. Reference: Sections 4513, 4551.5 and 4562, Public Resources Code.

HISTORY

1. New section filed 11–30–2005; operative 1–1–2006 pursuant to Public Resources Code section 4554.5 (Register 2005, No. 48).

Article 8. Fire Protection

§ 958. Fire Protection.

When burning permits are required pursuant to Public Resources Code 4423, timber operators shall:

(a) observe the fire prevention and control rules within this article, and

(b) submit each year, either before April 1st or before the start of timber operations a fire suppression resources inventory to the Department as required by the rules.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4423, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 958.1. Fire Suppression Resources Inventory.

The Fire Suppression Resources Inventory shall include, as a minimum, the following information:

(a) Name, address and 24–hour telephone number of an individual and an alternate who has authority to respond to Department requests for resources to suppress fires.

(b) Number of individuals available for fire fighting duty and their skills.

(c) Equipment available for fire fighting.

The Fire Suppression Resources Inventory shall be submitted to the ranger unit headquarters office of the Department having jurisdiction for the timber operation.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 958.2. Fire Plan Contents.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment of subsection (e) and new subsection (f) filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Repealer filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 958.3. Roads to Be Kept Passable.

Timber operators shall keep all logging truck roads in a passable condition during the dry season for fire truck travel until snag and slash disposal has been completed.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4428, 4429, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).

§ 958.4. Smoking and Matches.

Subject to any law or ordinance prohibiting or otherwise regulating smoking, smoking by persons engaged in timber operations shall be limited to occasions where they are not moving about and are confined to cleared landings and areas of bare soil at least three feet (.914 m) in diameter. Burning material shall be extinguished in such areas of bare soil before discarding. The timber operator shall specify procedures to guide actions of his employees or other persons in his employment consistent with this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 958.5. Lunch and Warming Fires.

Subject to any law or ordinance regulating or prohibiting fires, warming fires or other fires used for the comfort or convenience of employees or other persons engaged in timber operations shall be limited to the following conditions:

1. There shall be a clearance of 10 feet (3.05 m) or more from the perimeter of such fires and flammable vegetation or other substances conducive to the spread of fire.

2. Warming fires shall be built in a depression in the soil to hold the ash created by such fires.

3. The timber operator shall establish procedures to guide actions of his employees or other persons in their employment regarding the setting, maintenance, or use of such fires that are consistent with (a) and (b) of this subsection.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4103.5, 4432, 4433, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 958.6. Posting Procedures.

Timber operators shall post notices which set forth lists of procedures that they have established consistent with Sections 958.4 and 958.5. Such notices shall be posted in sufficient quantity and location throughout their logging areas so that all employees, or other persons employed by them to work, shall be informed of such procedures. Timber operators shall provide for diligent supervision and enforcement of fire prevention rules throughout their operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551 and 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).

§ 958.7. Blasting and Welding.

Timber operators shall provide for a diligent fire watch service at the scene of any blasting or welding operations conducted on their logging areas to prevent and extinguish fires resulting from such operations.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Editorial correction adding NOTE filed 11–15–82 (Register 82, No. 47).

§ 958.8. Inspection for Fire.

The timber operator or his/her agent shall conduct a diligent aerial or ground inspection within the first two hours after cessation of felling, yarding, or loading operations each day during the dry period when fire is likely to spread. The person conducting the inspection shall have adequate communication available for prompt reporting of any fire that may be detected.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Amendment filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).
3. Editorial correction of NOTE (Register 97, No. 47).

§ 958.9. Glass Containers.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4551.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 958.9 to Section 958.10, and renumbering of former Section 958.10 to Section 958.9 filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Repealer filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

§ 958.10. Cable Blocks.

During the period when burning permits are required, all tail and side blocks on a cable setting shall be located in the center of an area that is either cleared to mineral soil or covered with a fire proof blanket that is at least 15 feet in diameter. A shovel and an operational full five–gallon back pump or a fire extinguisher bearing a label showing at least a 4A rating must be located within 25 feet of each such block before yarding.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4427, 4551 and 4551.5, Public Resources Code.

HISTORY

1. Renumbering of former Section 958.10 to Section 958.9, and renumbering and amendment of former Section 958.9 to Section 958.10 filed 11–15–82; effective thirtieth day thereafter (Register 82, No. 47).
2. Amendment filed 6–21–89; operative 7–21–89 (Register 89, No. 25).

Article 9. Wildlife Protection Practices

§ 959. Wildlife Practice.

Timber operations shall be planned and conducted to maintain suitable habitat for wildlife species as specified by the provisions of this Article. These provisions are in addition to those directly or indirectly provided in other rules of the Board of Forestry.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512, 4513 and 4713, Public Resources Code.

HISTORY

1. Repealer of former section 959, and renumbering and amendment of former section 959.1 to section 959 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. Repealer of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
3. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13). For prior history, see Register 91, No. 50.
4. Renumbering of former section 959 to section 957.9 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
5. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.1. Snag Retention.

Within the logging area all snags shall be retained to provide wildlife habitat except as follows:

(a) If required by the Director during the review of a THP, snags over 20 feet in height and 16 inches dbh shall be felled in the following locations:

(1) Within 100 feet of main ridge tops that are suitable for fire suppression and delineated on a THP map.

(2) For hazard reduction within 100 feet of all public reads, permanent reads, seasonal reads, landings, and railroads.

(b) Where federal and state safety laws and regulations require the felling of snags.

(c) Within 100 feet of structures maintained for human habitation.

(d) Merchantable snags in any location as provided for in the plan, or

(e) snags whose falling is required for insect or disease control.

(f) When proposed by the RPF; where it is explained and justified that there will not be a significant impact to wildlife habitat needs or there is a threat to human health or safety, including fire where the Director determines a high hazard exists.

NOTE: Authority cited: Sections 4551, Public Resources Code. Reference: Sections 4513, 4551.5 and 4582.75, and 4583 Public Resources Code.

HISTORY

1. Renumbering and amendment of section 959.1 to section 959 filed 6–16–83; designated effective 7–1–83 pursuant to Government Code section 11346.2(d) (Register 83, No. 25).
2. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.2. General Protection of Nest Sites.

The following general standards for protection of Sensitive species shall apply.

(a) A pre–harvest inspection will normally be required when it is known or suspected that the minimum buffer zone surrounding an active nest of a Sensitive species is in or extends onto an area proposed for timber operations. When the California Department of Forestry is already familiar with the site, the Director, after consultation with the Department of Fish and Game, may waive this requirement.

(b) During timber operations, nest tree(s), designated perch tree(s), screening tree(s), and replacement tree(s), shall be left standing and unharmed except as otherwise provided in these following rules.

(c) Timber operations shall be planned and operated to commence as far as possible from occupied nest trees unless explained and justified by the RPF in the THP.

(d) When an occupied nest site of a listed bird species is discovered during timber operations, the timber operator shall protect the nest tree, screening trees, perch trees, and replacement trees and shall apply the provisions of subsections (b) and (c) above and of section 919.2 (939.2, 959.2), and shall immediately notify the Department of Fish and Game and the Department of Forestry and Fire Protection. An amendment that shall be considered a minor amendment to the timber harvesting plan shall be filed reflecting such additional protection as is agreed between the operator and the Director after consultation with the Department of Fish and Game.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4582.75, 4583 and 4604, Public Resources Code; 14 CCR 670.5; and 50 CFR 17.11.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13). For prior history, see Register 91, No. 50.
3. Renumbering of former section 959.2 to section 957.10 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. Renumbering and amendment of former section 959.6 to section 959.2 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

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§ 959.3. Specific Requirements for Protection of Nest Sites.

The following requirements shall apply to nest sites containing active nests and not to nest sites containing only abandoned nests.

(a) Buffer zones shall be established around all nest trees containing active nests. The buffer zone shall be designed to best protect the nest site and nesting birds from the effects of timber operations. In consultation with the Department of fish and Game, and as approved by the Director, an RPF or supervised designee shall flag the location of the boundaries of the buffer zone, and the configuration of the buffer zone. Consultation with the Department of Fish and Game shall be required pursuant to 14 CCR 898. Consideration shall be given to the specific habitat requirements of the bird species involved when configuration and boundaries of the buffer zone are established.

(b) The size of the buffer zone for each species shall be as follows:

(1) For the Bald eagle and Peregrine falcon, the buffer zone shall be a minimum of ten acres in size. The Director may increase the buffer zone beyond 40 acres in size so that timber operations will not result in a "take" of either species. The Director shall develop the buffer zone in consultation with the Department of Fish and Game and the RPF.

(2) For the Golden eagle, the buffer zone shall be a minimum of eight acres in size.

(3) For the Great blue heron and Great egret, the buffer zone shall consist of the area within a 300–foot radius of a tree or trees containing a group of five or more active nests in close proximity as determined by the Department of Fish and Game.

(4) For the Northern goshawk, the buffer zone shall be a minimum of five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 20 acres when necessary to protect nesting birds.

(5) For the Osprey, the buffer zone may be up to five acres in size. When explained and justified in writing, the Director may increase the size of the buffer zone to a maximum of 18 acres when necessary to protect nesting birds.

(c) The following year–round restrictions shall apply within the buffer zone.

(1) For the Bald eagle, no clearcutting is allowed within the buffer zone. Selection, commercial thinning, sanitation–salvage, and the shelterwood regeneration method, except for the removal step, are permitted if all trees are marked prior to preharvest inspection. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(2) For the Golden eagle, no clearcutting is allowed within the buffer zone. All nest trees containing active nests, and all designated perch trees, screening trees, and replacement trees, shall be left standing and unharmed.

(3) For the Great blue heron and Great egret, all nest trees containing active nests shall be left standing and unharmed.

(4) For the Northern goshawk, designated nest trees, screening trees, perch trees, and replacement trees shall be left standing and unharmed. Only the commercial thinning, sanitation–salvage, and selection regeneration methods are permitted in the buffer zone.

(5) For the Osprey, all designated nest trees, perch trees, screening trees, and replacement trees shall be left standing and unharmed. If the RPF believes that retention is not feasible, he may propose construction of an artificial nest structure as an alternative.

(6) For the Peregrine falcon, where timber provides part of the immediate nesting habitat, special cutting prescriptions may be required by the Director on an area up to ten acres in size immediately surrounding the nest. The cutting prescriptions shall protect the nesting habitat.

(d) Critical periods are established for each species and requirements shall apply during these critical periods as follows:

(1) For the Bald eagle, the critical period is January 15 until either August 15 or four weeks after fledging, as determined by the Director. During this critical period, no timber operations are permitted within the buffer zone. Exceptions may be approved by the Director, after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(2) For the Golden eagle, the critical period is January 15 until April 15 for active nests, and is extended from April 15 until either September 1 or until the birds have fledged may occupied nests. During this critical period, hauling on existing roads that normally receive use during the critical period is permitted. Other timber operations are not permitted within the buffer zones.

(3) For the Great blue heron and Great egret, the critical period is February 15 until July 1 for coastal counties south of and including Marin County. For all other areas, the period is from March 15–July 15. During this critical period, timber operations within the buffer zone shall be staged with a gradual approach to the nest.

(4) For the Northern goshawk, the critical period is from March 15 until August 15. During this critical period, no timber operations are permitted; however, new road construction is permitted if the Director determines that there is no feasible alternative. Exceptions may be approved by the Director after consultation with the Department of Fish and Game to allow hauling on existing roads that normally receive use within the buffer zone during the critical period.

(5) For the Osprey, the critical period is March 1 to April 15 for active nests in coastal counties including Mendocino County and those south of it. This period is extended from April 15 until August 1 for occupied nests. For all other areas, the critical period is March 15 until May 1 for active nests, and is extended from May 1 to August 15 for occupied nests. During the critical period, at nest sites where Osprey have shown historical tolerance to disturbance, timber operations are permitted using a gradual approach to the nest, except that no cutting is permitted. Where Osprey are determined by the Director to be intolerant to timber operations, no timber operations are permitted within the buffer zone unless the Director determines that there are no feasible alternatives.

(6) For the Peregrine falcon, the critical period is February 1 until April 1 for active nests, and is extended until July 15 for occupied nests. During the critical period, no timber operations are permitted within the buffer zone. However, when the Director, after consultation with the Department of Fish and Game determines that Peregrines have shown a tolerance to hauling activity in the past, hauling on existing roads that normally receive use during the critical period within the buffer zone is permitted.

(e) The following requirements shall apply to helicopter logging during the critical period.

(1) For the Bald eagle, helicopter yarding within one–quarter mile radius of the nest tree is prohibited. Helicopter yarding between one–quarter and one–half mile of the nest tree is permitted when timber operations are conducted so that helicopter yarding gradually approaches the one–quarter mile radius limit.

(2) For the Golden eagle and Northern goshawk, helicopter yarding within one–quarter mile radius of the nest is prohibited.

(3) For the Osprey, helicopter yarding within one–quarter mile radius of the nest is prohibited between April 15 and June 15.

(4) For the Peregrine falcon, helicopter yarding is prohibited within one–half mile of the nest.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY

1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 959.7 to section 959.3 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 959.4. Non–listed Species.

Where significant adverse impacts to non–listed species are identified, the RPF and Director shall incorporate feasible practices to reduce impacts as described in 14 CCR 898.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY
1. New section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.5. Alternatives.

The RPF may propose alternatives to the requirements of this chapter, and the Director may approve such alternatives provided all of the following conditions are met:

(a) The RPF develops the alternative in consultation with the Department of Fish and Game.

(b) The Director consults with the Department of Fish and Game and makes findings that the alternative conforms to (c), below, prior to approving the alternative.

(c) The alternative will provide protection for nesting birds and their nesting sites equal to or greater than the protection that would be afforded by the application of the normal rules set forth in this chapter.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY
1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Repealer of section filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
3. Renumbering and amendment of former section 959.8 to section 959.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.6. General Protection of Nest Sites.

HISTORY
1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 959.6 to section 959.2 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.7. Specific Requirements for Protection of Nest Sites.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY
1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 959.7 to section 959.3 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.8. Alternatives.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513 and 4551.5, Public Resources Code.

HISTORY
1. New section filed 3–21–83; designated effective 7–1–83 (Register 83, No. 13).
2. Renumbering and amendment of former section 959.8 to section 959.5 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).

§ 959.12. Sensitive Species Classification.

The Board of Forestry has the responsibility under the FPA to provide protection to all species occurring in the state's forestlands. The procedure to identify those species that warrant special protection during timber operations is described as follows:

(a) The public or public agencies may petition the Board to classify a species as a "Sensitive Species." For the Board to consider such a petition, it must contain a discussion of the following topics:

(1) Range and distributional status of the species which includes an assessment of occurrence in timberland as defined by the FPA and rules.

(2) Indices of population trends describing the abundance of the species.

(3) Biotic and abiotic factors affecting the population viability or status of the species. Specific attention should be given to factors related to forest management and harvesting. This should include threats to population and habitat viability, including direct, indirect, and cumulative effects from these and other threats.

(4) Habitat availability and trends that include, but are not limited to, an assessment of the following as appropriate:

A. Dependence on general habitat conditions altered by typical forest management activities and projected time for habitat recovery,

B. Dependence on special habitat elements adversely impacted by timber operations,

C. Habitat continuity and juxtaposition requirements as an evaluation of sensitivity to habitat fragmentation.

(5) Suggested feasible protective measures required to provide for species protection.

(6) Other information specific to the species proposed that the petitioner believes to be relevant in assisting the Board to evaluate the petition.

(7) Sources of information relied upon to complete the petition.

(8) Recommended forest practice rules to provide guidance to RPF's, LTO's, landowners and the Director on species protection.

(9) The potential economic impacts of classifying a species sensitive.

(b) The Board will consult with the U.S. Fish and Wildlife Service, the California Fish and Game Commission, the California Department of Fish and Game, and others as appropriate. After consultation, the Board shall classify a species as sensitive after a public hearing if it finds:

(1) The California population requires timberland as habitat for foraging, breeding, or shelter, and

(2) The California population is in decline or there is a threat from timber operations, and

(3) Continued timber operations under the current rules of the Board will result in a loss of the California population viability.

(c) The Board shall consult with the U.S. Fish and Wildlife Service, the California Department of Fish and Game, and others as appropriate. After consultation and a public hearing, the Board will declassify a species as sensitive if it no longer meets the criteria for classification.

(d) The Board shall consider, and when possible adopt, regulations using the best available scientific information to establish the feasible mitigations for protection of the species at the same time such species is classified sensitive.

(e) Where rules are not adopted for the protection of the species at the time of classification, the Board shall begin development of proposed regulations for protection of the species.

Within one year of the classification of a species as sensitive, the Board shall hold a hearing on proposed regulations to establish the protection standards for that species according to the best available scientific information.

NOTE: Authority cited: Sections 4551, 4552, 4553 and 4582, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552 and 4582, Public Resources Code.

HISTORY
1. New section filed 8–31–92; operative 9–30–92 (Register 92, No. 36).

§ 959.15. Protection of Wildlife Habitat.

(a) Where present at time of timber harvest 400 square feet basal area of oak per 40 acres should be retained and protected, giving preference to deciduous oaks. Oaks should be retained on areas designated by the Department of Fish and Game as deer migration corridors, holding areas, or key ranges when consistent with good forestry practices.

(b) All trees within aspen stands (defined as a location with the presence of living aspen (Populus tremuloides)), meadows and wet areas may be clearcut and these areas exempted from the stocking provisions of the rules in order to restore, retain, or enhance these areas for ecological or range values, and to balance the protection and regeneration of aspen stands, meadows and wet area habitats in California's forest ecosystems with the other goals of forest management as specified in 14 CCR § 897. These areas shall be shown on the plan map and the plan shall describe the extent of the area proposed for clearcutting. The RPF shall consult with DFG prior to plan submittal. If wet areas are proposed for clearcutting, the RPF shall also consult with the appropriate RWQCB in those locations where the applicable basin plan identifies wet areas as a beneficial use.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551, 4561 and 4561.1, Public Resources Code.

HISTORY
1. Renumbering and amendment of former section 953.8 to section 959.15 filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
2. Editorial correction of Reference cite (Register 95, No. 14).
3. Amendment of subsection (b) filed 11–22–2006; operative 12–22–2006 (Register 2006, No. 47). For additional history, see Register 92, No. 40.

§ 959.16. Late Succession Forest Stands.

(a) When late succession forest stands are proposed for harvesting and such harvest will significantly reduce the amount and distribution of late succession forest stands or their functional wildlife habitat value so that it constitutes a significant adverse impact on the environment as defined

in Section 895.1, the RPF shall provide habitat structure information for such stands.

A statement of objectives over time shall be included for late succession forest stands on the ownership. The THP, SYP, or NTMP shall include a discussion of how the proposed harvesting will affect the existing functional wildlife habitat for species primarily associated with late succession forest stands in the plan or the planning watershed, as appropriate, including impacts on vegetation structure, connectivity, and fragmentation. The information needed to address this subsection shall include, but is not limited to:

(1) —A map(s) showing: A) late succession forest stands within the planning watershed and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands that are on the ownership, B) those stands which are currently proposed to be harvested, and C) known stands on other ownerships.

(2) —A list of fish, wildlife and listed species known to be primarily associated with the late succession forest stands in the planning watershed(s) compiled by the RPF or supervised designee using the "California Wildlife Habitat Relationships System" (WHR), the California Natural Diversity Database, and local knowledge of the planning watershed.

(3) —Description of functional wildlife habitat elements that are important for fish, wildlife and listed species primarily associated with late succession forest stands within the planning watershed(s).

(4) —A description of the structural characteristics for each late succession forest stand and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands within the planning watershed including a discussion of important functional wildlife habitat elements identified in (3). Methods used to develop the description, which may be an ocular estimate, shall also be described.

(5) —A description of the functional wildlife habitat objectives, such as anticipated long-term landscape patterns, stand structure for late succession forest stands and any other stands that provide functional wildlife habitat for species primarily associated with late succession forest stands, and a discussion of anticipated recruitment procedures for important functional wildlife habitat elements. Coordination of functional wildlife habitat objectives on landscape features among ownerships within mixed-ownership planning watersheds is encouraged.

(6) —An analysis of the long-term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests.

(b) Where timber operations will result in long-term significant adverse effects on fish, wildlife, and listed species known to be primarily associated with late succession forests in a THP, SYP, NTMP or planning watershed, feasible mitigation measures to mitigate or avoid such long-term significant adverse effects shall be described and incorporated in the THP, SYP or NTMP. Where long-term significant adverse effects cannot be avoided or mitigated, the THP, SYP, or NTMP shall identify the measures that will be taken to reduce those remaining effects and provide reasons for overriding concerns pursuant to 14 CCR Section 898.1(g), including a discussion of the alternatives and mitigation considered.

(c) A THP, SYP, or NTMP submitter may request that the Director waive subsection (a) above. The Director, after conferring with review team agencies with jurisdiction, may waive subsection (a) above when substantial evidence is presented that would support a determination that post-harvest late succession forest stands or functional wildlife habitat will continually provide adequate structure and connectivity to avoid or mitigate long-term significant adverse effects on fish, wildlife, and listed plant species known to be primarily associated with late succession forest stands within the planning watersheds.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.5, 4562.7 and 21160, Public Resources Code. Reference: Sections 4512, 4513, 4526, 4551.5, 4562.5, 5093.50, 21001(f) and 21080.5, Public Resources Code; Section 5650(c), Fish and Game Code; *16 USC 1532*; *50 CFR 17.3*; *50 CFR 17.11*.

HISTORY

1. New section filed 1-7-94; operative 3-1-94 (Register 94, No. 1). For prior history, see Register 92, No. 40.
2. Amendment of subsection (a)(2) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 959.17. Protection of Old Growth Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11-25-91 as an emergency; operative 11-25-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-24-92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11-25-91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

§ 959.18. Protection of Ancient Forest Components.

NOTE: Authority cited: Sections 4551 and 21160, Public Resources Code. Reference: Sections 4512, 4513 and 21001, Public Resources Code; *Sierra Club* v. *Board of Forestry*, 285 Cal.Rptr. 744 (Sept. 23, 1991 Rehg. granted Oct. 23, 1991).

HISTORY

1. New section filed 11-25-91 as an emergency; operative 11-25-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-24-92 or emergency language will be repealed by operation of law on the following day.
2. Repealer of emergency adoption filed 11-25-91 by operation of Government Code section 11346.1(g) (Register 92, No. 40).

Article 10. Violation of Rules Prior to Changes

§ 960. Violations of Rules Prior to Changes.

Amendment, modification or repeal of rules shall not, unless otherwise provided, bar action on prior violations of rules as they stood at the time of violation.

NOTE: Authority cited for Article 10 (Section 960): Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

Article 11. Coastal Commission Special Treatment Areas

§ 961. Coastal Commission Special Treatment Areas.

The purpose of this article is to protect the natural and scenic qualities as reflected in the criteria and objectives for each of the Coastal Commission Special Treatment Areas designated and adopted by the California Coastal Commission on July 5, 1977, while at the same time allowing management and orderly harvesting of timber resources within these areas. In addition to the statutes and other regulations governing timber harvesting, the following practices are required when conducting timber operations in such Special Treatment Areas.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4583 and 30417, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 8-10-83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 961.1. Preliminary Field Work and Timber Harvesting Plans.

(a) The following preliminary field work shall be required in the Coastal Commission Special Treatment Areas and shall be completed prior to submission of the plan to the Director:

(1) When a boundary of a Coastal Commission Special Treatment Area is within or contiguous to a plan area, the boundary shall be clearly identified on the ground, by the RPF preparing the plan or supervised designee, with paint, flagging or other suitable means.

(2) All timber proposed for harvest shall be clearly marked with paint at points approximately 4 1/2 feet (1.37 m) above the ground and at ground level.

(3) The following wildlife considerations shall be followed:

(A) Live trees, as designated on the ground by the Departments of Fish and Game or Forestry and Fire Protection and or the RPF or supervised designee, with visible evidence of current use as nesting sites by hawks, owls, or waterfowl shall not be marked for cutting.

(B) Live trees as designated on the ground by the Departments of Fish and Game or Forestry and Fire Protection or the RPF or supervised designee, with visible evidence of nesting by eagles, osprey, or any endangered species, as identified by the Department of Fish and Game, shall not be marked for cutting.

(C) Live trees constituting a rookery for herons and/or egrets shall not be marked for cutting unless authorization in writing from the Department of Fish and Game is granted to the timber owner.

(4) All logging roads proposed to be constructed or reconstructed, main skid trails and those minor skid trails that would require or result in substantial soil displacement, and landing locations shall be clearly marked on the ground with flagging or other appropriate marking, keyed to the various projects.

(5) The boundary of the watercourse and lake protection zones shall be flagged or otherwise marked on the ground and shall include all slides and areas with visible evidence of slope instability which extend to the watercourse and lake protection zone.

(b) The following requirements shall be adhered to in submitting plans in Coastal Commission Special Treatment Areas:

(1) Plan maps shall be at a scale of at least 4 inches to the mile (6.3 cm per km).

(2) The plan map must show the location of and identify the following: All log landings proposed to be used, and all main skid trails, all logging roads, all watercourses, lakes, marshes and boundaries of Coastal Commission Special Treatment Areas within or contiguous to the plan area.

(3) An initial inspection of the area in which timber operations are to be conducted shall be made within 10 days from the date of filing of the plan, or such longer period as may be mutually agreed upon by the Director and the person submitting the plan. The RPF who prepared the plan shall attend the initial inspection. The timber owner and timber operator or their agents should attend the initial inspections.

(4) In applying the rules the RPF shall, when selecting feasible alternatives required by 14 CAC 898, follow the criteria and management objectives used by the Coastal Commission in selecting that area for special treatment. (See 14 CAC 912.)

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4582 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Editorial correction of subsection (a) filed 8–15–83 (Register 83, No. 37).
3. Amendment of subsection (b)(4) filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
4. Amendment of subsections (a)(5) and (b)(2) filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
5. Amendment of subsections (a)(1), (a)(3)(A) and (a)(3)(B) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 961.2. Exemptions from Timber Harvesting Plan Requirements.

Notwithstanding 14 CAC 1038, exemptions from plan filing requirements in the Coastal Commission Special Treatment Areas shall only be allowed for minor operations where no live trees are cut.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4583 and 30417, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 961.3. Silvicultural Methods.

The objective of this Section is to prescribe silvicultural methods that will protect the long–term productivity of soils and timberlands in Coastal Commission Special Treatment Areas and protect the natural and scenic qualities of these areas. The following silvicultural methods as prescribed below will be applied in Coastal Commission Special Treatment Areas. 14 CAC 953 through 953.13, defines these methods.

(a) Commercial Thinning or Selection Methods. When the commercial thinning or the selection silvicultural method is used the following standards are required:

(1) In the pine type, after timber operations have been completed, at least 50% by number of those trees 18 inches (45.7 cm) or larger d.b.h. and at least 50% by number of those trees 12 inches (30.5 cm) d.b.h., but less than 18 inches (45.7 cm) d.b.h. must be left.

(2) In the redwood type, after timber operations have been completed, at least 50% by number of those trees 12 to 18 inches (30.5 cm to 45.7 cm), 18 to 32 inches (45.7 cm to 81.3 cm) and 32 inches (81.3 cm) or larger d.b.h. must be left.

(3) These leave tree requirements shall be calculated from the timber stand existing prior to the commencement of timber operations. Leave trees shall be thrifty, coniferous trees which are dominant or co–dominant in crown class prior to timber harvesting or which have crowns typical of such dominant and co–dominant trees. They shall be free from substantial damage caused by timber operations. No cut conifer tree shall be more than 75 feet (22.86 m) from a leave tree over 18 inches (45.7 cm) d.b.h. located within the logging area.

(4) Immediately following completion of timber operations, stocking must meet or exceed stocking standards of 14 CAC 961.4.

(5) A report of stocking as described in PRC 4587 shall be filed within six months following completion of work as described in the plan.

(b) When the Sanitation Salvage Silvicultural Method is used, the following practices are required:

(1) A determined effort shall be made to regenerate any cut area during the first planting season following log removal. Necessary site preparation, planting or seeding shall be completed within the first planting season following logging except where unusual and adverse weather conditions require extending site preparation and planting into the following planting season. Deficiencies in stocking shall be corrected by planting annually until full stocking requirements are met.

(2) Operations utilizing the sanitation salvage silvicultural method shall meet the basal area or point count stocking standards of 14 CAC 961.4 within 5 years after the completion of timber operations.

(c) The standards for silvicultural methods under this section may be modified when explained and justified in the plan. Proposed modifications shall protect the natural and scenic qualities of the Coastal Commission Special Treatment Areas to at least the same extent as otherwise provided in these rules.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4561 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 961.4. Stocking Requirements.

The stocking standards for substantially damaged timberlands and understocked timberlands as provided by 14 CAC 1080 through 1081.1 and 1085 through 1085.6 are not applicable in Coastal Commission Special Treatment Areas in the Southern Forest District. After completion of timber operations, one of the following stocking standards must be met:

(a) Basal Area. The average residual basal area shall be at least 125 square feet per acre (28.69 m^2 per ha) on Site I lands, 100 square feet per acre(22.96 m^2 per ha) on Site II and Site III lands, and 75 square feet per acre (17.22 m^2 per ha) on Site IV and V lands; or

(b) Point Count. The area contains an average point count as specified below:

(1) On Site I and II lands the area contains an average point count of 450 per acre (1111.9 per ha), to be computed as follows:

(A) 450 countable trees per acre (1111.9 per ha) not more than 4 inches (10.2 cm) d.b.h.; each tree to count as 1 toward meeting stocking requirements.

(B) 150 countable trees per acre (370.6 per ha) over 4 inches (10.2 cm) d.b.h. and not more than 12 inches (30.5 cm) d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 75 countable trees per acre (185.3 per ha) over 12 inches (30.5 cm) d.b.h.; each tree to count as 6 toward meeting stocking requirements.

(2) On Site III, IV and V lands the area contains an average point count of 300 per acre, (741.3 per ha) to be computed as follows:

(A) 300 countable trees per acre (741.3 per ha) not more than 4 inches (10.2 cm) d.b.h.; each tree to count as 1 toward meeting stocking requirements.

(B) 100 countable trees per acre (247.1 per ha) over 4 inches (10.2 cm) d.b.h. and not more than 12 inches (30.5 cm) d.b.h.; each tree to count as 3 toward meeting stocking requirements.

(C) 50 countable trees per acre (123.5 per ha) over 12 inches (30.5 cm) d.b.h; each tree to count as 6 toward meeting stocking requirements.

Redwood root crown sprouts will be counted using the average stump diameter 1 foot (.305 m) above average ground level of the original stump from which the redwood root crown sprouts originate counting 1 sprout for each 1 foot (.305 m) of stump diameter to a maximum of 6 per stump.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4583 and 30417, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 961.5. Logging Practices.

The following logging practices shall be adhered to:

(a) Tractor logging and tractor preparation of tree layouts shall not be permitted on slopes averaging over 50% unless it can be shown that tractor logging will result in less soil disturbance than would result from an alternative method.

(b) Roads shall be single lane, and generally the travel surface shall be no more than 12 feet (3.67 m) in width, except where alignment, safety, and equipment necessary to conduct the operation requires additional width. Deviations shall be explained and justified in the plan.

(c) An RPF may obtain a relocation of the main skid trails from that shown on the approved plan if the Director concurs after an inspection on the ground. Such relocation may be treated as a minor deviation with the plan so amended.

(d) Roads shall not be constructed through slide areas or areas with visible evidence of slope instability unless the alignment is the best available alternative and special design features are incorporated in the plan. There shall be provisions in the plan to maintain the design features or provisions to maintain or improve the stability of the area after completion of the use.

(e) Roads, landings, cuts and fills shall be screened from direct view to the extent feasible by leaving screen trees and other vegetation between the disturbed areas and public areas utilized by substantial numbers of viewers.

(f) Soil disturbance, other than that incident to necessary road maintenance, whether with tractor or by cable means, shall not occur under excessively wet ground conditions that could result in substantial soil compaction and erosion.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4562.5, 4562.7 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Editorial correction of subsection (e) (Register 95, No. 41).
3. Amendment of subsection (c) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 961.6. Hazard Reduction.

There shall be no broadcast burning within Coastal Commission Special Treatment Areas. Piles surrounded by a firebreak may be burned, provided the burning is confined to the individual pile, and is in a location and conducted in a manner that will not damage the residual trees or reproduction. An exception may be approved by the Director when a prescribed burning plan is submitted as part of the plan which explains and justifies broadcast burning in the Coastal Commission Special Treatment Areas.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4583 and 30417, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

§ 961.7. Watercourse and Lake Protection.

Watercourse and lakeside vegetation shall be protected and remain standing to the degree necessary to protect scenic and natural qualities and protect the beneficial uses of water. In addition to the requirements of 14 CCR 956 through 956.8, the following standards shall apply in the Coastal Commission Special Treatment Areas:

The Watercourse and Lake Protection Zone shall be 150 feet on each side of Class I watercourses and lakes, and 100 feet on each side of Class II watercourses.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4562.7 and 30417, Public Resources Code.

HISTORY

1. Amendment filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).
2. Amendment of section heading and section filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 961.8. Buffer Zones Within the Coastal Zone.

A 200 foot (60.96 m) buffer zone shall be established adjacent to the boundaries of all publicly owned preserves and recreation areas within the Coastal Zone where the following restrictions shall apply:

(a) The use of the clear–cut silvicultural method is prohibited.

(b) A well distributed stand of trees shall be left within the buffer zone. The leave tree requirements of the commercial thinning or selection method shall be met or exceeded immediately following completion of timber operations.

(c) Roads, landings, and cuts and fills shall be screened from direct view by leaving screen trees and other vegetation between the disturbed areas and public areas utilized by substantial numbers of viewers.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4551.5, 4583 and 30417, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 37).

Article 12. Logging Roads and Landings

§ 963. Logging Roads and Landings.

All logging roads and landings in the logging area shall be planned, located, constructed, reconstructed, used, and maintained in a manner which: is consistent with long–term enhancement and maintenance of the forest resource; best accommodates appropriate yarding systems and economic feasibility; minimizes damage to soil resources and fish and wildlife habitat; and prevents degradation of the quality and beneficial uses of water. The provisions of this article shall be applied in a manner which complies with this standard.

Factors that shall be considered when selecting feasible alternatives (see 14 CCR 897 and 898) shall include, but are not limited to, the following:

(a) Use of existing roads whenever feasible.

(b) Use of systematic road layout patterns to minimize total mileage.

(c) Planned to fit topography to minimize disturbance to the natural features of the site.

(d) Avoidance of routes near the bottoms of steep and narrow canyons, through marshes and wet meadows, or unstable areas, and near watercourses or near existing nesting sites of threatened or endangered bird species.

(e) Minimization of the number of watercourse crossings.

(f) Location of roads on natural benches, flatter slopes and areas of stable soils to minimize effects on watercourses.

(g) Use of logging systems which will reduce excavation or placement of fills on unstable areas.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4562.5, Public Resources Code. Reference: Sections 4512, 4551.5, 4562.5 and 4562.7, Public Resources Code; California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New article 12 (sections 963–963.7) filed 8–4–83; designated effective 10–1–83 (Register 83, No. 32).
2. Amendment filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
3. Amendment of first paragraph and subsections (c), (d) and (g) filed 2–11–91; operative 3–13–91 (Register 91, No. 14).

§ 963.1. Planning for Roads and Landings.

The following standards for logging roads and landings shall be adhered to:

(a) All logging roads shall be located and classified on the THP map as permanent, seasonal, or temporary. Road failures on existing roads which will be reconstructed shall also be located on the THP map. In addition to the requirements of 14 CCR 1034(v), the probable location of those landings which require substantial excavation or which exceed one quarter acre in size, shall be shown on the THP map.

(b) New logging roads shall be planned in accordance with their classification and maintenance requirements.

(c) Logging roads and landings shall be planned and located, when feasible, to avoid unstable areas. The Director shall approve an exception if those areas are unavoidable, and site–specific measures to minimize slope instability due to construction are described and justified in the THP.

(d) Where roads and landings will be located across 100 feet or more of lineal distance on any slopes over 65% or on slopes over 50% which are within 100 feet of the boundary of a WLPZ, measures to minimize movement of soil and the discharge of concentrated surface runoff shall be incorporated in the THP. The Director may waive inclusion of such measures where the RPF can show that slope depressions, drainage ways, and other natural retention and detention features are sufficient to control overland transport of eroded material. The Director may require end–hauling of material from areas within 100 feet of the boundary of a WLPZ to a stable location if end–hauling is feasible and is necessary to protect water quality. The Director shall require maintenance provisions in the THP for drainage structures and facilities provided that such maintenance is feasible and necessary to keep roadbeds and fills stable.

(e) New logging roads shall not exceed a grade of 15% except that pitches of up to 20% shall be allowed not to exceed 500 continuous feet (152.4 m). These percentages and distances may be exceeded only where it can be explained and justified in the THP that there is no other feasible access for harvesting of timber or where in the Northern or Southern Districts use of a gradient in excess of 20% will serve to reduce soil disturbance.

(f) Roads and landings shall be planned so that an adequate number of drainage facilities and structures are installed to minimize erosions on roadbeds, landing surfaces, sidecast and fills.

(g) Unless exceptions are explained and justified in the THP, general planning requirements for roads shall include:

(1) Logging roads shall be planned to a single–lane width compatible with the largest type of equipment used in the harvesting operation with turnouts at reasonable intervals.

(2) Roads shall be planned to achieve as close a balance between cut volume and fill volume as is feasible.

(3) When roads must be planned so that they are insloped and ditched on the uphill side, drainage shall be provided by use of an adequate number of ditch drains.

(h) Road construction shall be planned to stay out of Watercourse and Lake Protection Zones. When it is a better alternative for protection of water quality or other forest resources, or when such roads are the only feasible access to timber, exceptions may be explained and justified in the THP and shall be agreed to by the Director if they meet the requirements of this subsection.

(i) All logging roads to be constructed shall be flagged or otherwise identified on the ground before submission of a THP or substantial deviation, except for temporary roads less than 600 feet in length that would meet the requirements for a minor deviation (see 14 CCR 1036, 1039, 1040) if they were submitted as such. Exceptions may be explained and justified in the THP and agreed to by the Director if flagging or other identification is unnecessary as a substantial aid to examining (1) compatibility between road location and yarding and silvicultural systems or (2) possible significant adverse effects of road location on water quality, soil productivity, wildlife habitat, or other special features of the area.

(j) If logging roads will be used from the period of October 15 to May 1, hauling shall not occur when saturated soil conditions exist on the road.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551 and 4551.5, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of subsections (a), (c), (d) and (i) filed 2–11–91; operative 2–13–91 (Register 91, No. 14).
2. Amendment of subsection (i) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
3. New subsection (j) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).

§ 963.2. Road Construction.

Logging roads shall be constructed or reconstructed in accordance with the following requirements or as proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this article.

(a) Logging roads shall be constructed in accordance with the approved THP. If a change in designation of road classification is subsequently made, the change shall be reported in accordance with 14 CCR 1039 or 1040, as appropriate.

(b) Where a road section which is greater than 100 feet in length crosses slopes greater than 65 percent, placement of fill is prohibited and placement of sidecast shall be minimized to the degree feasible. The Director may approve an exception where site specific measures to minimize slope instability, soil erosion, and the discharge of concentrated surface runoff are described and justified in the THP.

(c) On slopes greater than 50 percent, where the length of road section is greater than 100 feet, and the road is more than 15 feet wide (as measured from the base of the cut slope to the outside of the berm or shoulder of the road) and the fill is more than 4 feet in vertical height at the road shoulder for the entire 100 feet the road shall be constructed on a bench that is excavated at the proposed toe of the compacted fill and the fill shall be compacted. The Director may approve exception to this requirement where on a site–specific basis if the RPF has described and justified an alternative practice that will provide equal protection to water quality and prevention of soil erosion.

(d) Roads shall be constructed so no break in grade, other than that needed to drain the fill, shall occur on through fill; breaks in grade shall be above or below the through fill, as appropriate. Where conditions do not allow the grade to break as required, through fills must be adequately protected by additional drainage structure or facilities.

(e) Through fills shall be constructed in approximately one foot lifts.

(f) On slopes greater than 35 percent, the organic layer of the soil shall be substantially disturbed or removed prior to fill placement. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the fill will be stabilized.

(g) Excess material from road construction and reconstruction shall be deposited and stabilized in a manner or in areas where downstream beneficial uses of water will not be adversely affected.

(h) Drainage structures and facilities shall be of sufficient size, number and location to carry runoff water off of roadbeds, landings and fill slopes. Drainage structures or facilities shall be installed so as to mini-

mize erosion, to ensure proper functioning, and to maintain or restore the natural drainage pattern. Permanent watercourse crossings and associated fills and approaches shall be constructed where feasible to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become plugged.

(i) Where there is evidence that soil and other debris is likely to significantly reduce culvert capacity below design flow, oversize culverts, trash racks, or similar devices shall be installed in a manner that minimizes culvert blockage.

(j) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, and unmerchantable trees, shall not be buried in road fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of fills to restrain excavated soil from moving downslope.

(k) Logging roads shall be constructed without overhanging banks.

(*l*) Any tree over 12 inches (30.5 cm) d.b.h. with more than 25 percent of the root surface exposed by road construction, shall be felled concurrently with the timber operations.

(m) Sidecast or fill material extending more than 20 feet (6.1 m) in slope distance from the outside edge of the roadbed which has access to a watercourse or lake which is protected by a WLPZ shall be seeded, planted, mulched, removed, or treated as specified in the THP, to adequately reduce soil erosion.

(n) All culverts at watercourse crossings in which water is flowing at the time of installation shall be installed with their necessary protective structures concurrently with the construction and reconstruction of logging roads. Other permanent drainage structures shall be installed no later than October 15. For construction and reconstruction of roads after October 15, drainage structures shall be installed concurrently with the activity.

(o) Drainage structures and drainage facilities on logging roads shall not discharge on erodible fill or other erodible material unless suitable energy dissipators are used. Energy dissipators suitable for use with waterbreaks are described in 14 CCR 954.6(f).

(p) Where roads do not have permanent and adequate drainage, the specifications of section 954.6 shall be followed.

(q) Drainage facilities shall be in place and functional by October 15. An exception is that waterbreaks do not need to be constructed on roads in use after October 15 provided that all such waterbreaks are installed prior to the start of rain that generates overland flow.

(r) No road construction shall occur under saturated soil conditions, except that construction may occur on isolated wet spots arising from localized ground water such as springs, provided measures are taken to prevent material from significantly damaging water quality.

(s) Completed road construction shall be drained by outsloping, waterbreaks and/or cross-draining before October 15. If road construction takes place from October 15 to May 1, roads shall be adequately drained concurrent with construction operations.

(t) Roads to be used for log hauling during the winter period shall be, where necessary, surfaced with rock in depth and quantity sufficient to maintain a stable road surface throughout the period of use. Exceptions may be proposed by the RPF, justified in the THP, and found by the Director to be in conformance with the requirements of this subsection.

(u) Slash and other debris from road construction shall not be bunched against residual trees which are required for silvicultural or wildlife purposes, nor shall it be placed in locations where it could be discharged into Class I or II watercourses.

(v) Road construction activities in the WLPZ, except for stream crossings or as specified in the THP, shall be prohibited.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment of first paragraph and subsections (a), (h), (m), (n), (o), (q) and (v), and new subsections (b), (c), (f), and (i); deletion of former subsection (r); and renumbering filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Amendment of subsection (c) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
3. Amendment of subsection (s) filed 12–1–98; operative 1–1–99 (Register 98, No. 49).

§ 963.3. Watercourse Crossings.

Watercourse crossing drainage structures on logging roads shall be planned, constructed, reconstructed, and maintained or removed, according to the following standards. Exceptions may be provided through application of Fish and Game Code Sections 1601 and 1603 and shall be included in the THP.

(a) The location of all new permanent watercourse crossing drainage structures and temporary crossings located within the WLPZ shall be shown on the THP map. If the structure is a culvert intended for permanent use, the minimum diameter of the culvert shall be specified in the plan. Extra culverts beyond those shown in the THP map may be installed as necessary.

(b) The number of crossings shall be kept to a feasible minimum.

(c) Drainage structures on watercourses that support fish shall allow for unrestricted passage of all life stages of fish that may be present, and shall be fully described in the plan in sufficient clarity and detail to allow evaluation by the review team and the public, provide direction to the LTO for implementation, and provide enforceable standards for the inspector.

(d) When watercourse crossings, other drainage structures, and associated fills are removed the following standards shall apply:

(1) Fills shall be excavated to form a channel that is as close as feasible to the natural watercourse grade and orientation, and that is wider than the natural channel.

(2) The excavated material and any resulting cut bank shall be sloped back from the channel and stabilized to prevent slumping and to minimize soil erosion. Where needed, this material shall be stabilized by seeding, mulching, rock armoring, or other suitable treatment.

(e) All permanent watercourse crossings that are constructed or reconstructed shall accommodate the estimated 100–year flood flow, including debris and sediment loads.

(f) Permanent watercourse crossings and associated fills and approaches shall be constructed or maintained to prevent diversion of stream overflow down the road and to minimize fill erosion should the drainage structure become obstructed. The RPF may propose an exception where explained in the THP and shown on the THP map and justified how the protection provided by the proposed practice is at least equal to the protection provided by the standard rule.

(g) Any new permanent culverts installed within class I watercourses shall allow upstream and downstream passage of fish or listed aquatic species during any life stage and for the natural movement of bedload to form a continuous bed through the culvert and shall require an analysis and specifications demonstrating conformance with the intent of this section and subsection.

(h) The amendments to 14 CCR §§ 963.3 that became effective July 1, 2000 shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5 and 21004, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 40 CFR 130.2(q); and California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New subsection (d) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (a) and new subsection (e) filed 9–23–91; operative 10–23–91 (Register 92, No. 25).
3. Amendment of first paragraph and subsections (c) and (d)(1), new subsections (e), (g) and (h), subsection relettering, and amendment of NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
4. Amendment of subsection (h) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
5. Amendment of subsection (h) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
6. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
7. Amendment of subsection (h) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
8. Amendment of subsection (h) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).

9. Amendment of subsection (h) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).

§ 963.4. Road Maintenance.

Logging roads, landings, and associated drainage structures used in timber operation shall be maintained in a manner which minimizes concentration of runoff, soil erosion, and slope instability and which prevents degradation of the quality and beneficial uses of water during timber operations and throughout the prescribed maintenance period. In addition those roads which are used in connection with stocking activities shall be maintained throughout their use even if this is beyond the prescribed maintenance period.

(a) The prescribed maintenance period for erosion controls on permanent and seasonal roads and associated landings and drainage structures which are not abandoned in accordance with 14 CCR 963.8 shall be at least one year. The Director may prescribe a maintenance period extending up to three years in accordance with 14 CCR 1050.

(b) Upon completion of timber operations, temporary roads and associated landings shall be abandoned in accordance with 14 CCR 963.8.

(c) Waterbreaks shall be maintained as specified in 14 CCR 914.6.

(d) Unless partially blocked to create a temporary water source, watercourse crossing facilities and drainage structures, where feasible, shall be kept open to the unrestricted passage of water. Where needed, trash racks or similar devices shall be installed before culvert inlets in a manner which minimizes culvert blockage. Temporary blockages shall be removed by November 15.

(e) Before the beginning of the winter period, all roadside berms shall be removed from logging roads or breached, except where needed to facilitate erosion control.

(f) Drainage structures, if not adequate to carry water from the fifty–year flood level, shall be removed in accordance with 14 CCR 963.3 (d) by the first day of the winter period, before the flow of water exceeds their capacity if operations are conducted during the winter period, or by the end of timber operations whichever occurs first. Properly functioning drainage structures on roads that existed before timber operations need not be removed. An RPF may utilize an alternative practice, such as breaching of fill, if the practice is approved by the Director as providing greater or equal protection to water quality as removal of the drainage structure.

(g) Temporary roads shall be blocked or otherwise closed to normal vehicular traffic before the winter period.

(h) During timber operations, road running surfaces in the logging area shall be treated as necessary to prevent excessive loss of road surface materials by, but not limited to, rocking, watering, chemically treating, asphalting or oiling.

(i) Soil stabilization treatments on road or landing cuts, fills, or sidecast shall be installed or renewed, when such treatment could minimize surface erosion which threatens the beneficial uses of water.

(j) Drainage ditches shall be maintained to allow free flow of water and to minimize soil erosion.

(k) Action shall be taken to prevent failures of cut, fill, or sidecast slopes from discharging materials into watercourses or lakes in quantities deleterious to the quality or beneficial uses of water.

(*l*) Each drainage structure and any appurtenant trash rack shall be maintained and repaired as needed to prevent blockage and to provide adequate carrying capacity. Where not present, new trash racks shall be installed if there is evidence that woody debris is likely to significantly reduce flow through a drainage structure.

(m) Inlet and outlet structures, additional drainage structures, and other features to provide adequate capacity and to minimize erosion of road and landing fill and sidecast shall be repaired, replaced, or installed wherever such maintenance is needed to protect the quality and beneficial uses of water.

(n) Permanent watercourse crossings and associated approaches shall be maintained to prevent diversion of stream overflow down the road should the drainage structure become plugged. Corrective action shall be taken before the completion of timber operations or the drainage structure shall be removed in accordance with 14 CCR Section 963.3(d).

(o) Except for emergencies and maintenance needed to protect water quality, use of heavy equipment for maintenance is prohibited during wet weather where roads or landings are within a watercourse and lake protection zone.

(p) The Director may approve an exception to a requirement set forth in subsections (b) through (o) above when such exceptions are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4561.7, 4562.9 and 21004, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b); *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
2. Amendment of subsection (h) filed 11–19–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 47).
3. Amendment of subsection (f) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 963.5. Landing Construction.

Landings shall be constructed according to the following standards:

(a) On slopes greater than 65 percent, no fill shall be placed and sidecast shall be minimized to the degree feasible. The Director may approve an exception if, site specific measures to minimize slope instability, soil erosion, and discharge of concentrated surface runoff are described and justified in the THP.

(b) On slopes greater than 50 percent, fills greater than 4 feet in vertical height at the outside shoulder of the landing shall be:

(1) constructed on a bench that is excavated at the proposed toe of the fill and is wide enough to compact the first lift, and

(2) compacted in approximately 1 foot lift from the toe to the finished grade. The RPF or supervised designee shall flag the location of this bench or the RPF shall provide a description of the bench location (narrative or drawing) in the THP for fills meeting the above criteria, where the length of landing section is greater than 100 feet. The RPF may propose an exception in the THP and the Director may approve the exception where it is justified that the landing will be stabilized.

(c) Waste organic material, such as uprooted stumps, cull logs, accumulations of limbs and branches, or unmerchantable trees, shall not be buried in landing fills. Wood debris or cull logs and chunks may be placed and stabilized at the toe of landing fills to restrain excavated soil from moving downslope.

(d) Constructed landings shall be the minimum in width, size, and number consistent with the yarding and loading system to be used. Landings shall be no larger than one–half acre (.202 ha) unless explained and justified in the THP.

(e) No landing construction shall occur under saturated soil condition.

(f) The following specifications shall be met upon completion of timber operations for the year or prior to October 15, whichever occurs first:

(1) Overhanging or unstable concentrations of slash, woody debris and soil along the downslope edge or face of the landings shall be removed or stabilized when they are located on slopes over 65 percent or on slopes over 50 percent within 100 feet of a WLPZ.

(2) Any obstructed ditches and culverts shall be cleaned.

(3) Landings shall be sloped or ditched to prevent water from accumulating on the landings. Discharge points shall be located and designed to reduce erosion.

(4) Sidecast or fill material extending more than 20 feet in slope distance from the outside edge of the landing and which has access to a watercourse or lake shall be seeded, planted, mulched, removed or treated as specified in the THP to adequately reduce soil erosion.

(5) Sidecast or fill material extending across a watercourse shall be removed in accordance with standards for watercourse crossing removal set forth in 14 CCR 963.3(d).

(g) On slopes greater than 35 percent, the organic layer of the soil shall substantially removed prior to fill placement.

(h) When landings are constructed after October 15 they shall be adequately drained concurrent with construction operations and shall meet the requirements of (f)(1) through (f)(4) of this subsection upon completion of operations at that landing.

(i) The RPF may propose and the Director may approve waiver of requirements in (f)(1) through (f)(4) of this subsection if the Director finds they are not necessary to minimize erosion or prevent damage to downstream beneficial uses. The Director may also approve an exception to the October 15th date for treatment of slash and debris, including the practice of burning.

NOTE: Authority cited: Sections 4551, 4551.5 and 4553, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1976) 59 Cal.App.3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Deletion of former subsection (a); addition of new subsections (a), (b), (f)(5) and (i); amendment of subsections (f)(1), (f)(3), (f)(4), (h) and (i); and renumbering filed 2–11–91; operative 3–13–91 (Register 91, No. 14).
2. Editorial correction implementing 2–11–91 amendments (Register 97, No. 48).
3. Amendment of subsection (b) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 963.6. Conduct of Operations on Roads and Landings.

Routine use and maintenance of roads and landings shall not take place when, due to general wet conditions, equipment cannot operate under its own power. Operations may take place when roads and landings are generally firm and easily passable or during hard frozen conditions. Isolated wet spots on these roads or landings shall be rocked or otherwise treated to permit passage. However, operations and maintenance shall not occur when mud flowing from the landing or roadbed will reach watercourses or lakes in amounts deleterious to the quality and beneficial uses of water.

This section shall not be construed to prohibit activities undertaken to protect the road or to reduce erosion.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.9 and 21004, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.5 and 4562.7, Public Resources Code; 33 USC 1288(b) and 40 CFR 130.2(q); California Case Law: *Natural Resources Defense Council, Inc.* v. *Arcata Natl. Corp.* (1972) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. Amendment filed 12–20–89; operative 2–1–90 (Register 90, No. 3).

§ 963.7. Licensed Timber Operator Responsibility for Roads and Landings.

The licensed timber operator who is responsible for the implementation or execution of the plan shall not be responsible for the construction and maintenance of roads and landings, unless the licensed timber operator is employed for that purpose.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

§ 963.8. Planned Abandonment of Roads, Watercourse Crossings, and Landings.

Abandonment of roads, watercourse crossings and landings shall be planned and conducted in a manner which provides for permanent maintenance–free drainage, minimizes concentration of runoff, soil erosion and slope instability, prevents unnecessary damage to soil resources, promotes regeneration, and protects the quality and beneficial uses of water. General abandonment procedures shall be applied in a manner which satisfies this standard and include the following:

(a) Blockage of roads so that standard production four wheel–drive highway vehicles cannot pass the point of closure at the time of abandonment.

(b) Stabilization of exposed soil on cuts, fills, or sidecast where deleterious quantities of eroded surface soils may be transported into a watercourse.

(c) Grading or shaping of road and landing surfaces to provide dispersal of water flow.

(d) Pulling or shaping of fills or sidecast where necessary to prevent discharge of materials into watercourses due to failure of cuts, fills, or sidecast.

(e) Removal of watercourse crossings, other drainage structures, and associated fills in accordance with 14 CCR Section 963.3(d). Where it is not feasible to remove drainage structures and associated fills, the fill shall be excavated to provide an overflow channel which will minimize erosion of fill and prevent diversion of overflow along the road should the drainage structure become plugged.

The Director may approve an exception to a requirement set forth in (b) through (e) above when such alternatives are explained and justified in the THP and the exception would provide for the protection of the beneficial uses of water or control erosion to a standard at least equal to that which would result from the application of the standard rule.

NOTE: Authority cited: Sections 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4562.7 and 4562.9, Public Resources Code.

HISTORY

1. New section filed 12–20–89; operative 2–1–90 (Register 90, No. 3).

§ 963.9. Roads and Landings in Watersheds with Threatened or Impaired Values.

In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values:

[Effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective] In addition to all other district Forest Practice Rules, the following requirements shall apply in any planning watershed with threatened or impaired values, except in watersheds with coho salmon. In watersheds with coho salmon, the standards listed under 923.9.1 and 923.9.2 shall apply:

(a) Where logging road or landing construction or reconstruction is proposed, the plan shall state the locations of and specifications for road or landing abandonment or other mitigation measures to minimize the adverse effects of long–term site occupancy of the transportation system within the watershed.

(b) Unless prohibited by existing contracts with the U.S.D.A. Forest Service or other federal agency, new and reconstructed logging roads shall be no wider than a single–lane compatible with the largest type of equipment specified for use on the road, with adequate turnouts provided as required for safety. The maximum width of these roads shall be specified in the plan. These roads shall be outsloped where feasible and drained with water breaks or rolling dips (where the road grade is inclined at 7 percent or less), in conformance with other applicable Forest Practice Rules.

(c) The following shall apply on slopes greater than 50%:

(1) Specific provisions of construction shall be identified and described for all new roads.

(2) Where cutbank stability is not an issue, roads may be constructed as a full–benched cut (no fill). Spoils not utilized in road construction shall be disposed of in stable areas with less than 30 percent slope and outside of any WLPZ, EEZ, or ELZ.

(3) Alternatively, roads may be constructed with balanced cuts and fills if properly engineered, or fills may be removed with the slopes recontoured prior to the winter period.

(d) In addition to the provisions listed under 14 CCR 963.1(e), all permanent or seasonal logging roads with a grade of 15% or greater that extends 500 continuous feet or more shall have specific erosion control measures stated in the plan.

(e) Where situations exist that elevate risks to the values set forth in 14 CCR 956.2(a), (e.g., road networks are remote, the landscape is unstable, water conveyance features historically have a high failure rate, culvert fills are large) drainage structures and erosion control features shall be oversized, low maintenance, or reinforced, or they shall be removed before the completion of the timber operation. The method of analysis and the design for crossing protection shall be included in the plan.

(f) The provisions of 14 CCR 963.9 shall not apply to a plan that is subject to an incidental take permit based upon an approved Habitat Conservation Plan that addresses anadromous salmonid protection.

(g) This section shall expire on December 31, 2008.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000(g), 21001(b) and 21002.1, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *Natural Resources Defense Council, Inc. v. Arcata Natl. Corp.* (1976) 59 Cal.App. 3d 959, 131 Cal.Rptr. 172.

HISTORY

1. New section filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
2. Amendment of subsection (g) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of subsection (g) filed 11–20–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 47).
4. Amendment of last paragraph filed 7–12–2002; operative 1–1–2003 pursuant to Public Resources Code section 4554.5 (Register 2002, No. 28).
5. Amendment of subsection (g) filed 12–1–2003; operative 1–1–2004 pursuant to Public Resources Code section 4551.5 (Register 2003, No. 49).
6. Amendment of subsection (g) filed 9–20–2006; operative 10–20–2006 (Register 2006, No. 38).
7. Amendment of subsection (g) filed 10–24–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5 (Register 2007, No. 43).
8. Amendment of first paragraph filed 11–29–2007; effective 1–1–2008 pursuant to Public Resources Code section 4554.5(a); operative the date Department of Fish and Game regulations 14 CCR sections 787.0–787.9 become effective (Register 2007, No. 48).

Article 13. County Rules

§ 965. Monterey County Rules.

In addition to forest practice rules applying in the Southern Forest District, rules contained in Sections 965.1 through 965.10 shall apply within the boundaries of Monterey County. Where the Southern Forest District rules conflict with Monterey County rules, the Monterey County rules will apply.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New Article 13 (Sections 965, 965.1–965.5) filed 9–19–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 39).
2. Amendment filed 5–28–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 965.1. Haul Routes.

On timber operations requiring a plan all haul routes for removing forest products shall be shown on a road map and shall include routes from the harvest site to the mill or county line. Such map shall be submitted with the plan. A proposed change in the use of public roads that are part of the haul route shall be presumed to be a substantial deviation unless the plan submitter requests that the proposed change be considered a minor deviation in accordance with the procedures set forth in 14 CAC 1036 and 1040 and the Director so determines. The Director shall consult with the County Planning Department and Public Works Department before giving approval.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 965.2. Hauling to the Nearest Public Road.

Those portions of offsite haul roads to be used in the conduct of the timber operation, from the area where timber harvesting is to occur to the nearest public road, shall be shown on the plan. In addition to the requirements to furnish a list of certain property owners pursuant to 14 CAC 1032.7(e), the plan submitter shall furnish to the Department at the time of submission of the plan the names and addresses of property owners with property fronting or bordering that portion of the haul route lying between the plan area and the nearest public road. California Department of Forestry shall give notice of public hearing if requested by the county to each of these owners and those individuals specified in 14 CAC 1037.1(b) and 1037.3.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Sections 4516.5 and 4582.6(b), Public Resources Code.

§ 965.3. Public Road Protection.

The construction of logging roads, tractor roads, or landings within 100 feet of the edge of the traveled surface of a public road is prohibited except where:

(a) Logging roads are needed for access to the area to be harvested.

(b) It is explained and justified in the plan where construction of these facilities in this area will result in better protection of scenic values or provide better erosion control in the conduct of the timber operation.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 965.4. Log Hauling.

(a) Log hauling on public roads is not permitted on Saturdays, Sundays, or on those days which are nationally designated legal holidays.

(b) Log hauling on public roads may be restricted or not permitted by the Director during specified hours to prevent hazardous traffic conditions.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 965.5. Winter Period.

The winter period for Monterey County shall be October 15 through April 15.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

§ 965.6. Big Sur Coast.

The following rules shall apply to all Timber Harvesting Plans within the area covered by the Big Sur Coast Land Use Plan of September 13, 1984 (Big Sur LUP).

(a) West of Highway 1 or within the critical viewshed of Highway 1 as defined in the Big Sur LUP only the sanitation–salvage silvicultural method will be permitted.

(b) Timber operations outside the critical viewshed of Highway 1 shall be screened from direct public view to the extent feasible by leaving trees and other vegetation between disturbed areas and public roads.

(c) New road construction is not permitted within the critical viewshed of Highway 1 unless a field review of the proposed road reveals no significant degradation of the critical viewshed. New road construction outside the critical viewshed shall be located to minimize the removal of native trees and shall not be allowed across slopes over 30 percent unless no feasible alternative exists for the proposed location, or the road better achieves the overall resource protection objectives.

(d) All excess material resulting from new road construction shall be end hauled and deposited in an area where visual impact will be minimized. Sidecasting of excess material is prohibited.

(e) Within environmentally sensitive plant and wildlife habitats as described in the Big Sur LUP, the Director shall require a field review by a qualified wildlife biologist prior to approval of the THP. If the field review identifies significant adverse effects to the habitat, the Director shall deny the THP unless measures sufficient to mitigate the adverse effects are included in the THP.

(f) Within those drainages identified in the Big Sur LP and designated by Monterey County as watershed resource study areas, the Director shall require a field review by a qualified hydrologist or erosion control specialist prior to approval of the THP. If the field review identifies significant adverse effects to the cumulative water demands of the watershed, the Director shall deny the THP unless measures sufficient to mitigate the adverse effects on water supply are included in the THP.

(g) In addition to the requirements of 14 CAC 956 through 956.7, the minimum watercourse and lake protection zone shall be 150 feet on Class I and II waters unless a smaller zone can be explained and justified in the THP.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–28–85, effective thirtieth day thereafter (Register 85, No. 22).

§ 965.7. Public Water Agency Representative.

In the case of any timber operation proposed to be carried out in an area which serves as a watershed for any publicly owned water purveyor, the Director shall request a representative of such water purveyor to assist the Department as an advisor in the review process, pursuant to the provision of 14 CAC 1037.5; such water purveyor representative shall be permitted to participate in all review team meetings.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–28–85; effective thirtieth day thereafter (Register 85, No. 22).

§ 965.8. Performance Bonding.

When hauling logs pursuant to a THP, the LTO shall provide for the repair of any damage to a county road that is willfully or negligently caused by the LTO's log hauling operations, and shall provide for the repair of any damage caused by the LTO's log hauling operations to appurtenant structures including, but not limited to, guard rails, signs, traffic signals, culverts, curbs and similar facilities. If necessary to ensure compliance with this section, the county may request, and the Department, upon such request, may require the timber operator or responsible party to post adequate financial security to restore paved or unpaved county roads and appurtenant structures which are damaged by log hauling oper-

[The next page is 364.3.]

ations. The request for posting of financial security shall be made to the Department during the THP review procedure and no later than five days before the Director's decision date. The timber operator or responsible party shall post a certificate of deposit, certificate of insurance or performance bond, or other financial security in favor of the Department in a reasonable amount set by the Director, not to exceed $5,000 per mile of county road used or $50,000, whichever is less and subject to provisions of division 3, part 1, chapter 1, article 8, section 11110 through 11113 of the Government Code. Such cash deposit or other acceptable financial security shall cover a period not to exceed the effective period of the plan.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 5–28–85, effective thirtieth day thereafter (Register 85, No. 22).
2. Repealer and new section filed 8–8–90; operative 9–7–90 (Register 90, No. 39).

§ 965.9. Erosion Control Maintenance.

The plan submitter shall maintain all drainage structures and drainage facilities required by these rules in effective working condition throughout one winter period after completion of timber operations. A work completion report may not be filed until this requirement has been met.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–28–85, effective thirtieth day thereafter (Register 85, No. 22).

§ 965.10. THP Description.

In addition to the requirements of 14 CAC 1034(g), the THP description shall include the assessor's parcel numbers of all parcels on which timber operations will be conducted.

NOTE: Authority cited: Section 4516.5, Public Resources Code. Reference: Section 4516.5, Public Resources Code.

HISTORY

1. New section filed 5–28–85, effective thirtieth day thereafter (Register 85, No. 22).

Article 14. Archaeological and Historical Resource Protection

§ 969. Statement of Purpose.

The purpose of this article is to:

(a) ensure that the significant archeological and historical sites within the site survey are adequately identified and protected,

(b) to provide direction to RPFs preparing THPs (which includes all forms of THPs including, but not limited to, Modified THPs and Nonindistrial Timber Management Plans (NTMPs), Program Timber Harvesting Plans (PTHPs)), Notice of Emergency Timber Operations (Emergency Notices), and any Exemption Notices pursuant to 14CCR Sections 1038 and 1104.1,

(c) provide direction to the timber operator conducting timber operations,

(d) provide direction to the Department of Forestry and Fire Protection in its review, approval and inspection programs.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of article heading, section and NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsection (b) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 969.1. Plan, and Emergency Notice Preparation.

(a) Preparing a plan.

Prior to submitting a plan, the RPF, or the RPF's supervised designee:

(1) Shall conduct an archaeological records check at the appropriate Information Center. A previously–conducted archaeological records check for the property may be used to satisfy this requirement if it covers the entire area proposed for timber operations and if it meets the definition of "current archaeological records check" in 14 CCR § 895.1.

(2) Shall provide written notification to Native Americans of the preparation of a plan. The primary purpose for this notification is to provide Native Americans an opportunity to disclose the existence of any Native American archaeological or cultural sites that are potentially within or adjacent to the site survey area, and the opportunity to comment on the plan. The RPF shall allow a minimum of 10 days for response to this notice before submitting the plan to the Director. The remainder of the 10–day waiting period is waived when all Native Americans required to be informed respond in less than 10 days. This notice shall contain the following attachments or items of information:

(A) A request for information concerning the potential existence of any Native American archaeological or cultural sites within the plan boundaries.

(B) Information concerning the location of the plan including:

1. A general location map that, at a minimum, shows the travel route from the nearest community or well–known landmark to the plan area.

2. A copied segment of the titled USGS (if available) or equivalent map(s) that displays the approximate boundary of the plan area, and includes a map legend and a scale.

3. A description of the plan location including the county, section, township, range, base and meridian, and the approximate direction and distance from the nearest community or well–known landmark.

(C) A statement that all replies, comments, questions, or other information submitted by Native Americans as a result of this notice be directed to the RPF. The name, address, and phone number of the RPF shall be provided.

(D) Information concerning the available time for response. Indicate that the RPF is requesting a response within ten days from the date of the notice so the information can be incorporated into the plan when initially submitted to the Director. Provide the estimated date the plan will be submitted to Director. Provide the following statement: "The earliest possible date the Director may approve the plan is 16 calendar days after it is submitted to Director, although typically, the plan is reviewed for at least 45 calendar days following plan submittal before the Director approves the plan."

(E) A statement that the Native American groups may participate in the plan review process by submitting written comments to the Director before close of public comment period.

(F) A statement that locations of sites disclosed will be kept confidential.

(G) A statement that a Confidential Archaeological Addendum (CAA) will be prepared for the plan and a copy of pertinent information contained within the CAA may, at the discretion of the Director, be obtained from the Director.

(3) Shall provide a professional archaeologist or a person with archaeological training (in accordance with 14 CCR § 969.4) to conduct a field survey for archaeological and historical sites within the site survey area. Previous archaeological surveys within the site survey area may also be used to partially or entirely satisfy this requirement.

(4) Shall ensure that research is conducted prior to the field survey, including review of appropriate literature and contacting knowledgeable individual, concerning potential archaeological or historical sites occurring on the property.

(b) Provide Notification to Native Americans if a Native American Archaeological or Cultural Site is located within the plan. On a plan that contains a Native American archaeological or cultural site as defined in 14 CCR § 895.1 the RPF or the RPF's supervised designee shall:

(1) provide a written notice to Native Americans informing them of the presence of Native American cultural resources within the site survey area. This notification shall include:

(A) The RPF's name, address, and telephone number.

(B) The name, number, or other designator of the plan.

(C) A list of all known Native American archaeological or cultural sites located within the site survey area, including a name, number or other designator and brief description of each site.

(D) A brief discussion of how each site shall be protected or avoided.

(E) The address and phone number of the appropriate CDF office to contact as well as a statement that written comments may be submitted to Director for consideration prior to the close of public comment.

(F) The estimated earliest date the Director may approve the plan.

(2) submit a copy of all letters sent pursuant to 14 CCR § 969.1(b)(1) to the Director. The Director shall allow a minimum of 15 days from the date of the notification letter for receipt of responses to notices sent pursuant to 14 CCR § 969.1(b)(1) prior to the close of public comment.

(c) Submitting a Confidential Archaeological Addendum for a plan.

The RPF shall include the following information in a Confidential Archaeological Addendum with the proposed plan:

(1) Administrative Information which is not confidential and may be released to the public. This includes:

(A) The name, affiliation, address, and phone number of the archaeological surveyor.

(B) The name, affiliation, address, and phone number of the RPF, if different than the archaeological surveyor.

(C) The plan name ascribed by the RPF, plan number (if known), type, and approximate acreage.

(D) The county, legal description, and name of USGS 7.5′ Quad(s) within which the project is located.

(E) The date the CAA was completed.

(F) The name of the author of the CAA.

(G) The signature of the RPF or archaeological surveyor.

(2) Archaeological Records Check Information. A copy of the records check and written reply (including mapped information) from the Information Center shall be attached, or a justification as to why that is not possible shall be included.

(A) If the records check request and written reply from the Information Center are attached, no additional information is required.

(B) If the records check request and written reply from the Information Center are not attached, the following information shall be included:

(1) Justification why records check request and written reply could not be attached.

(2) The date the records check was conducted at the Information Center.

(3) The Information Center File Number.

(4) Summary of records check results discussing whether or not archaeological or historical sites are known or suspected to exist within the site survey area and whether or not the site survey area has a previous archaeological investigation on record.

(3) Results of notification to Native Americans pursuant to 14 CCR § 969.1(a)(2)(B). This shall include:

(A) An example of a notification letter and project maps submitted to Native American contacts.

(B) Copies of any written responses received from Native American contacts.

(C) A list of the individuals or groups that were provided written notification and the date of the Native American Contact List being used.

(D) Date the notification was sent.

(E) Results of the information request, specifically addressing the results of information received from the NAHC, if those results have been received.

(4) Results of notification to Native Americans of the existence of a Native American archaeological or cultural site on the plan, if required, pursuant to 14 CCR § 969.1(b).

(5) A list of the research done prior to field survey. This list shall include literature reviewed and persons contacted in addition to the required archaeological records check with Information Center and Native Americans, and a summary of the results of this research.

(6) Information on the current or previous archaeological surveyor(s), which is not confidential. This shall include:

(A) the name of the current archaeological surveyors and an indication of whether or not the person either meets the specifications of a professional archaeologist as defined in 14 CCR § 895.1 or meets the requirements specified in 14 CCR § 969.4.

(B) the name of any previous archaeological surveyors, if known.

(7) Description of archaeological survey methods and procedures including survey strategy, time spent conducting archaeological field survey, the date or dates the survey was conducted, survey coverage intensity, and ground visibility or other limitations.

(8) A list and description of all archaeological or historical sites identified within the site survey area including information on the site(s) size, type, and condition. The designations used in this listing of sites found shall be consistently used throughout the CAA.

(9) An Archaeological Coverage Map or maps prepared in accordance with the specifications identified in the definition of an Archaeological Coverage Map in 14 CCR § 895.1.

(10) A preliminary determination of significance of identified archaeological and historical sites, if damaging effects from timber operations cannot be avoided. This determination shall be based upon the criteria for a significant archaeological or historical site listed in 14 CCR § 895.1.

(11) Description of any specific enforceable protection measures to be implemented both within the site boundaries and within 100 feet of the site boundaries.

(12) Information concerning the proposed on–site meeting between the RPF or supervised designee familiar with on–site conditions and the LTO to discuss protection of archaeological and historical resources, if required, pursuant to 14 CCR § 969.2(b).

(13) Information concerning site recording requirements pursuant to 14 CCR § 969.1(d) and (g).

(14) Other applicable information, if any, concerning the archaeological survey for this project.

(15) List of attachments to the CAA.

(d) Site Records.

Upon submission of a plan, the RPF or the RPF's supervised designee shall submit completed site records for each site proposed to be a significant archaeological or historical site in a manner consistent with the recording standards identified in the State Office of Historical Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(e) Emergency Notice of 3 Acres Or More.

(1) Prior to submitting an Emergency Notice of three acres or more, the RPF:

(A) Shall ensure that an archaeological field survey is, or has been previously conducted by a professional archaeologist or person with archaeological training (pursuant to 14 CCR § 969.4) within the site survey area.

(2) Prior to submitting an Emergency Notice of three acres or more, the RPF or the RPF's supervised designee:

(A) Shall complete a current archaeological records check. This check may be conducted by telephone. If the Information Center is unable to provide the information within three business days following receipt of an RPF's request for an Emergency Notice records check, the records check requirement is waived.

(B) Shall submit a Confidential Archaeological Letter that includes the information required by 14 CCR § 969.1(c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 969.1(g) and 969.5.

(C) Shall send a copy of the Emergency Notice to Native Americans.

(f) Emergency Notice of Less Than 3 Acres.

(1) Prior to submitting an Emergency Notice of less than three acres, the RPF or the RPF's supervised designee shall:

(A) Conduct an archaeological survey for said area to determine whether it contains any significant archaeological sites using the criteria

for a significant archaeological or historical site defined in 14 CCR § 895.1.

(B) Send a copy of the Notice to Native Americans.

(2) An archaeological records check, Confidential Archaeological Addendum, or Confidential Archaeological Letter, is not required.

(3) No timber operations shall occur within the boundaries of any significant archaeological or historical sites as determined by the RPF or the RPF's supervised designee.

(g) Submitting Archaeological and Historical Information to Information Centers.

Within 30 days following the Director's approval of a plan or acceptance of an Emergency Notice of three acres or larger, the Director shall send to the appropriate Information Center of the California Historical Resource Information System the following information provided by the RPF:

(1) a complete Confidential Archaeological Addendum which includes all changes and additions required in the plan review process and which identifies the plan number, or, for Emergency Notices of three acres or larger, a Confidential Archaeological Letter.

(2) two copies each of any completed archaeological or historical site records for:

(A) archaeological sites determined to be significant, or

(B) sites that a person elects to record, but for which no determination of significance has been made.

The records shall be completed by a person who satisfies the requirements specified in 14 CCR § 969.4 in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference.

(3) The RPF or supervised designee shall ensure that the site records are completed in the manner specified in subsection (2).

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and section filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 969.2. Protection Measures for Plans and Emergency Notices 3 Acres and Larger.

(a)(1) The RPF shall describe in the separate Confidential Archaeological Addendum or Letter, measures to be taken to mitigate or avoid substantial adverse change to any known significant archaeological or historical sites.

(2) The RPF may propose, and the Director may agree to, site specific protection measures for any identified archaeological or historical site without evaluating the significance of the site. These proposed protection measures shall be designed to ensure protection of such archaeological and historical sites from damaging effects. Avoidance of activities which will cause damaging effects is a preferred protection measure.

(b) The RPF or supervised designee familiar with on–site conditions shall meet with the LTO prior to the start of timber operations at each archaeological or historical site that is described in the plan or notice that requires avoidance or other protection measures and do the following:

(1) show the LTO the location, extent and boundaries of each archaeological or historical site requiring protection,

(2) discuss with the LTO the protection measures,

(3) apprise the LTO of the confidentiality requirements for any information concerning the physical location of archaeological or historical sites.

(c) If the RPF or supervised designee is unable to perform the duties in 14 CCR § 969.2(b), the RPF shall:

(1) explain the reasons in the emergency notice, plan, or as a minor amendment to the plan,

(2)(A) meet with the plan submitter, timberland owner, or their authorized agent, and review in the field, the items described in 14 CCR § 969.2(b),

(B) if the plan submitter, timberland owner, or their authorized agent will not comply with the RPF's or RPF's supervised designee's request for a meeting, the RPF shall notify the Director.

(3) except for an emergency notice, notify the plan submitter in writing that it is the plan submitter's responsibility to transfer the information in 14 CCR § 969.2(b) to the LTO per 1035(h),

(4) notify the Director in writing.

(d) The LTO shall not conduct timber operations within the boundaries of any archaeological or historical site identified in the CAA unless such operations are described in the CAA and made part of the plan approved by the Director.

(e) In the event that the CAA authorizes limited timber operations within the boundaries of archaeological or historical sites identified in the plan, the LTO and the RPF, if so stated in the plan, shall be responsible for ensuring that specific protection measures and timber operations are conducted in the manner described in the CAA.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21001, 21060.5, 21083.2 and 21084.1, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading, repealer and new section, and amendment of NOTE filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of section heading and subsections (b), (c) and (c)(2) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section heading and subsections (c), (c)(2) and (c)(3) and new subsections (d)–(e) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 969.3. Post Review Site Discovery.

If a person discovers a potentially significant archaeological or historical site after a plan, Emergency Notice, or Exemption is accepted by the Director, the following procedures apply:

(a) The person who made the discovery shall immediately notify the Director, LTO, RPF, or timberland owner of record.

(b) The person first notified in (a) shall immediately notify the remaining parties in (a).

(c) No timber operations shall occur within 100 feet of the identified boundaries of the new site until the plan submitter proposes, and the Director agrees to, protection measures pursuant to 14 CCR § 969.2.

(d) A minor deviation shall be filed to the plan. The minimum information provided shall include:

(1) A statement that the information is confidential.

(2) The mapped location of the site.

(3) A description of the site.

(4) Protection measures, and

(5) Site records, if site records are required pursuant to 14 CCR §§ 969.1(g)(2)(b) and 969.5.

(e) Upon receipt, the Director shall immediately provide the proposed minor deviation or portions of the minor deviation, to Native Americans when Native American archaeological or cultural sites are involved.

NOTE: Authority cited: Sections 4551, 4551.5, 4583.2 and 4591.1, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of section heading and repealer and new section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph and subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of section and NOTE filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 969.4. Archaeological Training Requirements.

To meet the requirement of 14 CCR § 969.1, archaeological surveys of a plan or Emergency Notice areas for archaeological or historical sites shall be conducted only by a professional archaeologist or a person who has attended a training program approved by the Director within five years prior to submission of the plan or Emergency Notice. The training program must meet the following standards:

(a) The course shall use education materials approved by the Director which address the current regulations and procedures for the identification, recordation, and protection of archaeological and historical resources during timber operations.

(b) The course may require that the applicant demonstrate, in the field, and in a final written examination, the ability to conduct a record search, perform field identification, complete an archaeological site record, and to identify appropriate mitigation and protection measures for archaeological or historical sites covered in the course.

(c) The Director shall issue verification to all students that satisfactorily complete the training course.

(d) Following an individual's successful completion of an archaeological training course approved by the Director, he or she may enroll in a refresher training course, approved by the Director, to renew a 5–year archaeological training certification.

(e) The Director may conduct the archaeological training courses (in addition to or in–lieu of approving programs conducted by others) at least annually.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment of first paragraph and subsections (a) and (b), new subsections (b) and (c), and subsection relettering filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of first paragraph filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of first paragraph and subsection (c) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 969.5. Site Recording.

The Director shall ensure that all archaeological or historical sites determined to be significant and located within the site survey area on plans, or Emergency Notices are recorded by the RPF or supervised designee in a manner consistent with the recording standards identified in the State Office of Historic Preservation's "Instructions For Recording Historical Resources" March, 1995, which is incorporated by reference. The recording may also be done by a professional archaeologist or any person who has successfully completed appropriate training which is afforded or approved by the Director.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 969.6. Protection of Sites During Timber Operations.

No person, except as otherwise permitted by law, who is involved in timber operations shall excavate, collect artifacts from, vandalize or loot archaeological or historical sites located within the THP, Emergency Notice or Exemption boundary.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 969.7. Determination of Significance.

(a) A determination of significance shall be made for an identified archaeological or historical site within the site survey area on a THP, or Emergency Notice by a person who satisfies the requirements specified in 14 CCR 969.4 if damaging effects from timber operations cannot be avoided.

(b) The determination of significance shall:

(1) Be based upon criteria defined for significant archaeological or historical sites in 14 CCR 895.1

(2) Utilize any information provided by Native Americans, archaeological, historical or ethnographic data pertinent to the region and to the cultural resource, and the physical characteristics of the archaeological or historical site.

(c) If required by subsection (a), a preliminary determination of significance shall be made by the RPF or the RPF's supervised designee and provided in the Confidential Archaeological Addendum.

(d) Where the Director determines that timber operations may cause a substantial adverse change to a significant archaeological or historical site and the RPF and the Director cannot agree upon protection measures, a professional archaeologist provided by the THP submitter shall make a survey and prepare a report on the potentially affected site or sites and the potential impacts of the proposed timber operations. The part of the report that relates to archaeological sites is confidential. This report, if it discusses impacts on Native American archaeological sites, shall be provided by the Director to Native American and the NAHC. This report shall contain recommendations for mitigation, the elimination of impacts, or for the reduction of impacts to avoid or prevent substantial adverse change to significant archaeological or historical resources. The report shall meet the standards of the Preservation Planning Bulletin, Number 4, December 1989 (Office of Historic Preservation), entitled Archaeological Resource Management Reports (ARMR): Recommended Contents and Format. The Director shall make the final determination of significance and substantial adverse change based on advice of a professional archaeologist.

NOTE: Authority cited: Sections 4551 and 4551.5, Public Resources Code. Reference: Sections 4582(f), 21002 and 21060.5, Public Resources Code.

HISTORY

1. New section filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
2. Amendment filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsections (a), (c) and (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

Subchapter 7. Administration*

* Regulations adopted by Board of Forestry.

Article 1. Timber Operator Licenses

§ 1020. Board Authority Delegated.

The Board of Forestry delegates its authority under Article 6 (commencing with Section 4571) of Chapter 8, Part 2, Division 4 of the Public Resources Code, to the Director.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4577, Public Resources Code.

HISTORY

1. Repealer of Subchapter 7 (Sections 1000–1112, not consecutive; Appendix A) and new Subchapter 7 (Sections 1020–1112, not consecutive; Appendix A) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For history of former Subchapter 7, see Registers 78, No. 19; 77, No. 14; 76, Nos. 27 and 1; 75, No. 31; 74, Nos. 46, 33, 17 and 14.
2. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1021. Crop of Trees.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4526, Public Resources Code.

HISTORY
1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
2. Repealer filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).

§ 1022. License.

The license defined in PRC 4524, is designated as either "Timber Operator License" or "Limited Timber Operator License."

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4524 and 4571, Public Resources Code.

HISTORY
1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1022.1. Limited Timber Operator License.

The Director may issue a license for commercial cutting and/or removal of minor forest products as here listed: Christmas trees, tanbark, fuelwood, root crown burls, posts and split products, but excluding poles, piling, sawlogs, veneer logs and pulp logs. Said license is designated as "Limited Timber Operator License."

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4571 and 4577, Public Resources Code.

HISTORY
1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1022.2. License for Site Preparation.

A timber operator's license is required for mechanical site preparation activities undertaken before the stocking standards of the Act and rules have been met in a logging area. Site preparation activities involving broadcast burning are exempt from timber operator licensing requirements.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4524 and 4571, Public Resources Code.

HISTORY
1. New section filed 12–4–89; operative 2–1–90 (Register 89, No. 50).

§ 1022.3. License for Erosion Control Maintenance.

A timber operator license is not required for the maintenance of erosion control structures following the completion of timber operations described in an approved work completion report for a THP.

NOTE: Authority cited: Sections 4524, 4527 and 4551, Public Resources Code. Reference: Sections 4524 and 4571, Public Resources Code.

HISTORY
1. New section filed 12–20–89; operative 2–1–90 (Register 90, No. 3).

§ 1023. Issuance of License.

Upon receipt of a proper written application and payment of the prescribed license fee, the Director may issue either a Timber Operator License or a Limited Timber Operator License.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4571 and 4577, Public Resources Code.

HISTORY
1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1023.1. Company, Corporation and Partnership Licenses.

Each subsidiary of companies or corporations, and each division thereof that is a separate unit and separately managed, which conducts timber operations shall be individually licensed. Partnership consisting of individual licensees and operating as a copartnership must obtain a license as a partnership. A license is not transferable.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4571 and 4575, Public Resources Code.

HISTORY
1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1024. Application Form and Content [*Effective until 1–1–99*].

Application for a license, or renewal of license, in a form prescribed by the Director, shall contain, and is not limited to, the following information:

(a) Specific type of license requested.

(b) Name and mailing address of applicant(s).

(c) Name and address of principal officer in California for service of documents.

(d) Designation of entity making application.

(e) If a corporation, name of state of incorporation, address of home office, address of California office, name and address of resident agent in California for service, and the name and address of the individual who will attend the timber operator education program for the corporation, if required.

(f) If not a California corporation, or if an individual, firm, or partnership that has no office in California, name and address of a natural person that applicant designates as resident agent in California for service.

[The next page is 364.7.]

(g) The application must contain a consent for the Director, and agents and employees thereof, to inspect timber operations of the applicant.

(h) Timber Operator License Application shall have a Certificate of Completion from a timber operator education program approved by the Director attached to the application unless, the applicant has held a prior license and is applying for a renewal as specified in Section 1026 of this article.

(i) An application for a limited timber operators license shall have either a Certificate of Completion from an approved timber operator education program or a completed questionnaire attached to the application, unless the applicant has held a prior license and is applying for a renewal as specified in Section 1026 of this article. The questionnaire shall be administered to the applicant by the Director either orally or in writing. The questionnaire shall be prepared or approved by the Director and shall pertain to the content of the regulations of the Board (Title 14, CCR Division 1.5).

NOTE: Authority cited: Sections 4551, 4553 and 4572, Public Resources Code. Reference: Sections 4572 and 4577, Public Resources Code.

HISTORY

1. New subsection (h) filed 11–1–79; effective thirtieth day thereafter (Register 79, No. 44).
2. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
3. Amendment of subsection (g) and repealer of subsection (h) filed 12–11–86; effective upon filing (Register 86, No. 50).
4. Amendment of subsection (e) and new subsections (h) and (i) filed 11–9–88; operative 1–1–89 (Register 88, No. 47).
5. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17). *Text of version effective through 12–31–98 retained for reference.*

§ 1024. Application Form and Content [*Effective 1–1–99*].

Application for a license, or renewal of license, in a form prescribed by the Director, shall contain, and is not limited to, the following information:

(a) Specific type of license requested.

(b) Name in which license is to be issued.

(c) Name, mailing address, and street address of applicant.

(d) Satisfactory proof of identity.

(e) Name and address of principal officer in California for service of documents.

(f) Name, mailing address, and telephone number of the insurance agent providing the Insurance Certificate when such certificate is required by Public Resource Code section 4572.

(g) If a corporation, name of state of incorporation, address of home office, if different from (c) above, address of California office, name and address of resident agent in California for service, and the name and address of the individual who will attend the timber operator education program for the corporation, if required.

(h) If not a California corporation, or if an individual, firm, or partnership that has no office in California, name and address of a natural person that applicant designates as resident agent in California for service.

(i) The application must contain a consent for the Director, and agents and employees thereof, to inspect timber operations of the applicant.

(j) Timber Operator License Application shall have a Certificate of Completion from a timber operator education program approved by the Director attached to the application, unless the applicant has held a prior license.

(k) An application for a limited timber operator license shall have either a Certificate of Completion from an approved timber operator education program or a completed questionnaire attached to the application, unless the applicant has held a prior license. The questionnaire shall be administered to the applicant by the Director either orally or in writing. The questionnaire shall be prepared or approved by the Director and shall pertain to the content of the regulations of the Board (Title 14, CCR Division 1.5).

NOTE: Authority cited: Sections 4551, 4553 and 4572, Public Resources Code. Reference: Sections 4572 and 4577, Public Resources Code.

HISTORY

1. New subsection (h) filed 11–1–79; effective thirtieth day thereafter (Register 79, No. 44).
2. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
3. Amendment of subsection (g) and repealer of subsection (h) filed 12–11–86; effective upon filing (Register 86, No. 50).
4. Amendment of subsection (e) and new subsections (h) and (i) filed 11–9–88; operative 1–1–89 (Register 88, No. 47).
5. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).
6. Editorial correction of subsection (k) (Register 99, No. 26).

§ 1024.1. Timber Operator Education.

The Director shall only approve timber operator education programs which meet the following standards:

(a) The course shall use education materials approved by the Director. The Director shall only approve materials which address the contents of the rules of the Board.

(b) Certificate of Completion shall be given when an applicant successfully completes the timber operator education program. An applicant shall have successfully completed the timber operator education program if he/she has attended the entire program and has completed all training materials.

The Director may conduct the timber operator education programs in addition to or in–lieu of approving programs conducted by others.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4572 and 4577, Public Resources Code.

HISTORY

1. New section filed 11–9–88; operative 1–1–89 (Register 88, No. 47).

§ 1024.2. Qualifying Experience.

"Work experience", within the meaning of Public Resources Code section 4572(b)(2)(A), shall include, but not be limited to, such timber operation activities as felling, bucking and limbing of logs, cable rigging, choker setting, heavy equipment operation, yarding, loading and hauling of logs, logging road building and waterbreak installation, or on site assistance with any of these activities. General construction and reforestation work such as brush removal and tree planting are not qualifying experience. Direct supervision of timber operations shall meet the requirement for having experience in "two or more areas [activities] or employment".

NOTE: Authority cited: Sections 4551, 4553 and 4572, Public Resources Code. Reference: Sections 4572 and 4577, Public Resources Code.

HISTORY

1. New section filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1024.3. Application Processing.

(a) The applicant shall be informed by the Department, in writing and postmarked, within 15 working days of receipt of the application, whether such application is complete and accepted for filing, or is deficient and what specific information is required.

(b) The applicant shall be informed of the Department's decision on licensure, in writing and postmarked, within 15 working days of filing a complete application.

(c) The actual minimum, median and maximum processing times for an application from the time of receipt of the application until the Department makes a final decision on the application are:

(1) Minimum: 1 hour

(2) Median: 5 days

(3) Maximum: 168 days

NOTE: Authority cited: Section 15376, Government Code; and Sections 4553, 4571, 4572 and 4577, Public Resources Code. Reference: Section 15376, Government Code; and Sections 4553, 4571, 4572 and 4577, Public Resources Code.

HISTORY

1. New section filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1024.4. Returned Checks.

Any fee payment document which is returned unpaid for any reason from the institution upon which the document is drawn, shall render the application incomplete, and any license issued pursuant to that fee pay-

ment document shall be invalid at the end of 10 working days following written notice to the applicant. If payment by cash, cashier's check, or money order is received within the 10 day period, such license shall continue without interruption. If payment is not received within the 10 working day period, the license shall remain invalid and a new license shall be required.

NOTE: Authority cited: Sections 4553, 4571, 4572 and 4577, Public Resources Code. Reference: Sections 4553, 4571, 4572 and 4577, Public Resources Code.

HISTORY

1. New section filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1024.5. Insurance Maintenance.

Licensees shall maintain in force an insurance policy, if required, as defined in subsection (c) of section 4572. Failure or refusal to do so shall render the application incomplete, and a license shall be invalid. If an Insurance Certificate showing insurance coverage is received by the Department demonstrating no lapse in insurance coverage, the license shall continue without interruption. If no such Insurance Certificate is received, the license shall remain invalid and a new license shall be required.

NOTE: Authority cited: Sections 4553 and 4572, Public Resources Code. Reference: Section 4572, Public Resources Code.

HISTORY

1. New section filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1025. Fees for Licenses [*Effective until 1–1–99*].

The following license fees shall prevail:

(a) "Timber Operator License" ..... $75.00.
Renewal fee $50.00 per year.

(b) "Limited Timber Operator License" ..... $35.00.
Renewal fee $25.00 per year.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Section 4572, Public Resources Code.

HISTORY

1. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17). *Text of version effective through 12–31–98 retained for reference.*

§ 1025. Fees for Licenses [*Effective 1–1–99*].

(a) The following annual license fees shall prevail:

1. "Timber Operator License"
New License ..... $75.00.
Renewal License ..... $50.00.
2. "Limited Timber Operator License"
New License ..... $35.00.
Renewal License ..... $25.00.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Section 4572, Public Resources Code.

HISTORY

1. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1026. License Renewal [*Effective until 1–1–99*].

Licenses are good only for the calendar year issued. An application for renewal shall be submitted to the Director prior to January 1st of the year for which the license is to be issued. All licenses for which renewal applications with the required fee not received by the Director, or postmarked, by the end of the first workday after January 1st shall expire and a new license shall be required.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4572 and 4574, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
2. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17). *Text of version effective through 12–31–98 retained for reference.*

§ 1026. License Renewal [*Effective 1–1–99*].

Licenses are good only for the calendar years issued.

(a) New licenses. For a new license, a person shall submit the appropriate and complete application, insurance certificates, if needed, and fees. A new license shall be valid from the date of issuance, to January 1st of odd–numbered years for odd–numbered licenses, and January 1st of even–numbered years for even–numbered licenses. The fee for a newly issued license shall be based on a proration of the annual rate as provided in section 1025.

(b) Renewals. A complete application for renewal shall be submitted to the Director on alternating years, with odd–numbered licenses expiring on January 1st of odd–numbered years, and even–numbered licenses expiring on January 1st of even–numbered years. All licenses for which renewal applications, with the required fee, are not received by the Director, or postmarked, on or before December 1st, shall expire on January 1st, and a new license shall be required.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4572 and 4574, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
2. Amendment filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1027. License Denial.

An application for a license or an application for renewal of a license may be denied by the Director upon a statement of issues in accordance with the procedures set forth in Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4573, 4574 and 4577, Public Resources Code.

HISTORY

1. Editorial correction (Register 78, No. 45).
2. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1027.1. Basis of Denial.

The Director may deny issuance of any license either upon original application or upon application for renewal for any of the reasons set forth in PRC 4573. In addition, the Director may deny any application for renewal until any violations of the rules and regulations of the Board and provisions of the Forest Practice Act by the applicant as exist on the date of submission of the renewal application, of which the applicant has been notified and given reasonable opportunity to correct, are corrected on such reasonable terms and conditions as the Director may require, including planting of reasonable numbers of seedlings and young growth trees to restock cutover lands.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4573, 4574 and 4577, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1027.2. Partnership and Corporation Denials.

Licenses and renewals may be denied partnerships where one of the partners had uncorrected violations within 3 years of the application. If a corporation is owned or controlled by a person denied a license or a renewal, the corporation may be denied a license or a renewal pending satisfactory correction of the deficiencies and adherence to the Forest Practice Act and rules, or removal of said person.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Sections 4571, 4573 and 4574, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1027.3. Multiple Licenses.

Only one (1) license may be issued to any partnership, corporation, or individual business entity.

NOTE: Authority cited: Sections 4553, 4570, 4571, 4572 and 4573, Public Resources Code. Reference: Sections 4553, 4570, 4571, 4572 and 4573, Public Resources Code.

HISTORY

1. New section filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

§ 1029. License Availability.

The license, or copy of it, shall be available for inspection at the site of active timber operations.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Section 4571, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).

§ 1030. Licensee: Change of Address [*Effective until 1–1–99*].

The licensee shall notify the Director at the Sacramento office in writing within 15 days of any change of address.

NOTE: Authority cited: Sections 4551 and 4572, Public Resources Code. Reference: Section 4571, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
2. Amendment of section and NOTE filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17). *Text of version effective through 12–31–98 retained for reference.*

§ 1030. Licensee: Change of Address [*Effective 1–1–99*].

a. The licensee shall:

1. Maintain a California mailing address to which official written communications from the Director shall be sent and received.

2. Provide such address on licensee's application.

3. Notify the Director at the Sacramento office in writing within 15 days of any change of address.

b. The Director shall maintain all names and mailing addresses in a registry to be used for service of documents pursuant to section 11505 of the Government Code.

NOTE: Authority cited: Section 11505, Government Code; and Sections 4551 and 4572, Public Resources Code. Reference: Section 11505, Government Code; and Section 4571, Public Resources Code.

HISTORY

1. Editorial correction of NOTE filed 12–3–82 (Register 82, No. 49).
2. Amendment of section and NOTE filed 4–20–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 17).

Article 2. Timber Harvesting Plan

§ 1031. Timber Harvesting Plan Availability.

NOTE: Authority cited: Sections 4551, 4552, 4582, Public Resources Code. Reference: Section 4582.5, Public Resources Code.

HISTORY

1. New section filed 11–1–79; effective thirtieth day thereafter (Register 79, No. 44).
2. Repealer field 9–26–89; operative 10–26–89 (Register 89, No. 40).

§ 1032. Timber Harvesting Plan Filing Locations.

The Timber Harvesting Plan for proposed timber operations required by Article 7, Chapter 8, Part 2, Division 4 of the Public Resources Code (commencing with Section 4581) shall be submitted in writing with the Director on a form that meets these regulations at the following Department of Forestry offices as appropriate:

Office Location	*For Timber Operations in:*
Chief California Department of Forestry North Coast Region P. O. Box 670 135 Ridgeway Avenue Santa Rosa, California 95401	Humboldt, Del Norte, Mendocino, Sonoma, Marin, Lake, Napa, Colusa, Solano, Yolo, and western Trinity counties.
Office Location	*For Timber Operations in:*
Chief California Department of Forestry Sierra Cascade Region P. O. Box 2238 1000 West Cypress Avenue Redding, California 96001	Siskiyou, Modoc, Shasta, eastern Trinity, Lassen, Tehama, Glenn, Butte, Sutter, Plumas, Yuba, Sierra, Nevada and Placer counties.
Chief California Department of Forestry South Sierra Region 1234 East Shaw Avenue Fresno, California 93710	El Dorado, Amador, Alpine, Calaveras, Tuolumne, Mariposa, Merced, Madera, Fresno, Tulare and Kern counties.
Chief California Department of Forestry Central Coast Region 2221 Garden Road Monterey, California 93940	San Mateo, Santa Cruz, Santa Clara, Contra Costa, Alameda, Stanislaus, San Benito, Monterey, San Luis Obispo and Santa Barbara counties.
Chief California Department of Forestry Southern California Region 2524 Mulberry Street P. O. Box 1067 Riverside, California 92502	Ventura, Los Angeles, San Bernardino, Orange, Riverside, Inyo, Mono, San Diego and Imperial counties.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Section 4581, Public Resources Code.

§ 1032.7. Plan Submittal and Notice of Intent.

(a) A plan shall be submitted by the person who owns, leases, contracts, or operates on timberland to harvest timber for commercial purposes.

(b) Where the land or timber is owned or operated by parties other than the person executing the plan the person submitting the plan shall give prompt written notice of such plan to those parties.

(c) The RPF preparing the plan shall submit to the Director, with the plan, a Notice of Intent to Harvest Timber (Notice of Intent) (1) if any proposed plan boundary lies within 300 feet of any property not owned by the timberland owner, or (2) any plan amendment that changes a plan boundary so that the new boundary lies within 300 feet of property not owned by the timberland owner, or (3) with any plan amendment that changes the silvicultural method if a Notice of Intent was required for the plan by condition (1) or (2) above.

(d) A Notice of Intent shall include the following information:

(1) The names of the timberland owner, Registered Professional Forester who prepared the plan, and the plan submitter.

(2) The location of the plan area by county, section, township, and range, and the approximate direction and distance to the plan area from the nearest community or well–known landmark.

(3) The name of and distance from the nearest perennial stream and major water course flowing through or downstream from the plan area.

(4) The acres proposed to be harvested.

(5) The regeneration methods and intermediate treatments to be used.

(6) The estimated earliest date that the Director may approve the plan. This is 15 days from receipt of the plan by the Department, except in counties for which rules and regulations have been adopted pursuant to Section 4516.5 or 4516.8 of the Public Resources Code where the earliest date the Director may approve the plan is 45 days after receipt of the plan by the Department.

(7) A statement that the public may review the plan at the appropriate Regional Office of the Department of Forestry and Fire Protection and that a copy of the plan may be obtained from the Department upon payment of the applicable charge.

(8) A map which provides the approximate boundary of the THP area, a map legend, and a scale. This map shall be posted with the Notice of Intent.

(9) A statement that questions or concerns regarding the specific Timber Harvesting Plan should be directed to the applicable CDF Regional Office for public input incorporation into an Official Response Document.

(10) A statement of whether there is a known overhead electric power line on the proposed plan area except lines from transformers to service panels.

(e) The RPF preparing the plan shall furnish to the Department at the time of submission of the plan, the names and mailing addresses of all property owners within 300 feet of the plan boundary. Either a list compiled from the latest equalized assessment roll or a list provided by a title company doing business in California compiled within 60 days of submission of the plan shall be deemed sufficient for compliance with the subsection.

(f) The Department shall mail copies of the Notice of Intent within 2 working days of receipt of the plan to all persons identified in (e) above.

(g) Prior to plan submission, the person submitting the plan shall post a copy of the Notice of Intent including a map as described in (d)(8) at a conspicuous location on the public road nearest the plan site. Said Notice of Intent shall be on colored paper or identified with colored flagging so as to be easily visible to the public.

NOTE: Authority cited: Sections 4551 and 4582.3, Public Resources Code. Reference: 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.

HISTORY

1. Renumbering and amendment of section 1034.1 to section 1037.7 filed 2–2–82; effective thirtieth day thereafter (Register 82, No.6). For history of former section, see Register 79, No.44.
2. Amendment of subsection (e) filed 10–19–82; effective thirtieth day thereafter (Register 86, No.2).
3. Amendment filed 1–8–86; effective thirtieth day thereafter (Register 86, No.2)
4. Amendment of subsections (c), (d)(7) and (e) filed 5–23–90; operative 6–22–90 (Register 90, No. 27).
5. Amendment filed 5–27–92; operative 6–29–92 (Register 92, No. 25).
6. New subsection (d)(10) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 1032.8. Notice of Intent—Distribution by Director.

The Director shall distribute copies of each Notice of Intent within 2 working days of receipt to:

(a) The office of the County Clerk of the county in which operations are proposed for posting at the customary place for posting environmental affairs.

(b) The local Ranger Unit headquarters for posting.

(c) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

NOTE: Authority cited: Sections 4551, 4551.5, 4552 and 21092, Public Resources Code. Reference: Sections 4581, 4582, 4582.4, 21080.5, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1032.9. Request for Notification of Timber Harvesting Plan Submission.

(a) Each Regional Office of the Department of Forestry shall maintain a list of timber harvesting plans submitted each day.

(b) When any person requests notice of submissions of timber harvesting plans, the Director shall provide the person, free of charge, with a copy of the list of timber harvesting plans submitted on the date or dates requested. If no specific date is requested, a copy of the lists for the preceding week shall be provided.

NOTE: Authority cited: Sections 4551, 4551.5, 4552 and 4582.4, Public Resources Code; Section 14880, Government Code. Reference: Sections 4581, 4582, 4582.4, 21080.5, 21081 and 21092, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1037.2 to Section 1032.9 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6). For history of former section, see Register 78, No. 31.

§ 1032.10. Request for Information on Domestic Water Supplies.

The THP submitter shall provide notice by letter to all other landowners within 1,000 feet downstream of the THP boundary whose ownership adjoins or includes a Class I, II, or IV watercourse(s) which receives surface drainage from the proposed timber operations. The notice shall request that the THP submitter be advised of surface domestic water use from the watercourse, within the THP or within 1,000 feet downstream of the THP boundary. When required to notice by letter publication shall also be given one time by the THP submitter in a newspaper of general circulation in the area affected by the proposed project. Such letter and publication shall notify the party of the proposed timber operation and describe its legal location and identify the name, if any, of the watercourse it may effect. The letter and publication shall request a response by the property owner within ten days of the post–marked date on the letter or the date of publication as appropriate. The RPF may propose, with justification and explanation, an exemption to such notification requirements, and the Director may agree. Copies of either notice, proof of service and publication, and any responses shall be attached to the THP when submitted. If domestic use is noted, the plan shall contain mitigations necessary to protect domestic water use. The plan shall not be submitted until ten days after the above notification(s) have been done.

NOTE: Authority cited: Sections 4551 and 4582.3, Public Resources Code. Reference: Sections 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1). For prior history, see Register 92, No. 40.
2. Amendment filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 1033. Filing Date.

The filing date is the date on which the plan is found by the Director to be accurate, complete, and in proper order.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582 and 4583, Public Resources Code.

§ 1034. Contents of Plan.

The plan shall serve two functions: to provide information the Director needs to determine whether the proposed timber operation conforms to the rules of the Board; and to provide information and direction to timber operators so that they comply with the rules of the Board. For the plan to serve these functions, it shall, as a minimum, contain the following information:

(a) Name, address, and telephone number of the timber owner(s).

(b) Name, address, and telephone number of the timberland owner(s).

(c) Name, address, telephone number, and license number of the timber operator(s).

(d) Name, address, and telephone number of a person to be contacted on the operation who will be responsible for the conduct of the timber operation. If unknown at the time of plan submission, it shall be provided prior to the start of timber operations.

(e) Name, address, and telephone number of the plan submitter. If the submitter is not a person indicated in (a), (b), or (c) above, an explanation of his/her authority to submit the plan shall be provided.

(f) Name, address, telephone number, and registration number of RPF who prepared the plan. The plan required for timberland conversion does not have to be prepared by an RPF.

(g) A description of the plan area within which timber operations are to be conducted. The description shall include the following:

(1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s),

(2) township, range, and section number(s),

(3) county name(s),

(4) CALWATER 2.2 planning watershed number(s), and

(5) approximate acreage.

(h) The forest district and subdistrict (if any) in which the timber operation is located.

(i) Whether a timberland conversion certificate is in effect, its date of expiration, and its identification number.

(j) Whether a plan is on file with the Department for any part of the plan area for which a Report of Satisfactory Stocking has not been issued by the Department (show plan number).

(k) Expected dates of commencement/completion of timber operations.

(*l*) The types of forest products to be harvested and if management of broadleaf or optional species is being proposed.

(m) Identity of the regeneration methods, intermediate treatments, special harvesting methods, alternative prescriptions, and any information specified by the district rules. Also for THPs that do not reference an approved Sustained Yield Plan, or do not demonstrate achievement of MSP pursuant to 913.11(c), the following applies:

(1) The plan shall provide a description of the stand before and after harvesting including: volume, growth projection, stocking, and species composition.

(2) The Director may require such additional information as necessary and feasible to demonstrate how maximum sustained production of high quality timber products will be achieved for an ownership within a THP.

(n) Type of yarding (logging) systems and equipment to be used. Yarding systems will be placed in one or more of the following groups:

(1) Animal.

(2) Tractor, skidder, forwarder.

(3) Cable.

(A) Ground–lead.

(B) High–lead.

(C) Skyline.

(4) Balloon, helicopter.

(5) Other, as explained in the plan.

(o) Explanation and location of new roads wider than single lane with turnouts.

(p) Whether the RPF has informed the timber owner, timberland owner, and timber operator of their responsibilities for compliance with the stocking requirements of the Act and rules, and for maintenance of erosion control structures.

(q) Whether the RPF will be supplying the timber operator with a copy of the approved THP.

(r) How the requirements of 14 CAC 1032.7(f) are to be met.

(s) If an archaeological survey has been made on the area to be harvested.

(t) If there are any recorded archaeological or historical sites in the area to be harvested, and how the sites are to be protected if they exist.

(u) Where the timber owner or timberland owner has not signed the plan, indication that written notice of such plan has been given to either or both of these persons, as required by 14 CAC 1032.7(b).

(v) Whether there are any adverse insect, disease, or pest problems in the plan area and what mitigating measures, if any, will be used to improve the health and productivity of the stand.

(w) Information on the presence and protection of known habitat or individuals of any listed species and information on the presence and protection of non–listed species which may be significantly impacted by the timber operation.

(x) On titled USGS (if available) or equivalent topographic maps of a scale not less than 2″ to the mile, the information in subsections (1–4), (8), (9), and (11–13) shall be clearly shown. Additional maps, which may be topographic or planimetric, may be used to provide the information required in the other subsections or show specific details, to improve map clarity. The appurtenant roads referenced in subsection (4) may be shown on a map which may be planimetric with a scale as small as one–half inch equals one mile. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreages.

(1) boundaries of logging area (shall be shown on quadrangle map or its equivalent).

(2) boundaries of regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied.

(3) boundaries of yarding (logging) systems, if more than one system is to be used.

(4) location of public and those private roads to be used for timber operations within the plan area, and private roads appurtenant to the timber operations where such roads are under the ownership or control of the timber owner, timberland owner, timber operator, or submitter of the plan, and classification of all proposed and existing logging roads as permanent, seasonal, or temporary roads.

(5) probable location of proposed and existing landings in the watercourse and lake protection zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves substantial excavation.

(6) road failures on existing roads to be reconstructed.

(7) location of all watercourse crossings of classified watercourses except temporary crossings of Class III watercourses without flowing water during timber operations at that crossing.

(8) location of erosion hazard rating areas, if more than one rating exists.

(9) location of all watercourses with Class I, II, III, or IV waters.

(10) location of known unstable areas or slides.

(11) location of understocked areas prior to timber operations, and other areas not normally bearing timber to at least a 20–acre minimum, or as specified in the district rules.

(12) location of boundaries of timber–site classes needed for determination of stocking standards to be applied, down to at least a 20–acre minimum or as specified in the district rules.

(13) location of main ridge tops on the logging area suitable for fire suppression efforts that will require the felling of snags.

(14) location of Coastal Commission Special Treatment Areas or any special treatment area.

(15) location for which heavy equipment use is proposed on unstable areas, or on areas for which tractor use is proposed beyond the limitations of the standard forest practice rules.

(16) Location of any in lieu use of heavy equipment and location of roads other than crossings in the WLPZ, marshes, wet meadows, and other wet areas.

(17) Location of any new or reconstructed road segment(s) that exceed an average 15% grade for over 200 feet.

(y) Any additional information that is submitted on separate pages shall be clearly marked "plan addendum" and shall bear the date on which it was prepared.

(z) Explanation and justification for, and specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and on areas where slopes average over 50% and the EHR is high or extreme.

(aa) Explanation and justification for tractor operations in areas designated for cable yarding.

(bb) Winter period operating plan where appropriate.

(cc) Explanation and justification for use of watercourse, marshes, wet meadows, and other wet areas as landings, roads, or skid trails.

(dd) Explanation and justification of any in–lieu practices for watercourse and lake protection.

(ee) Explanation of alternatives to standard rules for harvesting and erosion control.

(ff) Explanation and justification for landings that exceed the maximum size specified in the rules.

(gg) Any other information required by the rules or the Act to be included in the plan. The district rules provide for exceptions and alternatives to standard requirements that require inclusion of information in the THP.

(hh) Where roads, watercourse crossings, and associated landings in the logging area will be abandoned, the methods for abandonment shall be described.

(ii) On a map complying with subsection 1034(x), the locations and classifications of roads, watercourse crossings, and landings to be abandoned shall be shown.

(jj) A general description of physical conditions at the plan site, including general soils and topography information, vegetation and stand conditions, and watershed and stream conditions.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4527, 4582 and 4583, Public Resources Code.

HISTORY

1. Amendment filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).
2. New subsections (hh) and (ii) filed 12–20–89; operative 2–1–90 (Register 90, No. 3).
3. Amendment of subsection (w) filed 8–12–91; operative 9–11–91 (Register 92, No. 13).
4. New subsection (jj) filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
5. New subsections (kk) and (*ll*) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (m) and new subsections (m)(1) and (m)(2) filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
7. Subsections (kk) and (*ll*) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
8. Amendment of subsections (m)–(m)(1) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).

9. Amendment of subsections (x), (x)(4), and (x)(7)–(8), and new subsections (x)(15)–(17) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
10. Amendment of subsection (d) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
11. Editorial correction adding inadvertently omitted introductory paragraph (Register 2000, No. 47).
12. Repealer of subsection (g) and new subsections (g)–(g)(5) filed 11–21–2000; operative 1–1–2001 (Register 2000, No. 47).

§ 1034.1. Plan Submittal.

NOTE: Authority cited: Sections 4551, 4551.5, 21080 and 21092, Public Resources Code; *NRDC* v. *Arcata National Corp.* (1976), 59 Cal. App. 3d 959; *Horn* v. *Ventura County* (1979), 24 Cal. 3d 605. Reference: Sections 4551, 4581, 4582, 4582.5, 4592, 21080 and 21092, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1034.1 to Section 1032.7 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1034.2. Professional Judgment.

Where the rules or these regulations provide for the exercise of professional judgment by the forester (RPF) or the Director, the parties, at the request of either party shall confer on the plan area during the initial pre-harvest inspection provided for by law to reach agreement if possible on the conditions and standards to be included in the plan.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

§ 1035. Plan Submitter Responsibility.

The plan submitter, or successor in interest, shall:

(a) Ensure that an RPF conducts any activities which require an RPF.

(b) Provide the RPF preparing the plan or amendments with complete and correct information regarding pertinent legal rights to, interests in, and responsibilities for land, timber, and access as these affect the planning and conduct of timber operations.

(c) Sign the THP certifying knowledge of the plan contents and the requirements of this section.

(d)(1) Retain an RPF who is available to provide professional advice to the LTO and timberland owner upon request throughout the active timber operations regarding:

(A) the plan,

(B) the Forest Practice Rules, and

(C) other associated regulations pertaining to timber operations.

(2) The plan submitter may waive the requirement to retain an RPF to provide professional advice to the LTO and timberland owner under the following conditions:

(A) the plan submitter provides authorization to the timberland owner to provide advice to the LTO on a continuing basis throughout the active timber operations provided that the timberland owner is a natural person who personally performs the services of a professional forester and such services are personally performed on lands owned by the timberland owner;

(B) the timberland owner agrees to be present on the logging area at a sufficient frequency to know the progress of operations and advise the LTO, but not less than once during the life of the plan; and

(C) the plan submitter agrees to provide a copy of the portions of the approved THP and any approved operational amendments to the timberland owner containing the General Information, Plan of Operations, THP Map, Yarding System Map, Erosion Hazard Rating Map and any other information deemed by the timberland owner to be necessary for providing advice to the LTO regarding timber operations.

(3) All agreements and authorizations required under 14 CCR § 1035(d)(2) shall be documented and provided in writing to the Director to be included in the plan.

(e) Within five (5) working days of change in RPF responsibilities for THP implementation or substitution of another RPF, file with the Director a notice which states the RPF's name and registration number, address, and subsequent responsibilities for any RPF required field work, amendment preparation, or operation supervision. Corporations need not file notification because the RPF of record on each document is the responsible person.

(f) Provide a copy of the portions of the approved THP and any approved operational amendments to the LTO containing the General Information, Plan of Operations, THP Map, Yarding System Map, Erosion Hazard Rating Map and any other information deemed by the RPF to be necessary for timber operations.

(g) Notify the Director prior to commencement of site preparation operations. Receipt of a burning permit is sufficient notice.

(h) Disclose to the LTO, prior to the start of operations, through an on-the-ground meeting, the location and protection measures for any archaeological or historical sites requiring protection if the RPF has submitted written notification to the plan submitter that the plan submitter needs to provide the LTO with this information.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 757, 4582 and 4582.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 9–26–89; operative 10–26–89 (Register 89, No. 40). For prior history, see Register 88, No. 32.
2. New subsection (f) filed 12–4–89; operative 2–1–90 (Register 89, No. 50).
3. Amendment of subsection (e) filed 11–7–96; operative 1–1–97 (Register 96, No. 45).
4. New subsection (g) filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
5. New subsections (d)(1)–(d)(3), subsection relettering, amendment of newly designated subsection (g) and amendment of NOTE filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1035.1. Registered Professional Forester Responsibility.

(a) Upon submission of a THP, the Registered Professional Forester (RPF) who prepares and signs a plan is responsible for the accuracy and completeness of its contents.

(1) The RPF preparing the plan shall state in the THP the work which will be performed by the RPF plan preparer (beyond preparation of the THP and attending the pre-harvest inspection if requested by the Director), and any additional work requiring an RPF which the plan preparer does not intend to perform. This may include, but is not limited to, field work in identifying watercourse and lake protection zones or special treatment areas, marking trees, or other activities. The RPF is only responsible for the activities set forth in the plan when employed for that purpose, or required by the rules of the Board. The RPF shall state whether or not he or she has been retained to provide professional advice throughout the timber operations.

(2) The RPF preparing the plan shall in writing, inform the plan submitter(s) of their responsibility pursuant to Section 1035 of this Article, and the timberland owner(s) of their responsibility for compliance with the requirements of the Act and where applicable, Board rules regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

(b) Upon entering into an agreement to accept responsibility for any part of the preparation or implementation of a plan or any work beyond the preparation of a plan, including providing professional advice; all responsible RPFs shall disclose to the real party of interest for whom the RPF is providing professional forestry services any known current or potential conflict of interest the RPFs have with regard to the timber or land that is subject to operations under the plan. All responsible RPFs shall disclose to the timberland owner and plan submitter whether they are the real party of interest for whom the RPF is providing professional forestry services.

(c) Disclosure of newly discovered conflicts of interest an RPF has with regard to the plan submitter, timberland owner, timber owner, the LTO and timber purchaser, pertaining to the timber or land that is subject to operations under the plan, shall be required as long as an RPF has responsibilities relative to a plan. The disclosure shall include identification of the real party of interest for whom the RPF is providing professional forestry services.

(d) All disclosures made between an RPF and an affected party pursuant to this section may be kept confidential.

(e) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall be present, or ensure that the

RPF's supervised designee is present, on the logging area at a sufficient frequency to know the progress of operations and advise the LTO and timberland owner, but not less than once during the life of the plan.

(f) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall inform the LTO during operations of any mitigation measures incorporated into the plan that are intended to address operations that have a high likelihood of resulting in immediate, significant and long-term harm to the natural resources of the State if such mitigation measures are not strictly applied to minimize such impacts.

(g) The RPF shall without delay notify in writing the LTO, the plan submitter, and the Department of a decision to withdraw professional services from the plan.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4583.2 and 4583.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 9-26-89; operative 10-26-89 (Register 89, No. 40). For prior history, see Registers 88, No. 32 and 79, No. 44.
2. Amendment filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1035.2. Interaction Between RPF and LTO.

After the start of the plan preparation process but before commencement of operations, the responsible RPF or supervised designee familiar with on-site conditions, shall meet with either the LTO, or supervised designee, who will be on the ground and directly responsible for the harvesting operation. The meeting shall be on-site if requested by either the RPF or LTO. An on-site meeting is required between the RPF or supervised designee familiar with on-site conditions and LTO to discuss protection of any archaeological or historical sites requiring protection if any such sites exist within the site survey area pursuant to Section 929.2[949.2, 969.2](b). If any amendment is incorporated to the plan by an RPF after the first meeting, that RPF or supervised designee familiar with on-site conditions shall comply with the intent of this section by explaining relevant changes to the LTO; if requested by either that RPF or LTO, another on-site meeting shall take place. The intent of any such meeting is to assure that the LTO:

(a) Is advised of any sensitive on-site conditions requiring special care during operations.

(b) Is advised regarding the intent and applicable provisions of the approved plan including amendments.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

HISTORY

1. Repealer and new section filed 9-26-89; operative 10-26-89 (Register 89, No. 40). For prior history, see Registers 88, No. 32 and 79, No. 44.
2. Amendment filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment first paragraph filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1035.3. Licensed Timber Operator Responsibilities.

Each affected Licensed Timber Operator shall:

(a) Sign the plan and major amendments to the plan, or sign and file with the Director a facsimile of such plan or amendments, agreeing to abide by the terms and specifications of the plan. This shall be accomplished prior to implementation of the following; which the affected LTO has responsibility for implementing:

(1) those operations listed under the plan and

(2) those operations listed under any amendments proposing substantial deviations from the plan.

(b) Inform the responsible RPF or plan submitter, either in writing or orally, of any site conditions which in the LTO's opinion prevent implementation of the approved plan including amendments.

(c) Be responsible for the work of his or her employees and familiarize all employees with the intent and details of the operational and protection measures of the plan and amendments that apply to their work.

(d) Keep a copy of the applicable approved plan and amendments available for reference at the site of active timber operations. The LTO is not required to possess any confidential addenda to the plan such as the Confidential Archaeological Addendum, nor is the LTO required to keep a copy of such confidential plan addenda at the site of active timber operations.

(e) Comply with all provisions of the Act, Board rules and regulations, the applicable approved plan and any approved amendments to the plan.

(f) In the event that the LTO executing the plan was not available to attend the on-site meeting to discuss archaeological site protection with the RPF or supervised designee familiar with on-site conditions pursuant to Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO executing the plan to inquire with the plan submitter, timberland owner, or their authorized agent, RPF who wrote the plan, or the supervised designee familiar with on-site conditions, in order to determine if any mitigation measures or specific operating instructions are contained in the Confidential Archaeological Addendum or any other confidential addendum to the plan.

(g) Provide the RPF responsible for professional advice throughout the timber operations an on-site contact employee authorized by the LTO to receive RPF advice.

(h) Keep the RPF responsible for professional advice throughout the timber operations advised of the status of timber operation activity.

(1) Within five days before, and not later than the day of the start-up of a timber operation, the LTO shall notify the RPF of the start of timber operations.

(2) Within five days before, and not later than the day of the shutdown of a timber operation, the LTO shall notify the RPF of the shutdown of timber operations.

(A) The notification of the shutdown of timber operations is not required if the period of the shutdown does not extend beyond a weekend, including a nationally designated legal holiday.

(i) Upon receipt of written notice of an RPF's decision to withdraw professional services from the plan, the LTO or on-site contact employee shall cease timber operations, except for emergencies and operations needed to protect water quality, until the LTO has received written notice from the plan submitter that another RPF has visited the plan site and accepts responsibility for providing advice regarding the plan as the RPF of record.

NOTE: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code. Reference: Sections 4528.5 and 4571, Public Resources Code.

HISTORY

1. New section filed 9-26-89; operative 10-26-89 (Register 89, No. 40).
2. Amendment of subsection (c) and new subsection (e) filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
3. Amendment of subsection (e) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment of first paragraph, new subsections (a)-(a)(2) and (g)-(i) and subsection relettering filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1035.4. Notification of Commencement of Operations.

Each calendar year, within fifteen days before, and not later than the day of the start up of a timber operation, the Timber Harvesting Plan Submitter, unless the THP identifies another person as responsible, shall notify CDF of the start of timber operations. The notification, by telephone or by mail, shall be directed to the appropriate CDF Ranger Unit Headquarters, Forest Practice Inspector, or other designated personnel.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4604, Public Resources Code. Reference: 4551, 4551.5 and 4582, Public Resources Code.

HISTORY

1. New section filed 7-28-88; operative 8-27-88 (Register 88, No. 32).

§ 1036. Deviations.

NOTE: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections 4583.2 and 4591.1, Public Resources Code.

HISTORY

1. Amendment filed 6-26-78 as an emergency; designated effective 7-6-78. Certificate of Compliance included. Issuing agency: Board of Forestry (Register 78, No. 28).
2. Relocation of definitions in former section 1036 to section 895.1 and repealer of section 1036 filed 11-7-96; operative 1-1-97 (Register 96, No. 45).

§ 1036.1. Murrelet Protection before Notice of Completion.

For any THP which has been found to be in conformance with THP filing and review procedures and approved by the Director, but as to

which no Notice of Completion (PRC Section 4586) has been filed, when there is evidence that the THP area contains an active murrelet site or possesses a potential impact to a murrelet, the THP submitter shall immediately request a conference with DFG or U.S. Fish and Wildlife Service (in the event of Federal listing) to determine appropriate measures for protection of the species. Any additional mitigations for species protection which are developed through consultation with DFG or the U.S.F.W.S. after initial submittal of the THP shall be submitted to the Director in the form of an amendment to the THP pursuant to 14 CCR 1036.

NOTE: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections 4583.2 and 4591.1, Public Resources Code.

HISTORY

1. New section filed 11-1-91 as an emergency; operative 11-1-91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 3-2-92 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 5-19-92; operative 6-18-92 (Register 92, No. 26).
3. Editorial correction of HISTORY 1 (Register 95, No. 41).

§ 1037. THP Preharvest Inspection—Filing Return.

Within ten (10) days of the receipt of a plan, or within twenty (20) days of the receipt of a plan to which a Road Management Plan is appended, the Director shall determine if the plan is accurate, complete and in proper order, and if so, the plan shall be filed. During this same period, the Director shall determine if a preharvest inspection is necessary. When the Director finds a plan inaccurate, incomplete, or otherwise not in proper order, the plan shall be returned to the submitter with written specifications of the deficiencies.

If a preharvest inspection is to be held, the LTO who will operate under the plan, if known, shall be invited to participate.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4582.7 and 21080.5, Public Resources Code; *NRDC* v. *Arcata National Corp.* (1976), 59 Cal. App. 3d 959, 131 Cal.Rptr. 172. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. Amendment filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 6).
2. New final paragraph filed 11-30-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).
3. Amendment of first paragraph and NOTE filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1037.1. Notice of Filing.

(a) The Director shall prepare a notice of filing which shall contain the basic information contained in the Notice of Intent (14 CAC 1032.7) plus the assigned timber harvesting plan number.

(b) Within 2 working days of the date the plan is filed, the Director shall transmit copies of the Notice of Filing to:

(1) The person submitting the plan.

(2) The office of the County Clerk of the county in which the operations are proposed. The notice shall be posted at the normal place for posting environmental notices.

(3) The local Ranger Unit headquarters for posting.

(4) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

(5) All public agencies having custodial responsibility for lands within 91.44 meters (300 feet).

(6) Anyone else, as required by Public Resources Code Sections 4582.4 and 4582.6.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4582.4, 4582.6 and 21080.5, Public Resources Code; *NRDC* v. *Arcata National Corp.* (1976), 59 Cal. App. 3d 959. Reference: Sections 4581, 4582, 4582.5, 4582.7, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. Amendment filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1037.2. Request for Notices.

NOTE: Authority cited: Sections 4551, 4551.5, 4552 and 4582.4, Public Resources Code; Section 14880, Government Code. Reference: Sections 4581, 4582, 4582.4, 21080.5, 21081 and 21092, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1037.2 to Section 1032.9 filed 2-2-82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1037.3. Agency and Public Review.

(a) Upon receipt of the filed plan in accordance with 14 CCR 1037, the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the appropriate California Regional Water Quality Control Board, the Department of Conservation, Division of Mines and Geology, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the California Coastal Commission.

(b) The Director shall also transmit a copy of any specific plan to any person who has made a written request therefor.

(c) The Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

The Director shall invite written comments, and will consider these comments. All comments regarding plans shall be in writing and shall be addressed to the Director at the regional office where the plan is filed. Comments from reviewing public agencies shall be considered based on the comments' substance, and specificity, and in relation to the commenting agencies' area(s) of expertise and statutory mandate, as well as the level of documentation, explanation or other support provided with the comments.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.6, 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. Amendment of text and adoption of NOTE filed 8-26-91; operative 8-26-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
2. Amendment of section and NOTE filed 5-31-2000; operative 7-1-2000 (Register 2000, No. 22).

§ 1037.4. Director's Determination.

The Director shall have 30 days from the date the initial inspection is completed (ten of these days shall be after the final interagency review), or in the event the Director determines that such inspection need not be made, 15 days from the date of filing of an accepted plan in accordance with 14 CCR 1037, or such longer period as may be mutually agreed upon by the Director and the person submitting the plan, to review the plan and take public comment. After the initial review and public comment period has ended, the Director shall have up to fifteen working days, or a longer period mutually agreed upon by the Director and the person submitting the plan, to review the public input, to consider recommendations and mitigation measures of other agencies, to respond in writing to the issues raised and to determine if the plan is in conformance with the applicable rules adopted by the Board. The Director shall insure that an interdisciplinary review team has had an opportunity to review each plan. The Director shall review and consider the recommendations made on each plan by the interdisciplinary review team before determining if the plan conforms to the rules of the Board. The Director shall consider all written comments regarding the plan.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. Amendment filed 8-3-78; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 78, No. 31).
2. Amendment filed 8-9-83; designated effective 10-1-83 (Register 83, No. 37).
3. Amendment filed 9-17-90; operative 10-17-90 (Register 90, No. 43).
4. Editorial correction of printing error in HISTORY 3. (Register 91, No. 31).
5. Change without regulatory effect amending section filed 5-22-2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 21).

§ 1037.5. Review Teams to Be Established.

Interdisciplinary review teams shall be established by the Director to review plans and assist the Director in the evaluation of proposed timber operations and their impacts on the environment.

(a) Review Team Composition. Each review team, when possible, shall consist of a representative from each of the following agencies: the appropriate California Regional Water Quality Control Board, Department of Fish and Game, Department of Conservation, Division of Mines and Geology, a representative of county government when the county government so requests, California Coastal Commission (for plans in the coastal zone), California Tahoe Regional Planning Agency (for plans in the Tahoe Basin) and the Department of Forestry and Fire Protection.

The Director shall request a representative from the Department of Parks and Recreation in the case of plans that may affect values in publicly owned parks. The Director may request other federal, state, or county agencies, or Native Americans as defined in 14 CCR 895.1, when appropriate, to assist as advisors in the review process. The Department of Forestry and Fire Protection's representative shall be the review team chairperson and shall be a Registered Professional Forester.

(b) Review Team Function. The function of the review team shall be to assist the Director in determining if plans are in conformance with Board rules and to evaluate the potential environmental impacts of timber operations. Review criteria employed by a team shall be consistent with this function. The Board's regulations provide direction for those situations noted during the review which are not addressed by specific rules (See 14 CCR 898.1(f), 901–903.2, 1655 & PRC 4555). In evaluating a plan, the review team shall review any discussion of feasible alternatives or additional mitigation to the proposed timber operation as prescribed in 14 CCR 898. Plan reviewers must consider the economic as well as the environmental benefits of feasible alternatives. The review team shall serve in an advisory capacity to the Director in making recommendations on plans.

In the event that any member of the review team concludes that the plan as filed would have a significant adverse effect on the environment, that member shall explain and justify this conclusion in writing as specifically as possible. The member shall provide in writing suggested site–specific mitigation measures, if any, that will substantially lessen these impacts.

(c) Chairperson Tasks. The Department is the lead agency in the review of plans. The review team chairperson shall direct the review team meetings, coordinate the interdisciplinary review of plans and develop recommendations on plans for the Director's consideration.

(d) Review Team Meetings. The Director or his designee is responsible for establishing and scheduling the meeting of a review team to perform the necessary review of plans for the Department.

Review team meetings shall be open to the RPF, supervised designee, the landowner, and the timber owner and, insofar as possible without disrupting the work of the team, to the public. The chairperson may impose limitations on the scope of any public participation at the meetings. All interested persons will normally be allowed to attend team meetings. On occasions when space or other considerations will require some limitation on attendance the review team chairperson shall endeavor to allow for attendance of at least one representative for each of the various agencies, organizations or special interest groups.

(e) Non–Concurrence. If a member of the review team does not concur with the chairperson's recommendation to the Director, the member shall submit in writing, within 5 days of the review team meeting and before the action required by 14 CCR 1037.4, the specific reasons why the recommendation does not provide adequate protection of the resources for which his or her agency has responsibility. The submission to the Director shall also include recommendations on measures or actions the Director should take to address the asserted deficiency, as provided by the rules of the Board. A non–concurring member's comments shall be considered based on the comments' specificity and relation to the member agency's area(s) of expertise and statutory mandate, as well as the level of documentation, explanation or other support provided with the comments. If a non–concurrence is filed on a plan, the review team chairperson shall prepare a written report explaining how the concerns cited in the non–concurrence have been addressed in the plan and how the natural resources of concern will be protected during timber operations.

(f) Mitigation. Mitigation and protective measures developed by members of the review team shall be consistent with 14 CCR 1037.3, 1037.5(b), 1037.5(h), and PRC 4582.6(b). Unless the RPF and review team member agree to mitigation measure(s), such mitigation and protective measures shall be explained and justified in writing and be based upon the evaluation of site–specific conditions at the appropriate scale.

(1) During the review of a plan, including the preharvest inspection, members of the review team may recommend incorporation of mitigating measures into the plan which are consistent with the forest practice rules and which would improve the plan or assist in significantly lessening adverse impacts of the operation on any timberland resources. The submitter may or may not agree with concerns expressed by the suggestions or may offer alternatives. If the submitter, after consultation with the RPF who prepared the plan, agrees with the suggested mitigation measures or changes, they are to be incorporated in the plan. The Director may only require incorporation into the plan of mitigation measures that are based on rules of the Board.

(2) Members of the review team may suggest protective measures for incorporation into the plan when express authority for such measures is not contained in the rules and regulations of the Board. If the RPF rejects incorporation of such measures into the plan, the Director shall determine if approval of the plan without the suggested measures could result in immediate significant, and long–term harm to the natural resources of the state. If the Director finds that the state's resources are so endangered, the provisions of PRC 4555 shall be followed.

(g) Review of Plans by Review Teams. Before the Director makes a determination on a plan, a review team shall review the plan. The review team shall do the following:

(1) Before the Director accepts a plan for filing or before the fifth working day after filing, a review team shall review the plan. The purpose of this review is to assist this Department in determining whether a preharvest inspection (initial inspection) is necessary and what areas of concern are to be examined during the inspection, if it is to be made. If a preharvest inspection is determined by the Department to be unnecessary, the review team shall make its recommendation to the Director no later than five working days after a plan is filed.

(2) After the preharvest inspection and before the Director's determination on a plan, the review team shall meet to review all the information on the plan and develop a recommendation for the Director.

(3) Requests, if any, for additional information, from the plan submitter during the review period shall be as prescribed by Section 1034 and other conditions in the rules. Such requests shall be supported by reasons for the request.

During the review period, the Director shall be responsible for determining whether requests for information not contained in the plan as filed or developed in preharvest inspection by review team members, reviewing agencies and members of the public, are consistent with the Forest Practice Rules, are reasonably necessary and should be requested from plan submitters. The Director's determination of additional information to be provided by plan submitters shall be guided by standards of practicality and reasonableness, recognizing the statutory review period of the FPA, the requirements of 14 CCR 1034 and the availability of information from alternative sources.

(h) Review Team Recommendations. The review team chairperson shall develop for each plan reviewed, a recommendation for the Director's consideration. When developing recommendations the review team chairperson shall carefully consider all the information available and the views and opinions expressed by all team members. The advice of review team members shall be utilized in determining whether appropriate alternatives have been selected and included in a plan and if implementation of the plan would cause significant damage to natural resources. The Director shall evaluate the review team recommendation in light of their specificity, as well as the level of documentation, explanation or other support provided with the recommendation and the agency's statutory mandates and areas of expertise.

(i) Communications with Plan Submitter. The plan submitter, and the registered professional forester who prepared the plan, and review team members, shall be provided by the Department with copies of preharvest inspection reports, nonconcurrences and review team recommendations so they are kept informed and are better able to respond promptly to the Department relative to changes that may be needed in a plan before it is acted upon by the Director.

NOTE: Authority cited: Sections 4551 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; and *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172.

HISTORY
1. New section filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).
2. Amendment of subsection (b) filed 7–3–86; effective thirtieth day thereafter (Register 86, No. 27).
3. Amendment filed 8–26–91; operative 8–26–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 20).
4. Amendment of subsection (a) and NOTE filed 11–27–91; operative 12–27–91 (Register 92, No. 25).
5. Amendment of subsection (d) and NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Amendment of subsections (a) and (e) filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
7. New subsection (f), redesignation and amendment of former subsection (f) as subsections (f)(1)–(2) and amendment of subsection (h) filed 11–7–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 45).
8. Amendment of subsection (a) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).

§ 1037.6. Nonconformance of Plan.

If the Director determines that a plan is not in conformance with the rules of the Board the plan shall be returned in accordance with 14 CCR 1054. In addition, the Director shall state any changes and reasonable conditions that in the Director's professional judgment are needed to bring the plan into conformance with the applicable rules of the Board and offer to confer with the RPF in order to reach agreement on the conditions necessary to bring the plan into conformance.

NOTE: Authority cited: Sections 4551 and 21080.5, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4582.6, 21000(g), 21002 and 21080.5, Public Resources Code; and *Natural Resources Defense Council, Inc.* v. *Arcata Nat. Corp.* (1976) 59 Cal.App.3d 959; 131 Cal.Rptr. 172.

HISTORY
1. Renumbering of Section 1037.5 to Section 1037.6 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).
2. Amendment of section and new NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1037.7. Conformance of Plan.

If the Director determines that the plan is in conformance with the rules of the Board, then the person submitting the plan shall be notified, and timber operations thereunder may commence.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY
1. Amendment filed 8–3–78; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 78, No. 31).
2. Renumbering of Section 1037.6 to Section 1037.7 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1037.8. Notice of Conformance.

At the time the Director notifies the plan submitter that the plan has been found in conformance, as described in 14 CCR 1037.7, the Director shall transmit a notice thereof to the agencies and persons referred to in 14 CCR 1037.3, and for posting at the places named in 14 CCR 1037.1. A copy of the notice shall be filed with the Secretary for Resources. The notice of conformance shall include a written response of the Director to significant environmental issues raised during the evaluation process.

NOTE: Authority cited: Sections 4551, 4552 and 4553, Public Resources Code. Reference: Section 4552, Public Resources Code.

HISTORY
1. Renumbering of section 1037.7 to section 1037.8 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).
2. Amendment and new NOTE filed 4–29–92; operative 5–29–92 (Register 92, No. 18).

§ 1037.9. Public Inspection.

Notices of Conformance, pursuant to 14 CAC 1037.7 and notices of approval by the Board, pursuant to 14 CAC 1037.6, shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the Office of the Resources Agency. Each such list shall remain posted for a period of 30 days.

HISTORY
1. Renumbering of Section 1037.8 to Section 1037.9 filed 2–2–82; effective thirtieth day thereafter (Register 82, No. 6).

§ 1037.10. Review Period Waiver.

In counties for which rules and regulations have been adopted pursuant to Section 4516.5, no timber harvesting plan shall be approved by the Director until 35 days from the date of filing of the plan unless the Director finds that the proposed timber operations will cause no significant environmental damage or threat to public health and safety or the environment or that the timber operations are necessary to reduce such a threat. The Director may waive or shorten the time period for approval:

(a) If all of the following are true of the plan.

(1) No new road construction;

(2) No road reconstruction that involves substantial change in the original road prism;

(3) No timber operations on slopes in excess of 60%;

(4) No timber operations in special treatment areas;

(5) No timber operations within watercourse and lake protection zones;

(6) No timber operations on unstable soils;

(7) No timber operations within 500 feet of an active nesting site rare or endangered bird species;

(8) No timber operations on areas with high or extreme erosion hazard rating;

(9) The harvest area will be stocked at completion of timber operations;

(10) No threat to public safety is involved; and

(11) No public hearing has been requested by the county.

(b) Or if the Director finds that he or she must approve a plan quickly so as to adequately protect the public health and safety, or the environment and that such protection cannot be adequately provided under the normal rules of the Board for plan review. The basis for the finding must be stated in writing before the Timber Harvesting Plan is approved.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5, 4516.6 and 4582.7, Public Resources Code; and Sections 1037 and 1037.4, Title 14, California Administrative Code.

HISTORY
1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Change without regulatory effect amending first paragraph and subsection (b) filed 9–26–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).

§ 1037.11. Notice of Waiver.

If the Director decides to waive or shorten the time period for plan review pursuant to 14 CAC 1037.10, he or she shall give notice within three working days of that determination to all persons or agencies to whom a Notice of Intent was sent.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5, 4516.6, 4582.4 and 4582.6, Public Resources Code; and Sections 1032.7, 1032.8 and 1037.10, Title 14, California Administrative Code.

HISTORY
1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).

§ 1038. Exemption.

Persons who conduct the following types of timber operations are exempt from the plan preparation and submission requirements (PRC § 4581) and from the completion report and stocking report requirements (PRC §§ 4585 and 4587) of the Act with the following exceptions and requirements:

(i) no tree that existed before 1800 A.D and is greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty–eight (48) inches in diameter at stump height for all other tree species shall be harvested unless done so under the conditions or criteria set forth in subsection 1038(h).

(ii) all timber operations conducted in the Lake Tahoe Region pursuant to 14 CCR § 1038 must have a valid Tahoe Basin Tree Removal Permit (as defined by the Tahoe Regional Planning Agency) or shall be conducted under a valid TRPA Memorandum of Understanding (MOU), when such a permit is required by TRPA.

(a) Harvesting Christmas trees.

(b) Harvesting dead, dying or diseased trees of any size, fuelwood or split products in amounts less than 10 percent of the average volume per acre when the following conditions are met:

(1) No tractor or heavy equipment operations on slopes greater than 50 percent.

(2) No construction of new tractor roads on slopes greater than 40 percent.

(3) Timber operations within any Special Treatment Area, as defined in 14 CCR 895.1, shall comply with the rules associated with that Special Treatment Area.

(4) No tractor or heavy equipment operations on known slides or unstable areas.

(5) No new road construction or reconstruction, as defined in 14 CCR 895.1.

(6) No heavy equipment operations within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except for maintenance of roads and drainage facilities or structures.

(7) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(8) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR 895.1.

(9) No timber harvesting within the standard width of a watercourse or lake protection zone, as defined in 14 CCR 916.4 [936.4, 956.4] (b), except sanitation–salvage harvesting, as defined in 14 CCR 913.3 [933.3, 953.3], where immediately after completion of operations, the area shall meet the stocking standards of 14 CCR 912.7 [932.7, 952.7] (b)(2), or, except the removal of dead or dying trees where consistent with 14 CCR 916.4 [936.4, 956.4] (b). Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

(10) No timber operations on any site that satisfies the criteria listed in 895.1 for a significant archaeological or historical site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(c) The cutting or removal of trees in compliance with sections 4290 and 4291 which eliminates the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns for the purpose of reducing flammable materials and maintaining a fuelbreak to reduce fire spread, duration, and intensity.

(1) Only trees within one–hundred–fifty feet from any point of an "approved and legally permitted structure" that complies with the California Building Code may be harvested

(2) The following silvicultural methods may not be used: clearcutting, seed tree removal step, shelterwood removal step.

(3) All surface fuels created by timber operations under the exemption which could promote the spread of wildfire, including logging slash and debris, deadwood, branches exceeding 1 inch in diameter, and brush, shall be chipped, burned, or removed within 45 days from the start of timber operations.

(4) In addition to the slash treatment described in CCR 1038(c)(3), the areas of timber operations must meet the vegetation treatment standards in PRC 4584(j)(1) to (2)(A) illustrated in Technical Rule Addendum No.4 within one year from the receipt of issuance of Notice of Acceptance.

(5) In addition to the limitations listed in 1038(b)(1)–(10), the following apply:

(A) The timber operator shall provide the Director the tentative commencement date of timber operations on the notice required in 14 CCR 1038.2. Within a 15 day period before beginning timber operations, the timber operator shall notify CDF of the actual commencement date for the start of operations. The starting date shall be directed to the designated personnel at the appropriate CDF Ranger Unit Headquarters by telephone or by mail.

(B) Timber operations conducted under this subsection shall conform to applicable city or county general plans, city or county implementing ordinances, and city or county zoning ordinances within which the exemption is located. The timber operator or timberland owner shall certify that the city or county has been contacted and the exemption conforms with all city or county regulatory requirements.

(C) Timber operations may not be conducted without a copy of the Director's notice of acceptance of the exemption at the operating site, except where the Director has failed to act within the 5 working–day review period.

(d) The limit of 10 percent of the volume per acre in subsection (b) above does not apply when harvesting dead trees which are unmerchantable as sawlog–size timber from substantially damaged timberlands, as defined in 14 CCR 895.1, and the following conditions are met

(1) Timber operations shall comply with the limits established in 14 CCR 1038(b)(1)–(10).

(2) The landowner shall notify the Director of the completion of timber operations within 30 days of their cessation.

(3) At least one inspection conducted by the Director shall be made after completion of operations (Section 4604 PRC).

(4) The RPF certifies that the timberland is substantially damaged.

(5) The RPF shall also certify that no conditions were identified where operations, conducted in compliance with the rules of the Board, would reasonably result in significant adverse effects.

(e) Operations pursuant to an exemption under subsection (c), (d) and (i) may not commence for five working days from the date of the Director's receipt of the Notice of Exemption unless this delay is waived by the Director, after consultation with other state agencies. The Director shall determine whether the Notice of Exemption is complete, and if so, shall send a copy of a notice of acceptance to the submitter. If the Notice of Exemption is not complete and accurate, it shall be returned to the submitter and the timber operator may not proceed. If the Director does not act within five days of receipt of the Notice of Exemption, timber operations may commence.

(f) Timber operations conducted in the Lake Tahoe Region authorized under PRC § 4584(b), (c), and (j) when the following conditions are met:

(1) Tree removal on high erosion hazard lands (Bailey's Land Capability Districts 1a, 1c, or 2 per Land Capability Classification of the Lake Tahoe Basin, California–Nevada: A Guide for Planning by R.G. Bailey, USDA Forest Service, 1974) shall only be conducted using the following methods: helicopter, over–snow where no soil disturbance occurs, hand carry, and use of existing roads.

(2) Tree removal in Stream Environment Zones ("SEZs," Bailey's Land Capability District 1b) and within the standard width of a WLPZ, as defined in 14 CCR § 895.1, shall be permitted as in the preceding section (f)(1).

(A) End–lining may also be used provided that soils are dry, all heavy equipment remains outside the SEZ or WLPZ, and site conditions are such that soils or vegetation will not be adversely affected and a discharge of earthen materials to surface waters, SEZs, or 100–year floodplains will not occur.

(B) Other low–impact tree removal methods may be used in SEZs and WLPZs if approved by the Lahontan RWQCB prior to submittal of the exemption notice to the Department. Certification of approval by the Lahontan RWQCB and TRPA shall be provided with the exemption notice to the Department. Low–impact tree removal methods means the use of techniques for vegetation management, including tree cutting or removal, designed to minimize impacts to the soils and vegetation. Such techniques shall minimize disruption of the soil surface (soil detachment), soil compaction, and damage to vegetation. Depending on the specific site conditions (e.g. soil type, soil conditions, slopes) and the method of operation, the use of low–ground pressure logging equipment, including but not limited to, certain harvesters and forwarders, may qualify.

(C) Heavy equipment operations may be used for maintenance of existing roads, maintenance of drainage facilities or structures, or skid crossings approved pursuant to (f)(9) below.

(3) No tractor or heavy equipment (ground–based) operations on slopes greater than 30% except during over–snow operations that result in no soil disturbance.

(4) No heavy equipment operations during the winter period, except for over–snow operations that result in no soil disturbance, or use of low–impact tree removal methods approved pursuant to (f)(2) above.

(5) No new road construction or reconstruction, as defined in 14 CCR § 895.1.

(6) No tractor or heavy equipment operations on known slides or unstable areas.

(7) All cutting or removal of trees or other vegetation from within the standard width of a WLPZ shall meet the WLPZ standards of the Forest Practice Act and District Forest Practice Rules applicable to THPs, and be certified in writing by staff of the Lahontan RWQCB as complying with the soil protection and vegetation retention requirements of the Lahontan RWQCB's Basin Plan prior to submittal of the exemption notice to the Department. Trees to be harvested shall be marked by, or under the supervision of, an RPF prior to timber operations.

(8) All Class III watercourses shall have at least a 25–foot WLPZ.

(9) No watercourse crossings of Class I or Class II watercourses except on existing bridges or existing culvert crossings. Any and all crossings proposed for Class III or Class IV watercourses shall be approved by staff of the Lahontan RWQCB and TRPA prior to operations.

(10) No known sites of rare, threatened or endangered plants or animals will be disturbed, threatened or damaged.

(11) No timber operations within the buffer zone of a sensitive species, as defined in 14 CCR § 895.1.

(12) No timber operations on any site that satisfies the criteria listed in 14 CCR § 895.1 for a significant historical or archaeological site. Information on some of these sites may be available from the Information Centers of the California Historical Resources Information System within the Department of Parks and Recreation.

(13) The landowner shall allow access to the property for inspections by staff of the Lahontan RWQCB and TRPA.

(14) Timber operations within any Special Treatment Area, as defined in 14 CCR § 895.1, shall comply with the rules associated with Special Treatment Areas.

(15) Operations conducted in the Lake Tahoe Region under the authority of PRC § 4584(j) shall comply with requirements listed in section 14 CCR § 1038(c)(1) through (4) and within a 15 day period before beginning timber operations, the timber operator shall notify CDF of the actual start of operations.

(16) Operations conducted in the Lake Tahoe Region for the purpose of removing unmerchantable dead trees in amounts greater than 10% of the volume per acre from substantially damaged timberlands shall comply with 14 CCR § 1038(d)(2) through (5).

(g) The removal of woody debris and slash that is: (1) located outside the standard width WLPZ; (2) within the reach of loading equipment operating on existing logging roads and landings; (3) developed during timber operations; and (4) delivered as combustion fuel for the production of energy. Timber operations under this subsection shall comply with the conditions of section 1038(b)(3), (4), (6), (7), (8), and (10).

(h) Harvesting of large old trees shall only occur when:

(1) the tree is not critical for the maintenance of a Late Successional Stand and

(2) an RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or (C) are met. The requirements of (h)(2) need not be met if an approved management document; including but not limited to a HCP, SYP, NTMP or PTEIR; addresses large old tree retention for the area in which the large old tree(s) are proposed for removal and the removal is in compliance with the retention standards of that document. All trees to be harvested pursuant to this subsection shall be marked by an RPF prior to removal.

(A) The tree(s) is a hazard to safety or property. The hazard shall be identified in writing by an RPF or professionally certified arborist;

(B) The removal of the tree(s) is necessary for the construction of a building as approved by the appropriate county/city permitting process and as shown on the county/city approved site plan which shall be attached to the Notice of Exemption;

(C) The tree is dead or is likely to die within one year of the date of proposed removal, as determined by an RPF or professionally certified arborist.

(i) The harvesting of trees in compliance with PRC § 4584(k), Forest Fire Prevention Exemption, limited to those trees that eliminate the vertical continuity of vegetative fuels and the horizontal continuity of tree crowns, for the purpose of reducing the rate of fire spread, duration and intensity, fuel ignitability, or ignition of tree crowns, when the following conditions are met:

(1) The logging area does not exceed 300 acres in size.

(2) The tree harvesting will decrease fuel continuity and increase the quadratic mean diameter of the stand.

(3) The Notice of Exemption, Form RM–73(1038i)(1/01/08), is prepared, signed and submitted by an RPF to the Director. The RPF shall provide current address and telephone number on the form.

(4) The RPF preparing the Notice of Exemption shall, upon submission of the Notice of Exemption, provide a map of the area of timber operations that complies with 14 CCR § 1034(x)(1),(3), (4), (7), (8), (9), (10), (11), (12) and (14). This map shall be submitted in place of the map required by 14 CCR § 1038.2(d).

(5) The RPF shall, upon submission of the Notice of Exemption, include a description of the preharvest stand structure and a statement of the postharvest stand stocking levels. The level of residual stocking shall be consistent with maximum sustained production of high quality timber products. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Trees retained to meet the basal area stocking standards shall be selected from the largest trees available on the project area prior to harvest. In no case shall stocking be reduced below the following standards:

(A) Where the preharvest dominant and codominant crown canopy is occupied primarily by trees greater than 14 in. dbh:

[Coast]:

1. On Site I lands at least 125 sq. ft. per acre of basal area shall be left.

2. On Site II and III lands at least 100 sq. ft. per acre of basal area shall be left.

3. On Site IV lands at least 75 sq. ft. per acre of basal area shall be left.

4. On Site V lands, at least 50 sq. ft. per acre of basal area shall be left.

[Northern, Southern]:

1. On Site I mixed conifer lands at least 125 sq. ft. per acre of basal area shall be left, and on Site I land where greater than 50% of the basal area is pine, at least 100 sq. ft. per acre of basal area shall be left.

2. On Site II mixed conifer lands at least 100 sq.ft. per acre of basal area shall be left, and on Site II lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

3. On Site III mixed conifer lands at least 75 sq. ft. per acre of basal area shall be left, and on Site III lands where greater than 50% of the basal area is pine, at least 75 sq. ft. per acre of basal area shall be left.

4. On Site IV and V mixed conifer lands, at least 50 sq. ft. per acre of basal area shall be left, and on Site IV and V lands where greater than 50% of the basal area is pine at least 50 sq. ft. per acre of basal area shall be left.

(B) Where the preharvest dominant and codominant crown canopy is occupied by trees less than 14 in. dbh, a minimum of 100 trees per acre over 4 in. dbh shall be retained for site I, II, and III. For site IV and V – 75 trees per acre over 4 in. dbh shall be retained.

(6) The RPF shall, upon submission of the Notice of Exemption, provide the selection criteria for the trees to be removed or the trees to be retained. In the development of these criteria, and the fuel reduction prescriptions, the RPF should consider retaining habitat elements, where feasible, including, but not limited to, ground level cover necessary for the long–term management of local wildlife populations. The selection criteria shall specify how the trees to be removed, or how the trees to be retained, will be designated. All trees to be harvested or all trees to be retained shall be marked or sample marked by, or under the supervision of, an RPF prior to felling operations. Sample marking shall be limited to homogeneous forest stand conditions typical of plantations. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area.

(7) The RPF shall, upon submission of the Notice of Exemption, provide a Confidential Archaeological Letter which contains all the information required for plans and Emergency Notices in 14 CCR § 929.1(c)(2), (7), (8), (9), (10) and (11), [949.1(c)(2), (7), (8), (9), (10) and

(11), 969.1(c)(2), (7), (8), (9), (10) and (11)] including site records as required pursuant to 14 CCR §§ 929.1 (g) [949.1(g), 969.1(g)] and 929.5 [949.5 and 969.5]. The Director shall submit a complete copy of the Confidential Archaeological Letter, and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System, within 30 days from the date of Notice of Exemption submittal to the Director. Before submitting the Notice of Exemption to the Director, the RPF shall send a copy of the Notice of Exemption to Native Americans defined in 14 CCR § 895.1.

(8) Only trees less than 18 inches outside bark stump diameter, measured at eight inches above ground level, may be removed except as follows:

(A) Within 500 feet of a legally permitted structure that complies with the California Building Code, or in an area prioritized as a shaded fuel break in a community wildfire protection plan approved by a public fire agency, if the goal of fuel reduction cannot be achieved by removing trees less than 18 inches outside bark stump diameter, trees less than 24 inches outside bark stump diameter may be removed if that removal complies with this section.

(9) Post harvest stand conditions shall not violate the following canopy closure requirements:

(A) Minimum post treatment canopy closure of dominant and codominant trees shall be 40 percent for east side pine forest types;

(B) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for coastal redwood and Douglas-fir forest types within 1/4 mile from approved and legally permitted structures that comply with the California Building Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the "California Fire Alliance list of Communities at Risk" (copyright date 2003 on file in the official rulemaking file and incorporated by reference) and have densities greater than 1 structure per 20 acres;

(C) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for coastal redwood and Douglas-fir forest types within 500 feet of a legal structures outside the area referenced in 14 CCR § 1038 (i)(9)(B);

(D) Minimum post treatment canopy closure of dominant and codominant trees shall be 60 percent for coastal redwood and Douglas-fir forest types outside areas referenced in 14 CCR § 1038 (i)(9)(B) and (C);

(E) Minimum post treatment canopy closure of dominant and codominant trees shall be 50 percent for mixed conifer and all other forest types.

(10)(A) This subsection applies to areas described in 14 CCR § 1038(i)(8)(A). Notwithstanding wildlife habitat requirements of 14 CCR § 1038(i)(6), or requirements of PRC 4291, or other requirements for dominant and codominant trees under 14 CCR § 1038(i)(9), surface and ladder fuels in the harvest area, including logging slash and debris, brush, small trees, and deadwood, that could promote the spread of wildfire, shall be treated to achieve standards for vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and treatment of standing dead fuels, as follows:

(i) Ladder and surface fuels, excluding residual stand dominant and codominant trees, shall be spaced to achieve a vertical clearance distance of eight feet or three times the height of the post harvest fuels, whichever is the greater distance, measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the surface fuels.

(ii) Ladder and surface fuels, excluding residual stand dominant and codominant trees, shall be spaced to achieve horizontal clearance distance of two to six times the height of the post harvest fuels measured from the outside branch edges of the fuels. On ground slopes of zero percent to 20 percent horizontal clearance distance shall be two times the height of post harvest fuels; on ground slops of greater than 20 percent to 40 percent horizontal clearance distance shall be four times the height of post harvest fuels; on ground slopes of greater than 40 percent horizontal clearance distance shall be six times the height of post harvest fuels.

(iii) Dead surface fuel depth shall be less than 9 inches.

(iv) Standing dead or dying trees and brush shall generally be removed. Such material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subsection applies to all other areas outside those described in 14 CCR § 1038 (8)(A).

(i) Post treatment stand shall contain no more than 200 trees per acre over 3 inches in dbh, notwithstanding 14 CCR § 1038(9)(A)-(E).

(ii) Vertical spacing shall be achieved by treating dead fuels to a minimum clearance distance of 8 feet measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the dead surface fuels.

(iii) All logging slash created by the timber operations shall be treated to achieve a maximum post harvest depth of 9 inches above the ground.

(11) Treatments for fuels shall include chipping, removing, piling, burning or other methods necessary to achieve the standards. Treatments for any portion of the exemption area where timber operations have occurred, except for burning operations, shall be done within 120 days from the start of timber operations on that portion of the exemption area. Burning operations shall be completed by April 1 of the year following surface fuel creation. Treatment of surface fuels by burning shall be exempt from the one year time limitations described under 14 CCR § 1038.1

(12) Fuel treatments conducted under 14 CCR § 1038(i)(8),(9), (10) and (11) shall be achieved on at least 80 percent of the treated area.

(13) Timber operations shall comply with the limits established in 14 CCR § 1038, subsections (b) (1) through (10). Timber operations in the Lake Tahoe Region shall comply with the requirements of paragraphs (1) to (16), inclusive of subdivision (f) of Section 1038 of Title 14 of the California Code of Regulations.

(14) At least one inspection conducted by the Director shall be made after completion of operations.

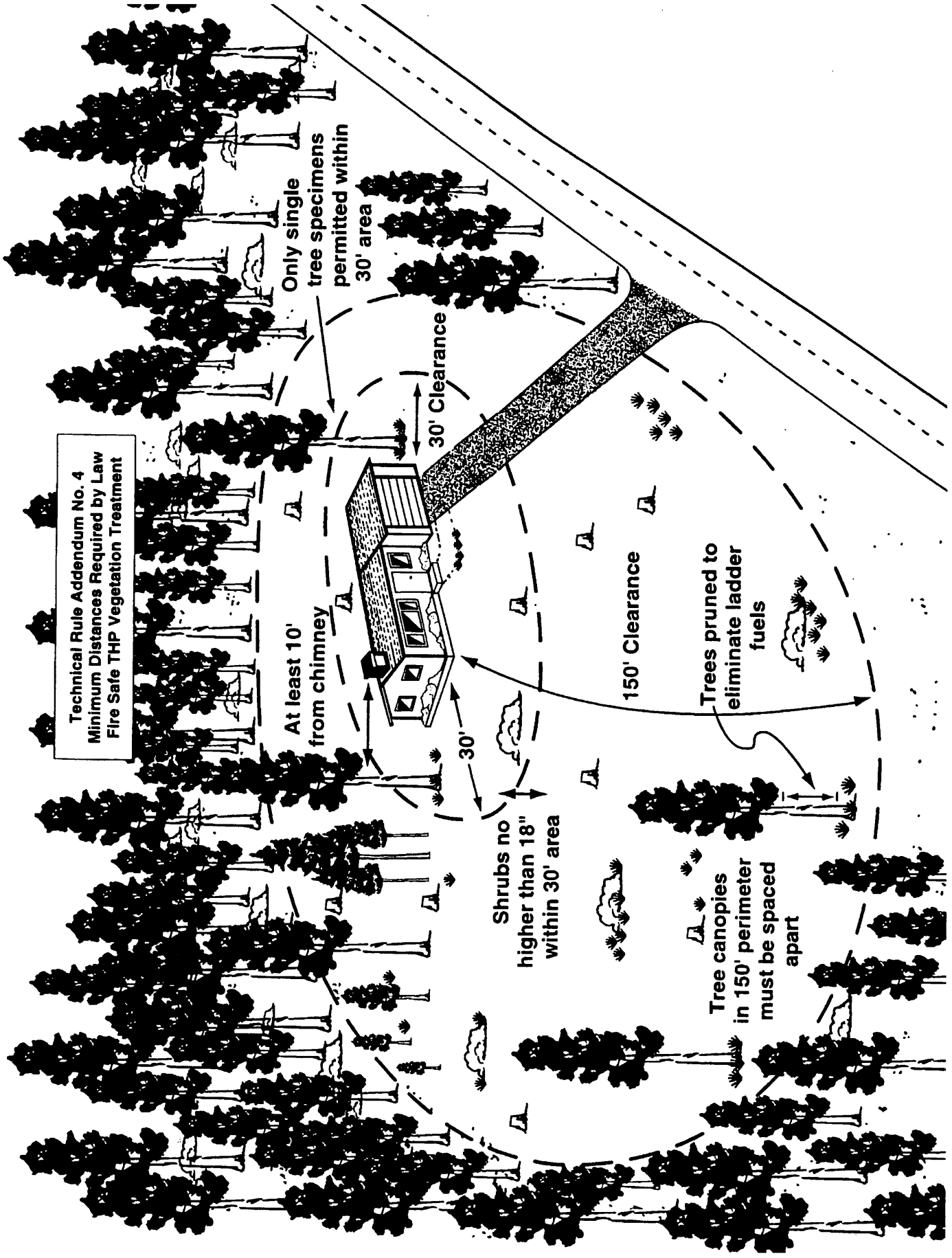
(15) 14 CCR § 1038(i) shall expire on January 1, 2013.

NOTE: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference: Sections 4516, 4527 and 4584, Public Resources Code; and *EPIC v. California Department of Forestry and Fire Protection and Board of Forestry* (1996) 43 Cal. App.4th 1011.

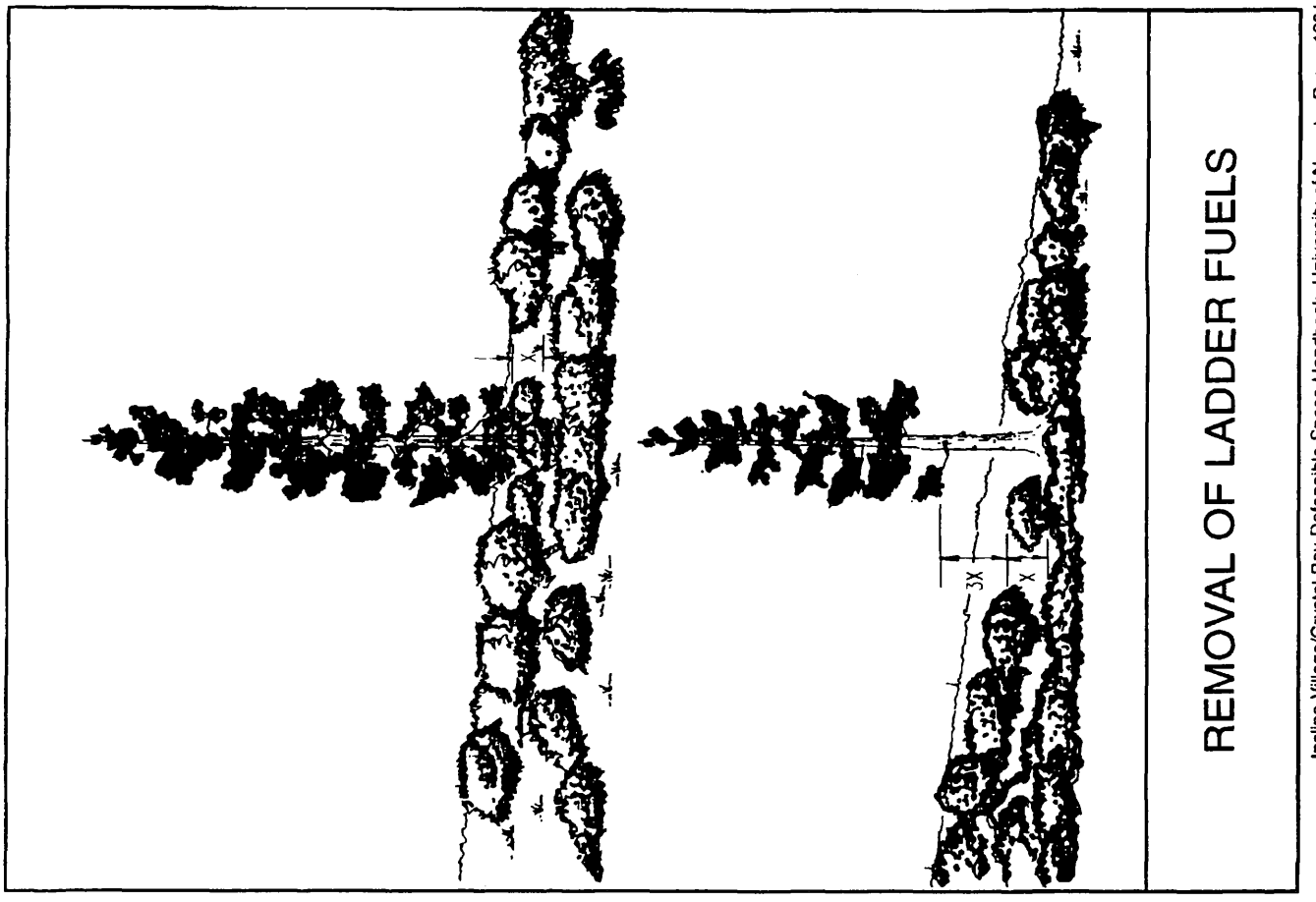
HISTORY

1. Amendment filed 8-9-83; designated effective 10-1-83 (Register 83, No. 37).
2. Amendment of subsection (b) filed 10-3-88; operative 11-2-88 (Register 88, No. 41).
3. New subsection (d) filed 1-21-93 as an emergency; operative 1-21-93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5-21-93 or emergency language will be repealed by operation of law on the following day.
4. New subsection (e) filed 4-5-93; operative 4-5-93 (Register 93, No. 15).
5. Change without regulatory effect amending subsection (e) filed 4-16-93 pursuant to section 100, title 1, California Code of Regulations (Register 93, No. 16).
6. Subsection (d) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
7. New subsection (d) filed 10-20-94 as an emergency; operative 10-20-94 (Register 94, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-17-95 or emergency language will be repealed by operation of law on the following day.
8. New subsection (d) including amendment of NOTE refiled 2-15-95 as an emergency; operative 2-15-95 (Register 95, No. 7). A Certificate of Compliance must be transmitted to OAL by 6-15-95 or emergency language will be repealed by operation of law on the following day.
9. Reinstatement of section as it existed prior to emergency amendment filed 6-16-95 by operation of Government Code section 11346.1(f) (Register 95, No. 31).
10. Amendment of subsections (b)(3) and (e) and new subsections (d)-(d)(5)(C) filed 7-31-95; operative 7-31-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 31).
11. New subsection (f) filed 12-28-95; operative 12-28-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).
12. Amendment of subsection (f)(13) filed 11-7-96; operative 1-1-97 (Register 96, No. 45).
13. Amendment of subsection (b)(10) filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
14. Change without regulatory effect amending subsection (d)(1) filed 9-26-97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).
15. Amendment of subsections (f) and (f)(12) filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
16. Amendment of section and NOTE filed 2-17-2000; operative 7-1-2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
17. Amendment of subsection (f)(15) filed 11-29-2000; operative 1-1-2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

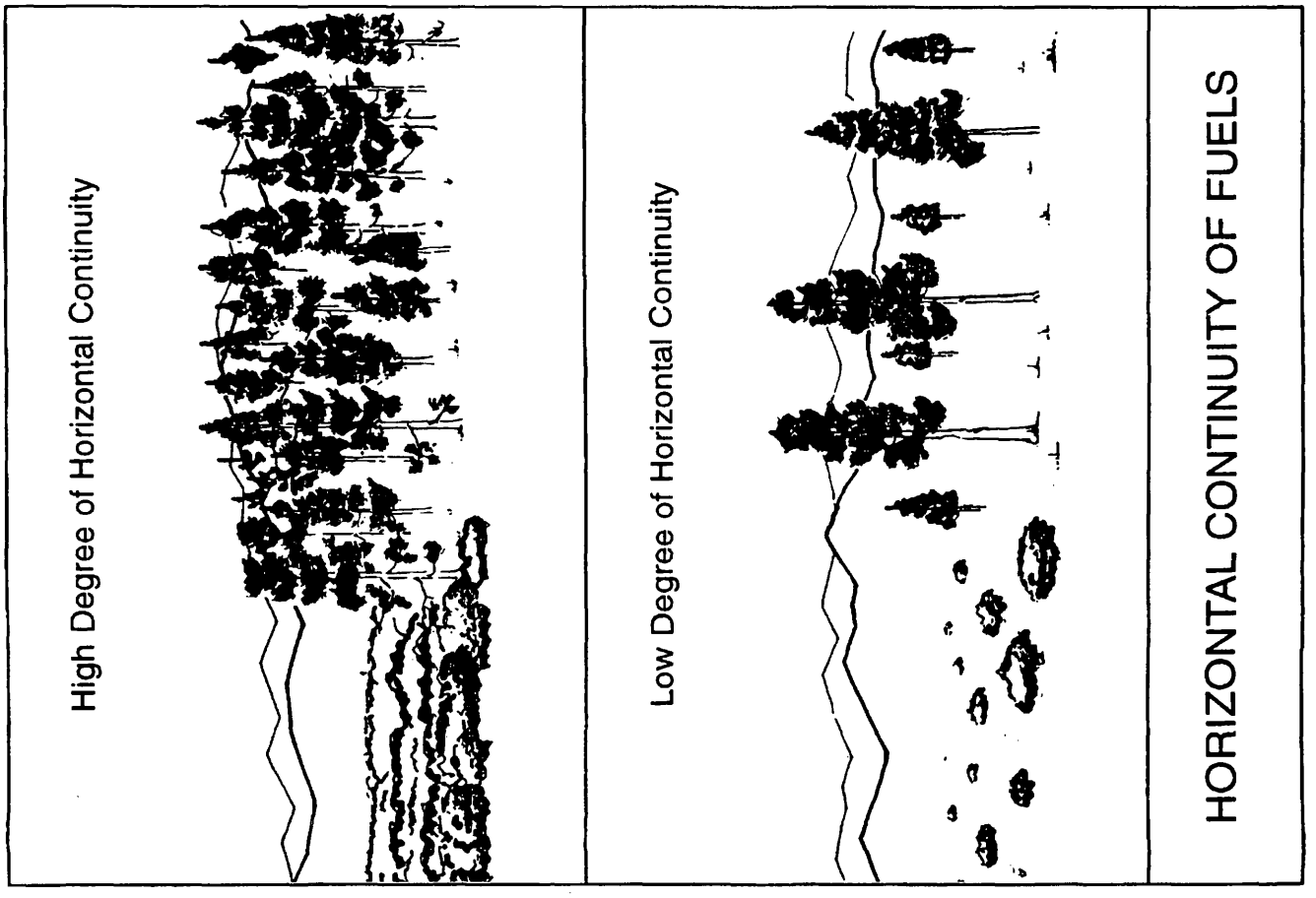
18. New subsection (g) filed 2–21–2001 as an emergency; operative 2–21–2001 (Register 2001, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–21–2001 or emergency language will be repealed by operation of law on the following day.
19. New subsection (g) refiled 6–18–2001 as an emergency, including further amendments; operative 6–18–2001 (Register 2001, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–16–2001 or emergency language will be repealed by operation of law on the following day.
20. Certificate of Compliance as to 6–18–2001 order, including further amendment of subsections (d) and (g), transmitted to OAL 8–24–2001 and filed 9–25–2001 (Register 2001, No. 39). Pursuant to Public Resources Code section 4551.5, the emergency regulation is repealed effective 9–25–2001; regulatory language adopted in the Certificate of Compliance is operative 1–1–2002.
21. Amendment of first paragraph and new subsections (h)–(h)(2)(C) filed 11–16–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 46).
22. Repealer of subsection (f)(15) filed 11–21–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 47).
23. Amendment of subsection (e) and new subsections (i)–(i)(14) filed 1–7–2005 as an emergency; operative 1–7–2005 (Register 2005, No. 1). A Certificate of Compliance must be transmitted to OAL by 5–9–2005 or emergency language will be repealed by operation of law on the following day.
24. Amendment of subsection (e) and new subsections (i)–(i)(14) refiled 4–25–2005 as an emergency, including amendment of Form RM–73 (1038i) (incorporated by reference) and subsection (i)(3); operative 5–10–2005 (Register 2005, No. 17). A Certificate of Compliance must be transmitted to OAL by 9–7–2005 or emergency language will be repealed by operation of law on the following day.
25. Amendment of first paragraph, subsections (f), (f)(2)–(4), (f)(7), (f)(9) and (f)(12)–(13) and NOTE filed 6–21–2005 as an emergency; operative 6–21–2005 (Register 2005, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–19–2005 or emergency language will be repealed by operation of law on the following day.
26. Amendment of first paragraph, subsections (f), (f)(2)–(4), (f)(7), (f)(9) and (f)(12)–(13) and NOTE refiled 10–13–2005 as an emergency; operative 10–13–2005 (Register 2005, No. 41). A Certificate of Compliance must be transmitted to OAL by 2–10–2006 or emergency language will be repealed by operation of law on the following day.
27. Reinstatement of section as it existed prior to 4–25–2005 emergency amendment by operation of Government Code section 11346.1(f) (Register 2005, No. 45).
28. Amendment of subsection (e) and new subsections (i)–(i)(15) filed 11–9–2005; operative 1–1–2006 (Register 2005, No. 45).
29. Amendment of first paragraph, subsections (f), (f)(2)–(4), (f)(7), (f)(9) and (f)(12)–(13) and NOTE refiled 2–10–2006 as an emergency; operative 2–10–2006 (Register 2006, No. 6). A Certificate of Compliance must be transmitted to OAL by 6–12–2006 or emergency language will be repealed by operation of law on the following day.
30. Reinstatement of section as it existed prior to 2–10–2006 emergency amendment by operation of Government Code section 11346.21(f) (Register 2006, No. 24).
31. Amendment of first paragraph, subsections (f), (f)(2)–(4), (f)(7), (f)(9) and (f)(12)–(13) and NOTE refiled 6–16–2006 as an emergency; operative 6–16–2006 (Register 2006, No. 24). A Certificate of Compliance must be transmitted to OAL by 10–16–2006 or emergency language will be repealed by operation of law on the following day.
32. Certificate of Compliance as to 6–16–2006 order transmitted to OAL 9–7–2006 and filed 10–11–2006. Further amendments to emergency language effective 1–1–2007 pursuant to Public Resources Code section 4554.5(a) (Register 2006, No. 41).
33. Amendment of subsections (i)(3), (i)(6) and (i)(8)–(i)(8)(A), repealer of former subsection (i)(10), new subsections (i)(10)(A)–(i)(10)(B)(iii) and amendment of subsections (i)(11), (i)(13) and (i)(15) filed 11–13–2007; operative 1–1–2008 (Register 2007, No. 46).



[The next page is 364.21.]



Incline Village/Crystal Bay Defensible Space Handbook, University of Nevada, Reno, 1991



§ 1038.1. Compliance with Act and Rules.

A person conducting timber operations under any exemption as described in 1038, shall be limited to one year from the date of receipt by the Department, and shall comply with all operational provisions of the Forest Practice Act and District Forest Rules applicable to "Timber Harvest Plan", "THP", and "plan".

In–lieu practices of watercourse and lake protection zones as specified under Article 6 of these rules, exceptions to rules, and alternative practices are not allowed.

NOTE: Authority cited: Sections 4551 and 4584, Public Resources Code. Reference: Sections 4527 and 4584, Public Resources Code.

HISTORY

1. New section filed 10–21–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 43).
2. Amendment filed 7–31–95; operative 7–31–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 31).
3. Amendment of second paragraph filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
4. Amendment filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).

§ 1038.2. Exemption Form.

A person submitting an exemption under 14CCR 1038 shall submit to the Director a notice of proposed timber operations, prior to commencement of timber operations, on a form provided by the Department. The form shall contain the following information:

(a) Type of operation to be conducted.

(b) Names, address, and telephone numbers of the timber owner, timberland owners, and timber operator.

(c) Legal description of the location of the timber operation.

(d) A 7 1/2 minute quadrangle map or its equivalent showing the location of the timber operation.

(e) In addition to (a) through (d) above, the following shall be included for exemptions conducted under 14CCR 1038(c);

(1) The tentative commencement date of timber operations.

(2) A certification by the timber operator or timberland owner that the city or county within which the exemption is located has been contacted and the exemption is in conformance with all city or county regulatory requirements.

(3) A notification to the landowner stating the fuel treatment requirements and enforcement procedures under this exemption.

(4) A signature of the landowner certifying that they are the landowner and have read and understand the information on the exemption form.

(5) A larger scale map such as an assessor parcel map showing the location of the timber operation.

(f) In addition to (a) through (c) above, the following shall be included for exemptions conducted under 14 CCR § 1038(i):

(1) Name, address, telephone and license number of the registered professional forester that prepared and submitted the exemption notice.

(2) A description of the pre–harvest stand structure and a statement of the post–harvest stand stocking levels.

(3) A description of the selection criteria for the trees to be removed or the trees to be retained. The selection criteria shall specify how the trees to be removed, or how the trees to be retained, will be designated.

(4) A certification that the exemption notice has been prepared and submitted by a registered professional forester.

NOTE: Authority cited: Sections 4551, 4553 and 4584, Public Resources Code. Reference: Sections 4527 and 4584, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).
2. Renumbering of former section 1038.2 to new section 1038.3 and new section filed 7–31–95; operative 7–31–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 31).
3. Amendment of subsection (e) and new subsections (f)–(f)(4) filed 11–9–2005; operative 1–1–2006 (Register 2005, No. 45).

§ 1038.3. Agency Exemptions.

The following types of timber operations are exempt from the provisions of the Z'berg–Nejedly Forest Practice Act, (PRC division 4, part 2, chapter 8—beginning at sec. 4511) but not exempt from the Professional Foresters Law, PRC 750 et. seq.

(a) Timber operations on land managed by the California Department of Parks and Recreation, provided the timber operations have undergone all CEQA evaluation required pursuant to PRC division 13, beginning at section 21000.

(b) Timber operations performed by, or authorized by, federal agencies on private lands where federal easements, either partial interest or in fee, have been acquired, provided such activities are analyzed and conducted pursuant to the National Environmental Policy Act (beginning at 42 U.S.C. 4321) and achieve the same level of protection as provided by the rules of the Board in California Code of Regulations, title 14, division 1.5 (beginning with section 895).

NOTE: Authority cited: Sections 4584 and 4551 Public Resources Code. Reference: Sections 4527 and 4584, Public Resources Code.

HISTORY

1. Renumbering of former section 1038.2 to new section 1038.3 filed 7–31–95; operative 7–31–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 31).

§ 1039. Amendment.

Amendments proposing substantial deviation from an original plan shall be submitted to the Director in writing by the person who submitted the original plan, or the successor in interest. Substantial deviations shall not be undertaken until such amendment has been filed and acted upon by the Director in the manner as required in Article 2 of Subchapter 7 of these rules for the original plan.

NOTE: Authority cited: Sections 4551 and 4591, Public Resources Code. Reference: Sections 4591 and 4591.1, Public Resources Code.

HISTORY

1. Amendment filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).

§ 1039.1. Effective Period of the Plan.

The effective period of the plan within the meaning of PRC 4590 and 4591 is the 3–year period following the date the plan is determined to be in conformance or otherwise becomes effective pursuant to PRC 4582.7. Timber operations shall commence no earlier than the expected date of commencement stated in the plan and shall be completed no later than the expected date of completion stated in the plan except under the following conditions:

(a) An amendment to change the completion date stated in a plan has been submitted to the Director at least ten (10) days before the expected date of completion.

(b) An amendment to extend the effective period of a plan beyond three years is submitted in compliance with PRC 4590, which includes a map showing clearly the area pertaining to the request for extension.

Upon receipt of such amendment, the Director shall determine whether the change in date constitutes a substantial deviation of the plan. An extension of time is presumed to be a minor deviation, provided the extension does not lead to practices that constitute a substantial deviation, as defined in Section 1036, 14 CAC. If the Director determines that such change of date constitutes a substantial deviation, then the Director shall, prior to the date to be changed, so notify the person submitting the plan. In this case, an amended plan shall be submitted and no timber operations shall be conducted pursuant to such proposed change until such amendment is found in conformance with PRC 4582.7.

NOTE: Authority cited: Sections 4551, 4553, 4590 and 4591, Public Resources Code. Reference: Sections 4582.7, 4590, 4591 and 4591.1, Public Resources Code.

HISTORY

1. Amendment filed 8–9–83; designated effective 10–1–83 (Register 83, No. 37).
2. Amendment filed 8–19–86; effective thirtieth day thereafter (Register 86, No. 34).

§ 1040. Report Minor Deviations.

Minor deviations may be undertaken by the person who submitted the plan without submission of an amendment to the plan and shall be reported immediately in writing to the Director.

Actions described in 14 CCR 895.1 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 895.1 but considered

to be minor by the submitter, may be undertaken only if the person who submitted the plan submits the proposed deviation in writing to the Director for review and receives approval. Approval shall be given if the Director determines that the proposed minor deviation conforms to the standards provided in 14 CCR 895.1. The Director shall have 5 working days to act on the application. If the Director or the Director's representative does not act within 5 working days of receipt of such a deviation, timber operations may commence pursuant to such amendment.

NOTE: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections 4583.2 and 4591.1, Public Resources Code.

HISTORY

1. Amendment filed 6–26–78 as an emergency; designated effective 7–6–78. Certificate of Compliance included. Issuing agency: Board of Forestry (Register 78, No. 28).
2. Amendment filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1041. Limitations.

A plan shall be limited to an area with reasonably similar timber, geology, soil, topography, climate, and stream characteristics that would constitute a logical harvesting unit. A plan should be limited to that area on which timber operations normally will be completed in one 12–month period, but in no case shall it extend beyond 36 months after the plan is determined to be in conformance or otherwise becomes effective under PRC 4582.7. Plans shall be limited to lands within a particular forest district.

§ 1042. Change of Ownership.

Any change in ownership of land or timber must be reported to the Director if such a change occurs after a plan is filed but before a report of satisfactory completion of stocking is issued by the Director. It shall be the responsibility of the timber owner and/or timberland owner listed in the plan to notify the Director of the change of either ownership. Also, before the passage of title, it shall be the responsibility of the seller to notify the purchaser of either the timber or timberland of their responsibility for compliance with the stocking standards of the Act and the rules of the Board of Forestry.

After a plan is found in conformance with the rules and regulations of the Board, the Director may file a Notice of Stocking Requirements on the property with the recorder of the county within which the plan is located. When a report of satisfactory stocking is issued by the Director, a Notice of Compliance will be sent to the timberland owner.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4588 and 4608, Public Resources Code.

HISTORY

1. Amendment filed 8–28–84; effective thirtieth day thereafter (Register 84, No. 35).

§ 1043. Cancellation of Plans.

All parties, who submitted plan or their successors, must sign the request to the Director for cancellation of a plan. Once cutting has commenced, the plan may not be cancelled except as to lands not harvested.

§ 1044. Regulations to Take Effect.

HISTORY

1. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1045. Director Delegation.

In order to expeditiously process plans, the Director may make such delegations deemed to be fit to employees of the Department, qualified as RPFs pursuant to Article 3 of Chapter 2.5 of Division 1 of the Public Resources Code (commencing with Section 750).

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. Amendment of section and new NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1050. Erosion Control Maintenance.

(a) Where necessary to minimize soil erosion or slope instability or to prevent degradation of the quality and beneficial uses of water, the department may require that erosion controls be maintained prior to the beginning of a winter period and prior to filing of a work completion report.

(b) The Director may deem completion report as described in PRC 4585 to have been filed upon the date of receipt if the department finds that all erosion controls have been constructed and maintained in compliance with the Forest Practice Rules upon the first inspection after receipt of the completion report. Otherwise, the Director shall accept a work completion report for filing only after the department finds that all erosion controls have been constructed in compliance with the Forest Practice Rules.

(c) The LTO is responsible for proper construction, inspection and maintenance of erosion control during the prescribed maintenance period until the work completion report as described in PRC 4585 is approved by the Director. The landowner is responsible for inspection and any needed repair and maintenance of erosion controls during the remainder of the prescribed maintenance period. Responsibility for erosion control maintenance may be assumed at an earlier date by the landowner or can be delegated to a third party, provided that the assuming party acknowledges such responsibility in writing to the Director.

(d) Upon approving a work completion report, the Director may prescribe a maintenance period which extends for as much as three years after filing the work completion report based on physical evidence (such as location of erosion controls in disturbed areas with high or extreme erosion hazard, on steep or unstable slopes, or within or adjacent to the standard width of a water course or lake protection zone) that erosion controls need to be maintained for the extended maintenance period in order to minimize soil erosion or slope instability or to prevent degradation of the quality and beneficial uses of water.

(e) After approving the work completion report, the Director may extend the prescribed maintenance period for as much as three years after filing of the work completion report if subsequent inspections by the department during the prescribed maintenance period show that erosion controls have failed or are likely to fail to minimize soil erosion or slope instability or to prevent degradation of the quality and beneficial uses of water.

NOTE: Authority cited: Sections 4551, 4551.5, 4562.9, 4584 and 4585, Public Resources Code. Reference: Sections 4512, 4513, 4551.5, 4562.7, 4562.9, 4584 and 4585, Public Resources Code.

HISTORY

1. New section filed 12–20–89; operative 2–1–90 (Register 90, No. 3). For prior history, see Registers 89, No. 19 and 81, No. 1.

§ 1051. Modified Timber Harvest Plan.

(a) On an ownership of 100 acres or less of timberland, a modified timber harvest plan may be filed by a plan submitter, providing that the following conditions and mitigations are met:

(1) No more than 70% of any existing tree canopy layer is to be harvested on parcels 40 acres or less, and not more than 50% on parcels 41–100 acres. The canopy retained shall be well distributed over the harvest area. Not more than 10% of the THP area shall be harvested under the rehabilitation method. A sample area must be marked before submission of the THP. The sample area shall include at least 10% of the area which is representative of the range of conditions present in the area.

(2) Clearcutting and shelterwood removal, as defined in 14 CCR 913.1(b) and (d) [933.1(b) and (d), and 953.1(b) and (d)] shall not be used, except for legally deeded right–of–ways or easements for utility purposes which are documented in the plan by the RPF by reference to specific deeds or surveys.

(3) Stocking standards, specific to the silvicultural method selected must be met immediately after harvesting operations are completed.

(4) No heavy equipment operations on slopes greater than 50%, or on areas with high or extreme erosion hazard ratings.

(5) No construction of new skid trails on slopes over 40%.

(6) No timber operations in Special Treatment Areas Except log hauling on existing roads not requiring reconstruction.

(7) No timber operations on slides or unstable areas.

(8) New road construction is confined to 600 feet and a 1,000 foot limit total of road construction and reconstruction combined.

(9) No heavy equipment operations within a watercourse or lake protection zone, meadows, or wet areas, except for maintenance of existing roads, drainage facilities or structures.

(10) No listed species will be directly or indirectly adversely impacted by proposed timber operations. For timber operations which potentially could adversely affect a listed species or the habitat of the species, the consultation process with DFG pursuant to Fish and Game Code 2090 or 2091 shall be completed before the THP is approved.

[The next page is 264.23.]

(11) Timber harvesting is only allowed in the WLPZ if: 1) sanitation-salvage harvesting is the only silvicultural system to be used in the WLPZ and it must be in compliance with 14 CCR 916.4 [936.4, 956.4] (b); or 2) if harvesting removes no more than 30% of any existing canopy layer. Harvesting under 2) above shall not occur again in the WLPZ for a 10-year period following completion of the THP.

(12) No timber operations within potentially significant archaeological sites.

(13) No alternatives, exceptions, or in-lieu practices allowed for watercourse or lake protection measures, standard road and landing widths, or erosion control measures, except for use of existing roads within WLPZ after compliance with examination, evaluation, and mitigation(s) per 14 CCR 916.4(a) [936.4(a), 956.4(a)].

(14) Winter timber operations except as conditioned by the Director to avoid potential significant cumulative impacts shall be in accordance with 14 CCR 914.7 (a) and (b) [934.7(a) and (b), 954.7(a) and (b)].

(15) Harvesting will not reduce the amount of the timberland occupied by late succession forest stands currently greater than or equal to 5 acres in size.

(16) In addition to (1) – (15) all other rules of the Board shall apply to operations specified in this section.

NOTE: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21082, 21084 and 21086, Public Resources Code; and 15300, 15300.3, 15300.4 and 15304, Title 14, California Code of Regulations (CCR).

HISTORY

1. New section filed 7-6-93; operative 7-6-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 28). For prior history, see Register 81, No. 1.
2. Expired by its own terms on 7-6-94 (Register 95, No. 17).
3. New section filed 4-28-95; operative 4-28-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
4. Amendment of subsections (a)(12)-(13) and amendment of NOTE filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1051.1. Contents of Modified THP.

A plan submitted under section 1051 above shall contain all the provisions of 14 CCR 1034 except the following: (o), (x)(7), (z), (cc), (dd), (ee), and the RPF shall:

(a) Identify and map those areas currently understocked and not to be harvested that are at least 3 acres in size.

(b) Use a topographic map base with a minimum scale of 1:12,000.

(c) Certify in the THP that the conditions or facts stated in items 1-16 above exist on the THP area at the time of submission, and that the preparation, mitigation, and analysis of the THP and no identified potential significant effects remain undisclosed.

(d) Certify that a meeting will be held at the THP site before timber operations commence with the RPF responsible for the plan or supervised designee and the licensed timber operator who will be operating on the THP where the contents and implementation of the plan have been reviewed and discussed.

Operations pursuant to this section shall use an alternative to the cumulative impacts assessment specified in 14 CCR 898, 912.9 [932.9, 952.9], and Technical Rule Addendum No.2. Operations conducted according to this section are presumed to be unlikely to cause a significant adverse impact to the environment due to the specific restrictive mitigations required in (1) – (15) above.

This presumption of unlikely impacts shall not apply to MTHPs for which: 1) the Director determines it does not meet the criteria of subsection 1051(a), or 2) the Director determines in consultation with trustee or responsible agencies, or upon review of public comments that a fair argument exists that significant individual or cumulative impacts will result from timber operations. Where issues (a fair argument) are raised the RPF shall complete the appropriate portion of Technical Rule Addendum No. 2 and submit that information for the Director's review.

NOTE: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21082, 21084 and 21086, Public Resources Code; and 15300, 15300.3, 15300.4 and 15304, Title 14, California Code of Regulations (CCR).

HISTORY

1. New section filed 7-6-93; operative 7-6-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 28).
2. Expired by its own terms on 7-6-94 (Register 95, No. 17).
3. New section filed 4-28-95; operative 4-28-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
4. Amendment of subsection (d) and amendment of NOTE filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1051.2. Review of Modified THP.

The Director shall require a preharvest inspection of modified timber harvest plans when substantial question by Review Team members exist on plan contents or environmental impacts, and where winter operations are proposed according to 914.7 (a) and (b) [934.7(a) and (b), 954.7 (a) and (b)].

NOTE: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4593, 21082, 21084 and 21086, Public Resources Code; and 15300, 15300.3, 15300.4 and 15304, California Administrative Code (CAC).

HISTORY

1. New section filed 7-6-93; operative 7-6-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 28).
2. Expired by its own terms on 7-6-94 (Register 95, No. 17).
3. New section filed 4-28-95; operative 4-28-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).

§ 1051.3. Expiration of Modified THP Provisions.

NOTE: Authority cited: Sections 4551, 4551.5, 4593, 21082 and 21086, Public Resources Code. Reference: Sections 4512, 4513, 4551, 4551.5, 4552, 4554.5, 4593, 21082, 21084 and 21086, Public Resources Code; and 15300, 15300.3, 15300.4 and 15304, Title 14 California Code of Regulations.

HISTORY

1. New section filed 7-6-93; operative 7-6-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 28).
2. Expired by its own terms on 7-6-94 (Register 95, No. 17).
3. New section filed 4-28-95; operative 4-28-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 17).
4. Amendment filed 12-21-95; operative 12-21-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 51).
5. Repealer of section 1051.3 filed 10-9-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5. The Board of Forestry acted to repeal section 1051.3 in accordance with the terms of section 1051.3 by Board vote on 8-6-97 (Register 97, No. 41).

§ 1052. Emergency Notice [*Effective until 1-1-2006*].

(a) Before cutting or removing timber on an emergency basis, an RPF on behalf of a timber owner or operator shall submit a Notice of Emergency Timber Operations to the Director, on form RM-67 (9/99), or form RM-65 (1052.4) (2/24/05) for a Fuel Hazard Reduction emergency, as prescribed by the Director. The notice shall include, but not be limited to, the following:

(1) Names and addresses of all timberland owner(s), timber owner(s), and timber operator(s) for the area on which timber will be cut or removed.

(2) A description of the specific conditions that constitute the emergency, its cause, extent and reason for immediate commencement of timber operations.

(3) Legal description of the area from which timber will be cut or removed.

(4) A titled USGS (if available) or equivalent topographic map(s) of scale not less than 2″ to the mile, or larger scale, showing the area from which timber will be cut or removed, the legal description, roads and Class I, II, III and IV watercourses, and yarding systems if more than one will be used.

(5) Yarding system to be used.

(6) The expected dates of commencement and completion of timber operations.

(7) A declaration by the RPF, made under penalty of perjury, that a bona fide emergency exists which requires emergency timber operations.

(8) A declaration by the timber owner, made under penalty of perjury, that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code.

(9) Name, address, license number, and signature of the RPF who prepares the notice and submits it to the Director on behalf of the timber owner or operator.

(10) For Emergency Notices covering three acres or more in size, the RPF shall include a Confidential Archaeological Letter with the Emer-

gency Notice submitted to the Director. The Confidential Archaeological Letter shall include all information required by 14 CCR § 929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 929.1 [949.1, 969.1](g) and 929.5. The Director shall also submit a complete copy of the Confidential Archaeological Letter and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of Emergency Notice submittal to the Director. Prior to submitting the emergency notice to the Director the RPF shall send a copy of the emergency notice to Native Americans as defined in 14 CCR § 895.1.

(A) For projects filing an emergency notice for fuel hazard reduction under 14 CCR § 1052.4, archaeology requirements shall be conducted by a person possessing current certification pursuant to 14 CCR § 929.4[949.4, 969.4].

(b) Timber operations pursuant to an emergency notice shall comply with the rules and regulations of the Board. A person conducting timber operations under an Emergency Notice shall comply with all operational provisions of the Forest Practice Act and District Forest Practice Rules applicable to "Timber Harvest Plan", "THP", and "plan".

(c) In-lieu practices for watercourse and lake protection zones as specified under Article 6 of the rules, exceptions to rules, and alternative practices are not allowed unless necessary to protect public health and safety.

(d) Timber operations pursuant to an Emergency Notice may not commence for five working days, 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, from the date of the Director's receipt of the Emergency Notice unless such waiting period is waived by the Director. The Director shall determine whether the emergency notice is complete. If it is found to be complete the Director shall send a copy of a notice of acceptance to the timberland owner. If the Emergency Notice is not complete it shall be returned to the submitter. If the Director does not act within five working days, 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, of receipt of the Emergency Notice, timber operations may commence.

(e) Timber operations shall not continue beyond 120 days after the Emergency Notice is accepted by the Director unless a plan is submitted to the Director and found to be in conformance with the rules and regulations of the Board, except for burning operations to treat fuels in accordance with § 1052.4(d)(6) which shall be completed by April 1 of the year following fuel creation.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. Repealer of Section 1052 and renumbering and amendment of Section 1051 to Section 1052 filed 1-2-81; effective thirtieth day thereafter (Register 81, No. 1).
2. Amendment of subsection (d) filed 8-7-95; operative 8-7-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
3. Amendment of subsection (g) filed 12-8-95; operative 12-8-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
4. New subsection (h) filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
5. Amendment of subsection (h) and amendment of NOTE filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Amendment filed 2-17-2000; operative 7-1-2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
7. Amendment of subsection (a)(10) filed 11-25-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).
8. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) filed 6-25-2004 as an emergency; operative 6-25-2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10-25-2004 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) refiled with further amendment of subsection (a) 10-12-2004 as an emergency; operative 10-26-2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2-23-2004 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) refiled with further amendment of subsections (a) and (e) 2-22-2005 as an emergency; operative 2-24-2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6-24-2005 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 2-22-2005 order transmitted to OAL 6-23-2005 and filed 8-5-2005. Amendments to emergency language effective 1-1-2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31). *Text of version effective through 1-1-2006 retained for reference.*

§ 1052. Emergency Notice.

(a) Before cutting or removing timber on an emergency basis, an RPF on behalf of a timber owner or operator shall submit a Notice of Emergency Timber Operations to the Director, on form RM-67 (06/2007), or form RM-65 (1052.4) (1/1/08) for a Fuel Hazard Reduction emergency, as prescribed by the Director. The notice shall include, but not be limited to, the following:

(1) Names and addresses of all timberland owner(s), timber owner(s), and timber operator(s) for the area on which timber will be cut or removed.

(2) A description of the specific conditions that constitute the emergency, its cause, extent and reason for immediate commencement of timber operations.

(3) Legal description of the area from which timber will be cut or removed.

(4) A titled USGS (if available) or equivalent topographic map(s) of scale not less than 2″ to the mile, or larger scale, showing the area from which timber will be cut or removed, the legal description, roads and Class I, II, III and IV watercourses, and yarding systems if more than one will be used.

(5) Yarding system to be used.

(6) The expected dates of commencement and completion of timber operations.

(7) A declaration by the RPF, made under penalty of perjury, that a bona fide emergency exists which requires emergency timber operations.

(8) A declaration by the timber owner, made under penalty of perjury, that any applicable timber yield taxes will be paid pursuant to Section 38115 of the Revenue and Taxation Code.

(9) Name, address, license number, and signature of the RPF who prepares the notice and submits it to the Director on behalf of the timber owner or operator.

(10) For Emergency Notices covering three acres or more in size, the RPF shall include a Confidential Archaeological Letter with the Emergency Notice submitted to the Director. The Confidential Archaeological Letter shall include all information required by 14 CCR § 929.1 [949.1, 969.1](c)(2), (7), (8), (9), (10) and (11), including site records, if required pursuant to 14 CCR § 929.1 [949.1, 969.1](g) and 929.5. The Director shall also submit a complete copy of the Confidential Archaeological Letter and two copies of any required archaeological or historical site records, to the appropriate Information Center of the California Historical Resource Information System within 30 days from the date of Emergency Notice submittal to the Director. Prior to submitting the emergency notice to the Director the RPF shall send a copy of the emergency notice to Native Americans as defined in 14 CCR § 895.1.

(A) For projects filing an emergency notice for fuel hazard reduction under 14 CCR § 1052.4, archaeology requirements shall be conducted by a person possessing current certification pursuant to 14 CCR § 929.4[949.4, 969.4].

(b) Timber operations pursuant to an emergency notice shall comply with the rules and regulations of the Board. A person conducting timber operations under an Emergency Notice shall comply with all operational provisions of the Forest Practice Act and District Forest Practice Rules applicable to "Timber Harvest Plan", "THP", and "plan".

(c) In-lieu practices for watercourse and lake protection zones as specified under Article 6 of the rules, exceptions to rules, and alternative practices are not allowed unless necessary to protect public health and safety.

(d) Timber operations pursuant to an Emergency Notice may not commence for five working days, 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, from the date of the Director's receipt of the Emergency Notice unless such waiting period is waived by the Director. The Director shall determine whether the emergency notice is complete. If it is found to be complete the Director shall send a copy of a notice of acceptance to the timberland owner. If the Emergency Notice is not complete it shall be returned to the submitter. If the Director does not act within five working days, 15 days for a fuel hazard emergency per 14 CCR §§ 1052.1(e) and 1052.4, of receipt of the Emergency Notice, timber operations may commence.

(e) Timber operations shall not continue beyond 120 days after the Emergency Notice is accepted by the Director unless a plan is submitted to the Director and found to be in conformance with the rules and regulations of the Board, except for burning operations to treat fuels in accordance with § 1052.4(d)(6) which shall be completed by April 1 of the year following fuel creation.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. Repealer of Section 1052 and renumbering and amendment of Section 1051 to Section 1052 filed 1–2–81; effective thirtieth day thereafter (Register 81, No. 1).
2. Amendment of subsection (d) filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).
3. Amendment of subsection (g) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
4. New subsection (h) filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
5. Amendment of subsection (h) and amendment of NOTE filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
6. Amendment filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
7. Amendment of subsection (a)(10) filed 11–25–2002; operative 1–1–2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 48).
8. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) filed 6–25–2004 as an emergency; operative 6–25–2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2004 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) refiled with further amendment of subsection (a) 10–12–2004 as an emergency; operative 10–26–2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–23–2004 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsection (a), new subsection (a)(10)(A) and amendment of subsections (d) and (e) refiled with further amendment of subsections (a) and (e) 2–22–2005 as an emergency; operative 2–24–2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–24–2005 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 2–22–2005 order transmitted to OAL 6–23–2005 and filed 8–5–2005. Amendments to emergency language effective 1–1–2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31).
12. Amendment of subsection (a) filed 7–9–2007 as an emergency; operative 7–9–2007 (Register 2007, No. 28). A Certificate of Compliance must be transmitted to OAL by 1–7–2008 or emergency language will be repealed by operation of law on the following day.
13. Amendment of section heading and subsection (a) and repealer of subsection (f) filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1052.1. Emergency Conditions [*Effective until 1–1–2006*].

The following are conditions that constitute an emergency pursuant to 14 CCR 895.1:

(a) Trees that are dead or dying as a result of insects, disease, parasites, or animal damage.

(b) Trees that are fallen, damaged, dead or dying as a result of wind, snow, freezing weather, fire, flood, landslide or earthquake.

(c) Trees that are dead or dying as a result of air or water pollution.

(d) Cutting or removing trees required for emergency construction or repair of roads.

(e) Where high, very high or extreme fuel hazard conditions, the combination combustible fuel quantity, type, condition, configuration and terrain positioning, pose a significant fire threat on private timberlands. Cutting and removal of hazardous fuels, including trees, shrubs and other woody material, is needed to eliminate the vertical and horizontal continuity of understory fuels and surface fuels, for the purpose of reducing the rate of fire spread, fire duration and intensity, fuel ignitability and to achieve a flame length under average severe fire weather conditions that is less than 4 feet in the treated areas.

The following are conditions that constitute a financial emergency as defined in 14 CCR 895.1:

Potential financial loss of timber previously inoperable or unmerchantable due to one or more of the following factors: access, location, condition, or timber volume that has unexpectedly become feasible to harvest provided that the harvest opportunity will not be economically feasible for more than 120 days and provided that such operations meet the conditions specified in 1038(b)(1)–(10) and meet minimum stocking requirements at the completion of timber operations.

NOTE: Authority cited: Sections 4551, 4552, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. New Section filed 1–2–81; effective thirtieth day thereafter (Register 81, No. 1).
2. Amendment of last paragraph filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
3. Amendment of first paragraph and subsection (d) filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
4. New subsection (e) filed 6–25–2004 as an emergency; operative 6–25–2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2004 or emergency language will be repealed by operation of law on the following day.
5. New subsection (e) refiled 10–12–2004 as an emergency; operative 10–26–2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–23–2004 or emergency language will be repealed by operation of law on the following day.
6. New subsection (e) refiled 2–22–2005 as an emergency; operative 2–24–2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–24–2005 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2–22–2005 order transmitted to OAL 6–23–2005 and filed 8–5–2005. Amendments to emergency language effective 1–1–2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31). *Text of version effective through 1–1–2006 retained for reference.*

§ 1052.1. Emergency Conditions.

The following are conditions that constitute an emergency pursuant to 14 CCR 895.1:

(a) Trees that are dead or dying as a result of insects, disease, parasites, or animal damage.

(b) Trees that are fallen, damaged, dead or dying as a result of wind, snow, freezing weather, fire, flood, landslide or earthquake.

(c) Trees that are dead or dying as a result of air or water pollution.

(d) Cutting or removing trees required for emergency construction or repair of roads.

(e) Where high, very high or extreme fuel hazard conditions, the combination of combustible fuel quantity, type, condition, configuration and terrain positioning, pose a significant fire threat on private timberlands. Cutting and removal of hazardous fuels, including trees, shrubs and other woody material, is needed to eliminate the vertical and horizontal continuity of understory fuels, surface fuels, and/or crown fuels, for the purpose of reducing the rate of fire spread, fire duration and intensity, and fuel ignitability.

(f) trees that obscure the sight–line from the observation area of a fire detection lookout maintained by a government agency (i.e. CAL FIRE or USDA Forest Service fire lookouts).

The following are conditions that constitute a financial emergency as defined in 14 CCR 895.1:

Potential financial loss of timber previously inoperable or unmerchantable due to one or more of the following factors: access, location, condition, or timber volume that has unexpectedly become feasible to harvest provided that the harvest opportunity will not be economically

feasible for more than 120 days and provided that such operations meet the conditions specified in 1038(b)(1)–(10) and meet minimum stocking requirements at the completion of timber operations.

NOTE: Authority cited: Sections 4551, 4552, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. New Section filed 1–2–81; effective thirtieth day thereafter (Register 81, No. 1).
2. Amendment of last paragraph filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
3. Amendment of first paragraph and subsection (d) filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
4. New subsection (e) filed 6–25–2004 as an emergency; operative 6–25–2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2004 or emergency language will be repealed by operation of law on the following day.
5. New subsection (e) refiled 10–12–2004 as an emergency; operative 10–26–2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–23–2004 or emergency language will be repealed by operation of law on the following day.
6. New subsection (e) refiled 2–22–2005 as an emergency; operative 2–24–2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–24–2005 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 2–22–2005 order transmitted to OAL 6–23–2005 and filed 8–5–2005. Amendments to emergency language effective 1–1–2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31).
8. New subsection (f) filed 7–9–2007 as an emergency; operative 7–9–2007 (Register 2007, No. 28). A Certificate of Compliance must be transmitted to OAL by 1–7–2008 or emergency language will be repealed by operation of law on the following day.
9. Amendment of section heading and subsection (e) filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1052.2. Emergency Substantiated by RPF.

The RPF preparing the Notice of Emergency Timber Operations shall describe the nature of the emergency and the need for immediate cutting in sufficient detail so that the reason for the emergency is clear. Where tree killing insects have killed and are likely to kill trees within one year on timberland, an emergency is presumed to exist. Trees will be considered likely to die when they are determined, by an RPF, to be high risk by either:

(a) Risk classification systems including Smith et al., 1981; The California pine risk–rating system: its development, use, and relationship to other systems; In Hazard–Rating Systems in Forest Insect Pest Management, Hedden et al., eds. USDA Forest Service General Technical Report WO–27, pp. 53–69; Ferrell. 1989; Ten–year risk–rating systems for California Red Fir and White Fir: development and use; USDA Forest Service General Technical Report PSW–115, 12p.; or similar risk–rating systems recognized by the profession; or

(b) Where evidence of a current beetle attack exists (i.e. existence of boring dust, woodpecker feeding, or recent top kill) and these trees are within 100 feet of multiple tree kills. Such trees shall be marked by an RPF or the supervised designee before felling.

NOTE: Authority cited: Sections 4551, 4552 and 4554, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. New section filed 1–2–81; effective thirtieth day thereafter (Register 81, No. 1).
2. Amendment filed 5–3–89 as an emergency; operative 5–3–89 (Register 89, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–31–89.
3. Reinstatement of section as it existed prior to 5–3–89 emergency amendment, filed 1–15–91 by operation of Government Code section 11346.1 (Register 91, No. 7).
4. Amendment of section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
5. Amendment filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).
6. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1052.3. Emergency Notice for Insect Damaged Timberlands.

Emergency timber operations, under the presumed emergency standard of 14 CCR 1052.2, may be commenced provided a Registered Professional Forester (RPF) is responsible for an on–site inspection, and tree marking when required by subsection (a):

(a) The emergency notice used with this section is to be used only for the harvesting of dead trees and those dying because of insect attack. Trees with green crowns that are to be harvested must be under insect attack which is likely to lead to mortality within one year, and shall be stump marked or otherwise designated by an RPF prior to cutting.

(b) A 60–day extension of an existing emergency notice may be submitted by an RPF where expanded or subsequent insect attack is occurring and it is explained and justified why the timber operation could not be completed during the first 60–day period.

NOTE: Authority cited: Sections 4551, 4552 and 4554, Public Resources Code. Reference: Section 4592, Public Resources Code.

HISTORY

1. New section filed 5–3–89 as an emergency; operative 5–3–89 (Register 89, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–31–89.
2. Repealed by operation of law (Register 90, No. 10).
3. New section filed 3–2–90 as an emergency; operative 3–2–90 (Register 90, No. 10). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 7–2–90.
4. New section filed 7–19–90 as an emergency; operative 7–19–90 (Register 90, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 11–16–90.
5. Repealed by operation of Government Code section 11346.1(g) 120 days from effective date (Register 91, No. 40).
6. New section filed 8–5–91; operative 8–5–91 (Register 91, No. 50).
7. Amendment filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1052.4. Emergency Notice for Fuel Hazard Reduction [*Effective until 1–1–2006*].

The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard Reduction shall describe the nature of the emergency and the need for immediate cutting in sufficient detail so that the reason for the emergency is clear. Emergency timber operations, under the presumed emergency standard of 14 CCR § 1052.1, may be commenced and conducted when in conformance with the following:

(a) RPF develops and documents the vegetative treatments necessary to meet the goals of 14 CCR § 1052.1(e), and ensures post harvest conditions are in accordance with all subsections in § 1052.4. Such documentation includes the following:

(1) A description of the preharvest stand structure and statement of the postharvest stand stocking levels.

(2) A description of the criteria used for the trees to be harvested or the trees to be retained.

(3) All trees that are harvested or all trees that are retained shall be marked by or under the supervision of a registered professional forester before felling operations begin.

(4) Post harvest compliance shall be determined by the combination of physical measurements, observations, and comparison to photo series examples in U.S. Forest Service General Technical Report PNW–51 and 52 description codes 1–PP–4–PC, 1–DF–4–PC, 6–DF–PC and 2–LP–3–PC, or other examples on file in the official rulemaking file and incorporated by reference. Post harvest compliance shall be met on at least 80 percent of the project area as calculated excluding WLPZs and other wildlife protection requirements developed in accordance with § 1052.4(e).

(b) The conditions of subsection 14 CCR § 1038(b)(1) through (10) are applied or, for operations in the Lake Tahoe Basin, (f)(1) through (14) are applied.

(c) Geographic area: operations are permitted:

(1) Within 1/4 mile from approved and legally permitted structures that comply with the California Building Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the "California Fire Alliance list of Communities at Risk" (copyright date

2003 on file in the official rulemaking file and incorporated by reference) and have densities greater than 1 structure per 20 acres.

(2) Within 500 feet of a legal structure outside the area defined in § 1052.4(c)(1);

(3) Within 500 feet of either side of a public or federal road;

(4) Within 500 feet on either side of a private road providing access to legal structures;

(5) Within 500 feet on either side of a mainline haul road identified by a public fire agency as necessary for fire suppression or evacuation and is approved by a public fire agency in a fire prevention plan;

(6) Within 500 feet on either side of ridges identified by a public fire agency as suitable for fire suppression and is approved by a public fire agency in a fire prevention plan;

(7) Within 500 feet of infrastructure facilities such as transmission lines or towers or water conduits.

(d) Vegetation Treatments: Tree removal shall target understory trees. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Standards listed shall be met by retaining the largest diameter trees in the preharvest project area.

(1) The quadratic mean diameter of trees greater than 8 inches diameter breast height in the preharvest project area shall be increased in the post harvest stand.

(2) Only trees less than 30 inches inside bark stump diameter may be removed.

(3) Minimum post treatment canopy closure of dominant and codominant trees shall be 40 percent for east side pine forest types; 50 percent for coastal redwood and Douglas-fir forest types in or adjacent to communities and legal structures referenced in subsection § 1052.4(c)(1) and (2); 60 percent for coastal redwood and Douglas-fir forest types outside of communities and legal structures referenced in subsection § 1052.4(c)(1) and (2); and 50 percent for mixed conifer and all other forest types.

(4) Stocking shall meet commercial thinning requirement of 14 CCR § 913.3 [933.3, 953.3] immediately upon completion of operations.

(5) Understory and surface fuels shall be removed to achieve a minimum clearance distance of 8 feet measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the surface fuels.

(6) Not withstanding wildlife habitat requirements of subsection § 1052.4(e), surface fuels in the project area, including logging slash and debris, low brush, and deadwood, that could promote the spread of wildfire shall be treated to achieve the goal of an average of 4 foot maximum flame length height under average severe fire weather conditions. These treatments shall include chipping, removal or other methods necessary to achieve the goal, and shall be accomplished within 120 days from the start of operations, except for burning operations, which shall be accomplished by April 1 of the year following surface fuel creation.

(e) As part of the preharvest project design, the RPF shall evaluate and incorporate habitat requirements for fish, wildlife and plant species in accordance with sections 14 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919. Such evaluations shall include use of the California Natural Diversity Database (as referenced by the California Department of Fish and Game, http://www.dfg.ca.gov/whdab/html/cnddb.html) and local knowledge of the planning watershed. Consultation with California Department of Fish and Game personnel is recommended. Examples of habitat requirements to be incorporated into the project include retention of large woody debris and snags congruent with emergency condition goals, and vegetative screening for wildlife cover and visual aesthetics.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.

HISTORY

1. New section filed 6–25–2004 as an emergency; operative 6–25–2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–12–2004 as an emergency; operative 10–26–2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–23–2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 2–22–2005 as an emergency; operative 2–24–2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–24–2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–22–2005 order transmitted to OAL 6–23–2005 and filed 8–5–2005. Amendments to emergency language effective 1–1–2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31). *Text of version effective through 1–1–2006 retained for reference.*

§ 1052.4. Emergency Notice for Fuel Hazard Reduction.

The RPF preparing the Notice of Emergency Timber Operations for Fuel Hazard Reduction shall describe the nature of the emergency and the need for immediate cutting in sufficient detail so that the reason for the emergency is clear. Emergency timber operations, under the presumed emergency standard of 14 CCR § 1052.1, may be commenced and conducted when in conformance with the following:

(a) RPF develops and documents the vegetative treatments necessary to meet the goals of 14 CCR § 1052.1(e), and ensures post harvest conditions are in accordance with all subsections in § 1052.4. Such documentation shall include the following:

(1) A description of the preharvest stand structure and statement of the postharvest stand stocking levels.

(2) A description of the criteria to designate trees to be harvested or the trees to be retained.

(3) All trees that are harvested or all trees that are retained shall be marked or sample marked by or under the supervision of a Registered Professional Forester before felling operations begin. When trees are sample marked, the designation prescription for unmarked areas shall be in writing and the sample mark area shall include at least 10% of the harvest area to a maximum of 20 acres per stand type which is representative of the range of conditions present in the area.

(4) Post harvest compliance shall be determined by the combination of physical measurements and observations. Post harvest compliance shall be met on at least 80 percent of the project area as calculated excluding WLPZs and other wildlife protection requirements developed in accordance with 14 CCR § 1052.4(e).

(b) The conditions of subsection 14 CCR § 1038(b)(1) through (10) are applied or, for operations in the Lake Tahoe Basin, (f)(1) through (14) are applied.

(c) Geographic area: operations are permitted:

(1) Within 1/4 mile from approved and legally permitted structures that comply with the California Building Code (legal structure). Such legal structures shall be within or adjacent to a community listed in the "California Fire Alliance list of Communities at Risk" (copyright date 2003 on file in the official rulemaking file and incorporated by reference) and have densities greater than 1 structure per 20 acres.

(2) Within 500 feet of a legal structure outside the area defined in § 1052.4(c)(1);

(3) Within 500 feet of either side of a public or federal road;

(4) Within 500 feet on either side of a private road providing access to legal structures;

(5) Within 500 feet on either side of a mainline haul road necessary for fire suppression or evacuation as identified in a fire prevention plan or with the written concurrence of a public fire agency and as accepted by the Director.

(6) Within 500 feet on either side of ridges suitable for fire suppression as identified in a fire prevention plan or with the written concurrence of a public fire agency and as accepted by the Director.

(7) Within 500 feet of infrastructure facilities such as transmission lines or towers or water conduits.

(d) Vegetation Treatments: Tree removal shall target understory trees. The residual stand shall consist primarily of healthy and vigorous dominant and codominant trees from the preharvest stand. Standards listed

shall be met by retaining the largest diameter trees in the preharvest project area.

(1) The quadratic mean diameter of trees greater than 8 inches dbh in the preharvest project area shall be increased in the post harvest stand.

(2) Only trees less than 24 inches outside bark stump diameter may be removed except under the following condition. If the goal of fuel reduction cannot be achieved by removing trees less than 24 inches outside bark stump diameter; trees less than 30 inches outside bark stump diameter may be removed if that removal is necessary to meet the fuel objectives stated in 14 CCR § 1052.1(e).

(3)(A) Minimum post treatment canopy closure of dominant and codominant trees shall be 40 percent for east side pine forest types; 50 percent for coastal redwood and Douglas–fir forest types in or adjacent to communities and legal structures referenced in subsection § 1052.4(c)(1) and (2); 60 percent for coastal redwood and Douglas–fir forest types outside of communities and legal structures referenced in subsection § 1052.4(c)(1) and (2); and 50 percent for mixed conifer and all other forest types.

(B) Post treatment stand shall contain no more than 200 trees per acre over 3 inches in dbh.

(4) Stocking shall meet commercial thinning requirement of 14 CCR § 913.3 [933.3, 953.3] immediately upon completion of operations.

(A) In the High Use Subdistrict of the Southern Forest District where preharvest tree stocking does not meet commercial thinning requirement of 14 CCR § 953.3, the basal area minimum stocking standards for Selection Unevenaged Management in 14 CCR § 953.2(a)(2)(A)1., 2., and 3., shall be met following harvesting.

(B) In areas where preharvest tree stocking does not meet commercial thinning requirement of 14 CCR § 913.3 [933.3, 953.3], and as necessary to establish or maintain an unevenaged stand structure, minimum stocking standards for Selection Unevenaged Management in 14 CCR § 913.2 [933.2, 953.2](a)(2)(A)1., 2., 3. and 4., shall be met following harvesting.

(5)(A) This subsection applies to geographic areas listed in 14 CCR § 1052.4(c)(2) and (6), and to areas within 500 feet of structures in 14 CCR § 1052.4(c)(1). Notwithstanding wildlife habitat requirements of 14 CCR § 1052.4(e), and requirements of PRC 4291, and other requirements for dominant and codominant trees under subsection 14 CCR § 1052.4(d) and (d)(1)–(4), surface and ladder fuels in the harvest area, including logging slash and debris, brush, small trees, and deadwood, that could promote the spread of wildfire shall be treated to achieve standards for vertical spacing between fuels, horizontal spacing between fuels, maximum depth of dead ground surface fuels, and reduction of standing dead fuels, as follows:

1. Ladder and surface fuels, excluding residual stand dominant and codominant trees, shall be spaced to achieve vertical clearance distance of eight feet or three times the height of the post harvest fuels, whichever is the greater distance, measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the surface fuels.

2. Ladder and surface fuels, excluding residual stand dominant and codominant trees, shall be spaced to achieve horizontal clearance distance of two to six times the height of the post harvest fuels measured from the outside branch edges of the fuels. On ground slopes of zero percent to 20 percent horizontal clearance distance shall be two times the height of post harvest fuels; on ground slopes of greater than 20 percent to 40 percent horizontal clearance distance shall be four times the height of post harvest fuels; on ground slopes of greater than 40 percent horizontal clearance distance shall be six times the height of post harvest fuels.

3. Dead surface fuel depth shall be less than 9 inches.

4. Standing dead or dying trees and brush shall generally be removed. Such material, along with live vegetation associated with the dead vegetation, may be retained for wildlife habitat when isolated from other vegetation.

(B) This subsection applies to geographic areas listed in 14 CCR § 1052.4(c)(3), (4), (5), and (7) and to areas between 500 feet to 1320 feet of structures in 14 CCR § 1052.4(c)(1). Notwithstanding wildlife habitat requirements of 14 CCR § 1052.4(e):

1. Dead fuels shall be treated to achieve a minimum clearance distance of 8 feet measured from the base of the live crown of the post harvest dominant and codominant trees to the top of the dead fuels.

2. All logging slash created by the timber operations shall be treated to achieve a maximum post harvest depth of 9 inches above the ground.

(6) Fuel treatments shall include chipping, removal or other methods necessary to achieve the fuel hazard reduction standards in this section, and shall be accomplished within 120 days from the start of operations, except for burning operations, which shall be accomplished by April 1 of the year following surface fuel creation.

(e) As part of the preharvest project design, the RPF shall evaluate and incorporate habitat requirements for fish, wildlife and plant species in accordance with sections 14 CCR §§ 898.2, 916.9 [936.9, 956.9] and 919. Such evaluations shall include use of the California Natural Diversity Database (as referenced by the California Department of Fish and Game, http://www.dfg.ca.gov/whdab/html/cnddb.html) and local knowledge of the planning watershed. Consultation with California Department of Fish and Game personnel is recommended. Examples of habitat requirements to be incorporated into the project include retention of large woody debris and snags congruent with emergency condition goals, and vegetative screening for wildlife cover and visual aesthetics.

(f) Operations conducted concurrently in the same geographic area (ref. 14 CCR § 1052.4(c))pursuant to 14 CCR § 1038(b) shall not remove diseased trees in excess of the diameter limit required under 14 CCR § 1052.4(d)(2).

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 4555, 4561, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.

HISTORY

1. New section filed 6–25–2004 as an emergency; operative 6–25–2004 (Register 2004, No. 26). A Certificate of Compliance must be transmitted to OAL by 10–25–2004 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 10–12–2004 as an emergency; operative 10–26–2004 (Register 2004, No. 42). A Certificate of Compliance must be transmitted to OAL by 2–23–2004 or emergency language will be repealed by operation of law on the following day.
3. New section refiled 2–22–2005 as an emergency; operative 2–24–2005 (Register 2005, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–24–2005 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 2–22–2005 order transmitted to OAL 6–23–2005 and filed 8–5–2005. Amendments to emergency language effective 1–1–2006 pursuant to Public Resources Code section 4554.5(a) (Register 2005, No. 31).
5. Amendment of section heading and section filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1052.5. Emergency Notice for Fire Lookouts.

The RPF preparing the Notice of Emergency Timber Operations shall describe the nature of the emergency and the need for immediate cutting in sufficient detail so that the reason for the emergency is clear. Emergency timber operations shall only be conducted in conformance with the following:

(a) The RPF shall consult with the affected government fire agency official(s) prior to submission of the Emergency Notice to determine if emergency conditions exist as defined in 14 CCR §§ 895.1 and 1052.1, subsection (f), and to verify the necessity for tree removal.

(b) The RPF shall provide with the Emergency Notice: 1) a description of the criteria used to designate trees to be harvested or the trees to be retained; and 2) written verification from the affected agency of the necessity for the removal of each tree proposed to be removed.

(c) Live trees shall only be removed when necessary to abate emergency conditions as defined in 14 CCR §§ 895.1 and 1052.1, subsections (f).

(d) All trees that are harvested or all trees that are retained shall be marked by the RPF, or under the supervision of the RPF before felling operations begin.

(e) The conditions of 14 CCR § 1038, subsections (b)(1) through (10) shall apply; or for operations in the Lake Tahoe Basin, (f)(1) through (14) are applied.

(f) The RPF shall evaluate and incorporate habitat requirements in accordance with 14 CCR § 919. Such evaluations shall include use of the California Natural Diversity Database and local knowledge of the planning watershed(s). Habitat requirements to be incorporated into the project may include retention of large woody debris and vegetative screening for wildlife cover.

(g) The RPF shall consider the visual and aesthetic qualities of the area proposed for harvest, while at the same time addressing the emergency condition and allowing orderly harvesting of timber resources within these areas. Every reasonable effort shall be made by the RPF to use silvicultural methods other than clearcutting to protect the scenic values in the area.

(i) TImber operations should not reduce the after harvest stocking standards below the standards of the most closely associated silvicultural method. The anticipated post–harvest stocking shall be provided with the notice.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4553 and 4592, Public Resources Code. Reference: Sections 4513, 4554, 45555, 4562, 4562, 4584, 4592, 21001(f) and 21080(b)(4), Public Resources Code.

HISTORY

1. New section filed 7–9–2007 as an emergency; operative 7–9–2007 (Register 2007, No. 28). A Certificate of Compliance must be transmitted to OAL by 1–7–2008 or emergency language will be repealed by operation of law on the following day.

Article 3. Timber Harvesting Plan Appeal Procedures

§ 1053. Purpose of Regulations.

The regulations contained in this article govern procedures affecting appeals to the Board on return of plans by the Director pursuant to the provisions of PRC 4582.7.

NOTE: Authority cited for Article 3 (Sections 1053–1059): Sections 4551, 4552 and 4571, Public Resources Code. Reference: Section 4582.7, Public Resources Code.

§ 1054. Return of Plan by Director.

(a) When the Director determines that a plan is not in conformance with the rules of the Board, the plan shall be returned to the person submitting the plan with a statement including the following:

(1) The reasons for returning the plan;

(2) Notice that the person submitting the plan has a right to a public hearing before the Board, providing the person submitting the plan requests such hearing within 10 days from receipt of such plan as set forth in 14 CAC 1055; and

(3) Notice that timber operations under the plan shall not commence.

(b) The plan and said statement shall be delivered as follows:

(1) By personal service upon the person submitting the plan; or

(2) By registered or certified mail, return receipt requested, to the person submitting the plan at last address of record.

NOTE: Authority cited: Section 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. Amendment of subsection (a) filed 8–3–78; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 78, No. 31).

§ 1054.1. Right to Request Public Hearing.

Any person submitting a plan to whom such plan is returned by the Director on the grounds that it is not in conformance with the rules of the Board, may within 10 days of receipt of the plan request a public hearing before the Board consistent with sections 1055.2 and 1055.4.

NOTE: Authority cited: Sections 4551 and 4582.75, Pubic Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. Renumbering former section 1055 to section 1054.1 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 83, No. 37.

§ 1054.2. Form of Request for Hearing.

The request for hearing shall be in writing and shall contain the following:

(a) A statement requesting a hearing before the Board;

(b) Identification of the plan; and

(c) The name and address of the person making the request.

HISTORY

1. Renumbering former section 1055.2 to section 1054.2 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1054.3. Filing of Request for Hearing.

Such request shall be deemed to be filed on the date, whichever is earlier, upon which it is postmarked or the date upon which it is otherwise received at the office of the State Board of Forestry at 1416 Ninth Street, Room 1506–14, Sacramento, CA 95814.

HISTORY

1. Renumbering former section 1055.4 to section 1054.3 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1054.4. Public Hearing.

The Board shall schedule and hold a public hearing on such request no later than 30 days from the filing of the request for hearing, or at such later time as may be mutually agreed upon by the Board and the person submitting the plan and filing the request. The hearing may be scheduled as part of a regular meeting of the Board, or as part of any special meeting, provided that sufficient time is provided for the notice of hearing in accordance with 14 CAC 1056.2.

HISTORY

1. Renumbering of former section 1056 to section 1054.4 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1054.5. Notice of Hearing.

(a) At least 15 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the applicant, and mailing such notice to the Director for distribution as provided in subsections (2)–(5) below;

(2) Mailing the notice to any person who has submitted written comment on the plan and to any person requesting notice of the appeal or hearing;

(3) Posting such notice in a conspicuous location available to the public in the appropriate regional office of the Department;

(4) Posting of the notice at the place where notices are customarily posted at the county courthouse of the county within which the proposed timber operations are to take place;

(5) Any other dissemination of the notice determined to be appropriate by the Director to provide full participation in the hearing by the interested public.

(b) The notice of hearing shall include the following:

(1) The name of the person submitting the plan;

(2) Identification of the plan, including the number of the plan, a brief description of the location of the timber operations referred to in the plan by reference to any commonly known landmarks in the area, and a brief description of the proposed timber operations;

(3) A statement that the plan has been returned to the person submitting the plan because the Director has determined that the plan is not in conformance with the rules of the Board, and that the person submitting the plan has requested a public hearing before the Board pursuant to PRC 45182.7. In addition, a statement inviting the person submitting the plan and the public to make statements at the hearing regarding the plan; and

(4) The time, date, and location of the public hearing.

NOTE: Authority cited: Sections 4551 and 4582.7, Public Resources Code. Reference: Section 4582.7, Public Resources Code.

HISTORY

1. Renumbering of former section 1056.2 to section 1054.5 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 83, No. 37.
2. Editorial correction of printing error in HISTORYs, removing excess HISTORY 1. and 2. and renumbering and correcting former HISTORY 3. to HISTORY 1. (Register 91, No. 31).

§ 1054.6. Hearing Record.

The record before the Board upon the public hearing shall be as follows:

(a) The timber harvesting plan;

(b) All reports, findings, communications, correspondence, and statements in the file of the Department relating to the plan.

HISTORY

1. Renumbering former section 1057 to section 1054.6 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1054.7. Hearing Procedures.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of person submitting the plan;

(3) Statements of members of the public;

(4) Motion to close public hearing.

(b) Notwithstanding the above, the chairperson may in the exercise of discretion, determine the order of the proceedings.

(c) The chairperson may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements.

(d) The public hearing shall be recorded either electronically or by other convenient means.

HISTORY

1. Renumbering former section 1058 to section 1054.7 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1054.8. Order of the Board.

Following the public hearing, the Board shall determine whether, upon the record before it, the plan is in conformance with the rules and regulations of the Board and the provisions of the Act. If the Board determines that the plan is in conformance with the rules and regulations of the Board and the provisions of the Act, it shall make its order approving the plan. If the Board determines that the plan is not in conformance with the regulations of the Board and the provisions of the Act, it shall make its order disapproving the plan. Approval of the plan by the Board constitutes authorization that timber operations may commence and be conducted in accordance with the plan as approved and in accordance with rules and regulations of the Board and the provisions of the Act. Timber operations shall not take place where the Board disapproves the plan. Disapproval of plan shall be without prejudice to the applicant submitting a plan at any later time complying with the rules and regulations of the Board and the provisions of the Act. Where the Board approves the plan, notice thereof shall be filed with the Secretary of Resources, and within 10 working days such notice shall be transmitted to the agencies and persons referred to in 14 CAC 1037.3, and for posting at the places referred to in section 1037.1. The order of approval shall include written response to significant environmental points raised during the appeal.

HISTORY

1. Renumbering former section 1059 to section 1054.8 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1055. County Appeals Procedures.

The Board of Supervisors of a county for which rules and regulations have been adopted pursuant to Public Resources Code 4516.5 may appeal the Director's approval of a Timber Harvesting Plan by doing the following:

(a) No later than ten days from the date of approval, the county shall file with the Executive Officer of the Board of Forestry and mail to the plan submitter a statement containing:

(1) The name of the submitter of the Timber Harvesting Plan;

(2) The number of the Timber Harvesting Plan;

(3) The location of the proposed timber operations;

(4) A concise summary of all facts upon which the appeal is based;

(5) A copy of or reference to all documents which support the appellant's position;

(6) The name and phone number of the county staff member who will be the primary contact for purposes of the appeal;

(7) A copy of the authorization by the Board of Supervisors or its authorized designee for the appeal and containing the specific finding that the public health and safety, or the environment is threatened by the approval of the Timber Harvesting Plan and what form that threat takes;

(8) Certification that the county participated in the initial inspection of the plan area with the Director and participated in a multidisciplinary review of the plan.

(b) The county shall promptly telephone the Director and the plan submitter to inform them of the filing of the appeal.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055 to section 1054.1 and renumbering former section 1055.5 to 1055 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Registers 85, No. 36 and 83, No. 37.
3. Change without regulatory effect amending subsection (a)(7) filed 9–26–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).

§ 1055.1. Hearing on County Appeal.

The Board shall grant to a county that meets the requirements for filing an appeal an initial hearing to consider the county's request for an appeal at the next regularly scheduled Board meeting following the receipt of the request. The Board shall grant a hearing on an appeal by a county pursuant to Public Resources Code 4516.6 if the Board finds that the appeal raises substantial issues with respect to public health and safety or to the environment. If the Board finds that the appeal raises no substantial issues with respect to public health and safety or to the environment, the Board shall refuse to grant a hearing on an appeal. In making this determination, the Board shall consider the following:

(a) Whether the appeal raises environmental issues which can be addressed by the Board within the limits of the Public Resources Code and the rules of the Board; and

(b) Whether the appeal raises public health and safety issues which involve threats to the lives, health, or property of county residents.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.6 to section 1055.1 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 85, No. 36.
3. Change without regulatory effect amending section filed 9–26–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).

§ 1055.2. County Appeal Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal by a county no later than 30 days from the filing of the written statement of appeal, or at such later time as may be mutually agreed upon by the Board, the county, and the plan submitter. The hearing may be scheduled as part of a regular meeting of the Board or may be conducted by a committee of the Board as provided in PRC 4516.6(d). Sufficient time must be provided for the notice of hearing in accordance with 14 CAC 1055.8.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code; and Section 1055.8, Title 14, California Code of Regulations.

HISTORY

1. Renumbering former section 1055.2 to section 1054.2 and renumbering former section 1055.7 to section 1055.2 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Registers 85, No. 36 and 90, No. 10.

§ 1055.3. County Appeal Hearing Procedures—Notice.

(a) At least 15 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the county and the plan submitter and sending the notice to the Director for distribution as provided in subsection (2)–(5) below;

(2) Mailing the notice to any person who has submitted written comment on the plan and to any person who requests notice of the appeal or hearing;

(3) Posting of the notice in a conspicuous location available to the public in the appropriate regional office of the Department;

(4) Posting of the notice at the place where notices are customarily posted at the county courthouse of the county within which the proposed timber operations are to take place;

(5) Any other dissemination of the notice determined to be appropriate by the Director to provide full participation in the hearing by the interested public.

(b) The notice of hearing shall include the following:

(1) The name of the person submitting the plan;

(2) Identification of the plan, including the number of the plan, a brief description of the location of the timber operations referred to in the plan by reference to any commonly known landmarks in the area, and a brief description of the proposed timber operations;

(3) A statement that the county has appealed in the Director's decision to approve the plan and has requested a public hearing pursuant to PRC 4516.6. The notice shall also include a statement inviting the person sub-

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mitting the plan and the public to make statements at the hearing regarding the plan; and

(4) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 4516, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering of former section 1055.8 to section 1055.3 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 85, No. 36.

§ 1055.4. County Appeal Hearing Procedures—Record.

The record before the Board upon the public hearing shall be as follows:

(a) The timber harvesting plan;

(b) All reports, findings, communications, correspondence, and statements in the file of the Department relating to the plan.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. Renumbering former section 1055.4 to section 1054.3 and renumbering former section 1055.9 to section 1055.4 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Registers 85, No. 36 and 90, No. 10.

§ 1055.5. County Appeal Hearing Procedures—Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the county;

(3) Statements on behalf of person submitting the plan;

(4) Statements of members of the public;

(5) Motion to close public hearing.

(b) Notwithstanding the above, the chairperson may in the exercise of discretion, determine the order of the proceedings.

(c) The chairperson may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements.

(d) The public hearing shall be recorded either electronically or by other convenient means.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering of section 1055.5 to 1055 and renumbering former section 1055.10 to section 1055.5 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 85, No. 36.

§ 1055.6. County Appeal Hearing Procedures—Order.

Following the public hearing, the Board shall determine whether, upon the record before it, the plan is in conformance with the rules and regulations of the Board and the provisions of the Act. If the Board determines that the plan is in conformance with the rules and regulations of the Board and the provisions of the Act, it shall make its order approving the plan. If the Board determines that the plan is not in conformance with the regulations of the Board and the provisions of the Act, it shall make its order disapproving the plan. Approval of the plan by the Board constitutes authorization that timber operations may commence and be conducted in accordance with the plan as approved and in accordance with rules and regulations of the Board and the provisions of the Act. Timber operations shall not take place where the Board disapproves the plan. Disapproval of plan shall be without prejudice to the applicant submitting a plan at any later time complying with the rules and regulations of the Board and the provisions of the Act. Where the Board approves the plan, notice thereof shall be filed with the Secretary of Resources, and within 10 working days such notice shall be transmitted to the agencies and persons referred to in 14 CAC 1037.3, and for posting at the places referred to in section 1037.1. The order of approval shall include written response to significant points raised in the appeal.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code; Sections 1037.1 and 1037.3, Title 14, California Code of Regulations.

HISTORY

1. Renumbering former section 1055.6 to section 1055.1 and renumbering former section 1055.11 to section 1055.6 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 85, No. 36.

§ 1055.7. County Appeal Hearing Procedures—Scheduling.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code; and Section 1055.8, Title 14, California Code of Regulations.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.7 to section 1055.2 filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1055.8. County Appeal Hearing Procedures—Notice.

NOTE: Authority cited: Section 4516, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.8 to 1055.3 filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1055.9. County Appeal Hearing Procedures—Record.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.9 to section 1055.4 filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1055.10. County Appeal Hearing Procedures—Sequence.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.10 to section 1055.5 filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1055.11. County Appeal Hearing Procedures—Order.

NOTE: Authority cited: Section 4516.6, Public Resources Code. Reference: Sections 4516.5 and 4516.6, Public Resources Code; Sections 1037.1 and 1037.3, Title 14, California Code of Regulations.

HISTORY

1. New section filed 9–6–85; effective thirtieth day thereafter (Register 85, No. 36).
2. Renumbering former section 1055.11 to section 1055.6 filed 9–27–90; operative 10–27–90 (Register 90, No. 45).
3. Editorial correction of NOTE (Register 95, No. 41).

§ 1056. Head of Agency Appeals Procedure.

The State Water Resources Control Board (SWRCB) or the Director of the Department of Fish and Game (DFG) pursuant to PRC 4582.9 may appeal the Director's approval of a THP, or Substantial Deviation (14 CCR 1036 and 1039) by doing the following:

(a) No later than ten days form the date of THP approval, the SWRCB or DFG shall file with the Executive Officer of the Board of Forestry and mail to the plan submitter and Director of CDF a statement containing:

(1) The name of the submitter of the THP;

(2) The number of the THP assigned by CDF;

(3) The location of the proposed timber operations as described in the Notice of Intent;

(4) A concise summary of all facts upon which the appeal is based;

(5) A copy of or reference to all documents within the official THP record which support the appellant's position;

(6) The name and phone number of the SWRCB designee or DFG staff member who will be the primary contact for purposes of the appeal;

(7) A copy of the authorization by the SWRCB or DFG or its authorized designee for the appeal and containing the specific finding that the

environment or the public health, safety, or general welfare is threatened by the approval of the THP or Substantial Deviation and what form that threat takes;

(8) Certification that the SWRCB or Regional Water Quality Control Board or DFG participated in a multidisciplinary review of the plan including an on site inspection prior to plan approval.

(9) A statement that the timber operations are not to proceed until the appeal has been acted on by the Board as stated in PRC section 4582.9.

(10) A copy of regulations pertaining to head–of–agency appeals.

(11) A statement to contact the Board for other information about the hearing process.

(b) The SWRCB or DFG shall promptly telephone the Director and plan submitter to inform them of the filing of the appeal.

(c) If timber operations have commenced, the Department will notify the timber operator to stop all operations.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. Renumbering of former section 1056 to section 1054.4 and new section 1056 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.

§ 1056.1. Hearing on Head of Agency Appeal.

The Chairman of the Board of Forestry shall, without being required to consult other members of the Board, within five (5) working days of receiving the appeal grant a hearing on an appeal by SWRCB or DFG pursuant to PRC section 4582.9 if the Chairman finds that the appeal raises substantial issues with respect to the environment or to public safety. If the Chairman finds that the appeal raises no substantial issues with respect to the environment or to public safety, he or she shall refuse to grant a hearing on an appeal. The Chairman will inform the appealing agency, the plan submitter, and the Department of his or her decision. In making this determination, the chairman shall consider the following:

(a) Whether the appeal raises environmental issues which can be addressed by the Board within the limits of the Public Resources Code and the rules of the Board and other applicable laws; and

(b) Whether the appeal raises public safety issues which involve threats to the lives, health, or property of state residents.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: 4582.9, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1056.2. Head of Agency Appeal Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal by SWRCB or DFG no later than 30 days from the filing of the written statement of appeal, or at such later time as may be mutually agreed upon by the Board, the appellant(s), and the plan submitter. The hearing may be scheduled as part of a regular meeting of the Board or may be conducted by a committee of the Board as provided in PRC 4582.9(d). Sufficient time must be provided for the notice of hearing in accordance with 14 CCR 1056.3.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. Renumbering former section 1056.2 to section 1054.5 and new section filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 83, No. 33.

§ 1056.3. Head of Agency Appeal Procedures—Notice.

(a) At least 15 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the SWRCB designee or DFG, and the plan submitter and sending the notice to the Director for distribution as provided in subsection (2) – (5) below;

(2) Mailing the notice to any person who has submitted written comment on the plan and to any person who requests notice of the appeal or hearing;

(3) Posting of the notice in a conspicuous location available to the public in the appropriate regional office and ranger unit headquarters of the Department;

(4) Posting of the notice at the place where notices are customarily posted at the county courthouse of the county within which the proposed timber operations are to take place;

(5) Any other dissemination of the notice determined to be appropriate by the Director to provide participation in the hearing by the interested public.

(b) The notice of hearing shall include the following:

(1) The name of the person submitting the plan;

(2) Identification of the plan, including the CDF administration number of the plan, a brief description of the location of the timber operations referred to in the plan by reference to any commonly known landmarks in the area, and a brief description of the proposed timber operations:

(3) A statement that the SWRCB or DFG has appealed the Director's decision to approve the plan. A statement that the Board has granted a public hearing pursuant to PRC 4582.9. The notice shall also include a statement inviting the person submitting the plan and the public to make statements at the hearing regarding the basis of the appeal on the plan; and

(4) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1056.4. Head of Agency Appeal Hearing Procedures—Record.

The record before the Board upon completion of the public hearing shall be as follows:

(a) The THP, or Substantial Deviation.

(b) All reports, findings, communications, correspondence, and statements in the file of the Department relating to the plan at the time of approval.

(c) Arguments from the appealing agency, plan submitter, and the public related to the material in the record.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1056.5. Head of Agency Appeal Hearing Procedures—Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record by CDF;

(2) Statements on behalf of the appealing agency;

(3) Statements on behalf of person submitting the plan;

(4) Statements of members of the public, including other interested agencies;

(5) Response on behalf of CDF "Chairman or designee"

(6) Motion to close public hearing;

(b) Notwithstanding the above, the chairman or designee may in the exercise of discretion, determine the order of the proceedings.

(c) The chairman may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements.

(d) The public hearing shall be recorded either electronically or by other convenient means.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

§ 1056.6. Head of Agency Appeal Hearing Procedures—Order.

The Board has 10 days following the public hearing to determine whether, upon the record before it, the plan is in conformance with the

rules and regulations of the Board, the provisions of the Act and all other applicable provisions of law, including the Timberland Productivity Act. If the Board determines that the plan is in conformance with the rules and regulations of the Board, theprovisions of the Act and other applicable laws, it shall make its order approving the plan within 10 days of conclusion of the hearing. If the Board determines that the plan is not in confomance with the regulations of the Board, the provisions of the Act, and other applicable laws, it shall make its order disapproving the plan within 10 days of conclusion of the hearing. Approval of the plan by the Board constitutes authorization that timber operations may commence upon filing of the order of approval with the Secretary of Resources. Operations shall be conducted in accordance with the plan as approved by CDF and in accordance with the rules and regulations of the Board and the provisions of the Act, and other applicable laws. Timber operations shall not take place where the Board disapproves the plan. Disapproval of a plan shall be without prejudice to the applicant submitting a plan at any later time complying with the rules and regulations of the Board and the provisions of the Act. The Board may set forth in the order of disapproval conditions under which it believes the plan would have been approved. Where the Board approves the plan, the order there of shall be filed with the Secretary of Resources within 10 working days of decision, such order of approval shall be transmitted to the plan submitter, CDF, and the appealing agency(ies), and for posting at the places referred to in section 1056.3. Their order of approval shall include written response to significant points raised in the appeal.

NOTE: Authority cited: Section 4582.9, Public Resources Code. Reference: Section 4582.9, Public Resources Code.

HISTORY

1. New section filed 9–27–90; operative 10–27–90 (Register 90, No. 45).

Article 3.2. Administrative Penalty Hearing Procedures

§ 1057. Purpose of Regulations.

The regulations contained in this article govern procedures for request(s) for hearing(s) to the Board of Forestry and Fire Protection pursuant to Public Resources Code (PRC) §4601.2 concerning issuance of an administrative penalty by the Director of the Department of Forestry and Fire Protection.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11506, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. Renumbering former section 1057 to section 1054.6 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.
2. New article 3.2 (sections 1057–1058.5) and section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1057.1. Filing of Petition and Notice of Defense/Request for Hearing.

Any person filing a petition to the Board pursuant to PRC §4601.2 concerning the issuance of an administrative penalty by the Director shall, within ten (10) days of service of the complaint and proposed order setting an administrative penalty, file a Notice of Defense/Request for Hearing with the Board requesting a hearing. The Notice of Defense/Request for Hearing shall be on the form set forth in Section 1057.5 of this article and shall supply the following information to the Board:

(a) Written statements, with supporting documentation, indicating specifically the basis for the petitioner's challenge of the Director's complaint and proposed order of administrative penalty;

(b) A written statement advising the Board of the name, address and telephone number of the petitioner's representative, if any.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11505 Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1057.2. Failure to Request Hearing.

If the petitioner fails to file a Notice of Defense/Request for Hearing within the time period referenced in Section 1057.1 of this article, the Board shall adopt the Director's Complaint and Proposed Order without hearing.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11520(a), Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1057.3. Hearing Procedures.

A hearing shall be conducted within 180 days of the date on which the petitioner was served with the complaint and proposed order provided a timely request for a hearing has been received. The Chairperson of the Board may delegate the conduct of the hearing to a committee of the Board, which shall be composed of at least three (3) members of the Board, or elect to utilize an Administrative Law Judge assigned in accordance with Government Code §11370.3. If the Chairperson delegates the matter to a committee of the Board, a majority of the committee members shall not have a financial interest in the forest products or range industry. The committee may exercise any power the Board may exercise in any action under this article.

If the matter is heard before the full Board or a committee of the Board, the Chairperson may elect to use an Administrative Law Judge or a representative from the Office of the Attorney General to preside over the hearing. If the matter is to be assigned to an Administrative Law Judge, the Chairperson shall indicate if the Administrative Law Judge is to provide a Proposed Decision for review by the Board, or, in the alternative, if the Decision of the Administrative Law Judge is final. In the event that the matter is delegated to an Administrative Law Judge, the proceedings shall be conducted in accordance with the provisions of Chapter 5 (commencing with §11500) of Part 1, Division 3, Title 2 of the Government Code.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11512 et seq. Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1057.4. Administrative Record.

The Administrative Record shall consist of the following:

(a) the record developed and evidence submitted during the hearing before an Administrative Law Judge, including but not limited to the Proposed Decision and Findings of Fact, when the hearing was conducted before an Administrative Law Judge; or,

(b) the Complaint and Proposed Order from the Director, evidence submitted by the Director, evidence submitted on behalf of the petitioner, any other relevant evidence which, in the judgement of the Board, should be considered applicable, and testimony presented during the hearing on the petition if the hearing is conducted before the Board.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1057.5. Petition and Notice of Defense/Request for Hearing Form.

BEFORE THE
BOARD OF FORESTRY AND FIRE PROTECTION
FOR THE STATE OF CALIFORNIA

In the Matter of: CDF Docket No.:

NOTICE OF DEFENSE;
REQUEST FOR HEARING

RESPONDENT.

I, the undersigned and respondent named in this proceeding, hereby acknowledge receipt of a copy of the Complaint and Proposed Order against me.

I hereby request a hearing in this proceeding to permit me to present my defense to the allegations contained in the Statement of Issues.

Dated: _____ Signed _____

_____

_____(or attorney for respondent)

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11517, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058. Hearing Procedures—Notice.

If the Board or committee of the Board holds a hearing on the matter, the following shall apply:

(a) At least twenty (20) days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing or delivering by personal service the notice to the petitioner;

(2) Mailing or delivering by personal service the notice to the Director;

(3) Mailing the notice to any person who requests notice of the petition or hearing; and

(4) Mailing the notice to the Board's regular mailing list.

(b) The Notice of the hearing shall include:

(1) The name of the petitioner;

(2) A statement describing the basis for the action;

(3) The amount of the administrative penalty petitioned; and

(4) The date, time, and location of the hearing.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11509, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. Renumbering former section 1058 to section 1054.7 filed 9–27–90; operative 10–27–90 (Register 90, No. 45). For prior history, see Register 90, No. 10.
2. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058.1. Hearing Procedures–Recording and Transcription.

Hearings conducted under the procedures of this article shall be electronically recorded by the Board. Cost of transcription or reproduction of the electronic recording, if requested shall be borne by the party making such request.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11512(d), Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058.2. Hearing Procedures–Use of Board Hearing Procedure and Sequence.

(a) The Board shall conduct the petition hearing under this article in accordance with the provisions of Chapter 5 (commencing with §11500) of Part 1, Division 3, Title 2 of the Government Code. The hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute.

(b) The hearing shall normally proceed in the following manner:

(1) Identification of any written material submitted to the Board prior to the hearing;

(2) Statements on behalf of the petitioner and submission of evidence;

(3) Cross Examination of petitioner's statements;

(4) Statements on behalf of the Director and submission of evidence;

(5) Cross Examination of Director's statements;

(6) Rebuttal on behalf of the petitioner;

(7) Rebuttal on behalf of the Director;

(8) Closing statements on behalf of petitioner and Director;

(9) Motion to close the hearing.

(c) Notwithstanding the above, the Chairperson or the Chairperson's designee (Board member) for the purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(d) The Chairperson or the Chairperson's designee (Board member) shall have the authority to impose reasonable and equitable time limits upon statements and presentations and to accept written statements in lieu of oral statements. Any written statements shall be submitted to the Board at least ten days prior to the hearing.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11512(d), Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058.3. Hearing Procedures–Determination.

(a) Following the hearing, the Board shall determine:

(1) Whether the alleged violations cited in the Director's Proposed Order are supported by substantial evidence in light of the whole record (as defined in section 1057.4) before it; and

(2) Whether to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the Director.

(b) The Board shall issue its own written order upholding its determination within forty–five (45) days of the close of the hearing.

(c) Notification of the Board's determination shall be made by certified mail or personal service to the petitioner and the Director within fifteen (15) days following the regular business meeting of the Board at which the decision is made.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference: Section 11517, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058.4. Review of Proposed Decision and Findings of Fact.

If the Board Chairperson has assigned the hearing to an Administrative Law Judge and requested a Proposed Decision and Findings of Fact, the Board shall set on their agenda a review and discussion of the Proposed Decision and Findings of Fact at its next regularly scheduled meeting, where a quorum is present, following the receipt of the Proposed Decision and Findings of Fact from the Office of Administrative Hearings. Public notice of the agenda item shall be provided to those persons listed in section 1058 not less than ten (10) days prior to the Board meeting.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference Section 11517, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11–29–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).

§ 1058.5. Determination.

The adoption, rejection or modification of the Proposed Decision, including the various procedural requirements and notifications, shall follow the process set forth in Chapter 5 (commencing with section 11500)

of Part 1, Division 3, Title 2 of the Government Code, except that the Board shall make a written determination within forty-five (45) days of the date the Board first considered the proposed decision unless hearing transcripts are requested. If the Board orders transcripts of the proceedings before the Administrative Law Judge, the Board shall make a written determination within sixty (60) days of the receipt of those transcripts.

NOTE: Authority cited: Sections 4551.5 and 4553, Public Resources Code. Reference Section 11517, Government Code; and Sections 4601.1 and 4601.2, Public Resources Code.

HISTORY

1. New section filed 11-29-2001; operative 1-1-2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 48).
2. Amendment filed 10-28-2002; operative 1-1-2003 pursuant to Public Resources Code section 4551.5 (Register 2002, No. 44).

§ 1059. Infractions.

(a) Pursuant to PRC 4601.4(b), these rules are procedural in nature, the violation of which does not result in or cause environmental damage. The rule list consists of 14 CCR Sections 915.4, 935.4, 955.4; 918.1, 938.1, 958.1; 924.1; 925.2; 925.4; 926.2; 926.3; 926.23; 927.2; 927.14; 928.2; 929.1, 949.1, 969.1; 1029; 1032.7; 1032.10; 1034; 1035.2; 1035.3(d); 1038.2; 1042; 1051.1; 1052(a); 1075; 1080.4; 1090.2; 1090.5; 1090.7; 1090.11; 1090.12(c); 1090.13; 1090.26; 1091.4; 1092.04(d); 1092.07; 1092.09; 1092.13; 1092.14(d); 1092.15; 1104.1(a)(1); 1105, 1106.1; 1106.3(a).

(b) Infractions shall not be prosecuted if they are corrected within 10 working days of issuance of notification of the violation. Notification and response must be by certified mail. Date of certification identifies date of notification and response.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4601.4, Public Resources Code. Reference: Section 4601.4, Public Resources Code.

HISTORY

1. New section filed 10-30-2001; operative 1-1-2002 (Register 2001, No. 44). For prior history, see Register 90, No. 45.

Article 4. Timber Site Classification

§ 1060. Site Classification.

The site classification system of productive potential of timberland for administration of the Act and rules thereunder is set forth in the table hereinafter:

TIMBER SITE CLASSIFICATION TABLE

Site Class	*Young Growth Redwood*[1] Site Index[4]		*Douglas fir*[2] Site Index[4]		*Ponderosa Pine Jeffery Pine, Mixed Conifer & True Fir*[3] Site Index[4]		Site Index[5]	
	feet @ 100 yrs.	meters @ 100 yrs.	*feet @ 100 yrs.*	meters @ 100 yrs.	*feet @* 100 yrs.	meters @ 100 yrs	*feet @ 300 yrs*	meters @ 300 yrs.
I	*180 or more*	54.86 or more	*194 or more*	59.12 or more	*114 or more*	35.11 or more	*163 or more*	49.68 or more
II	*155–179*	47.24–54.56	*164–193*	49.99–58.83	*93–113*	28.35–34.44	*138–162*	42.06–49.38
III	*130–154*	39.62–46.94	*134–163*	40.84–49.68	*75–92*	22.86–28.04	*113–137*	24.44–41.76
IV	*105–129*	32.00–39.32	*103–133*	31.39–40.54	*60–74*	18.29–22.56	*88–112*	26.82–34.14
V	*Less than 105*	Less than 32.00	*Less than 103*	Less than 31.39	*Less than 60*	Less than 18.29	*Less than 88*	Less than 26.82

[1]Lindquist, James L., and Marshall N. Palley. Empirical yield tables for young-growth redwood, Calif. Agri. Exp. Stn. Bull. 796, 47 pp. 1963 (Site index based on average height of dominant trees at breast height age of 100 years). Use in young growth redwood stands in which more than 20% of the stand by basal area is redwood and when sufficient dominant redwood trees are available to determine site index.

[2]McArdle, Richard E., and Walter H. Meyer. The yield of Douglas fir in the Pacific Northwest. USDA Tech. Bull. 201, 74 pp. Rev. 1961. Adjusted to average height of dominant trees after Forest Research Note No. 44, Pacific Northwest Forest and Range Experiment Station, by Forest Survey, Calif. Forest and Range Exp. Stn. 1948 (Site index based on average height of dominant trees at age 100 years). Use in young growth redwood stands in which 20% or less of the stand by basal area is redwood or when sufficient dominant redwood trees are not available to determine site index. Use also in old growth redwood stands. In such cases, measure Douglas-fir trees for determining site index. Also use for Sitka spruce, grand fir, hemlock, bishop pine, and Monterey pine stands.

[3]Dunning, Duncan. A site classification for the mixed-conifer selection forests of the Sierra Nevada. USDA Forest Serv. Calif. Forest and Range Exp. Stn. For. Res. Note 28, 21 pp. 1942 (Site index based on average height of dominant trees at age 100 and 300 years). Use also for lodgepole pine stands. For old growth stands use height of dominants at age 300 years.

[4]Average total height in feet and meters of dominant trees at 100 years of age.

[5]Average total height in feet and meters of dominant trees at 300 years of age.

NOTE: Authority cited for Article 4 (Section 1060): Sections 4528(d) and 4551, Public Resources Code. Reference: Section 4528(b), Public Resources Code.

HISTORY

1. Editorial correction of table headings (Register 96, No. 50).

Article 5. Standardized Stocking Sampling Procedures

§ 1070. Stocking Sampling.

The objective of this article is to describe the stocking sampling procedures that the timber owner or his agent shall use to determine if the stocking standards of the Act and rules have been met following the completion of a timber operation.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Sections 4512 and 4513, Public Resources Code.

HISTORY

1. Repealer of Article 5 (Sections 1070–1077) and new Article 5 (Sections 1070–1075) filed 1-13-83; effective thirtieth day thereafter (Register 83, No. 3).

§ 1071. Minimum Stocking Standards.

Within five years after the completion of timber operations or as otherwise specified in the rules, a report of stocking on the entire area logged

under the plan and shown on a revised map shall be filed with the Director by the timber owner or the agent thereof. If stocking is required to be met upon completion of timber operations the stocking report shall be submitted within six months of the completion of operations.

The minimum acceptable stocking standards on logged areas which were acceptably stocked prior to harvest are those specified in the Coast, Northern and Southern Forest District rules. If not otherwise specified, the following minimum standards apply:

(a) On Site I timberlands as defined by the Board, the average residual basal area, measured in stems one inch or larger in diameter shall be at least 85 square feet per acre; or on Site II or lower shall be at least 50 square feet per acre; or

(b) The area contains an average point count of 300 per acre on Site I, II, and III lands or 150 on Site IV and V lands as specified in PRC 4561.

See 14 CCR 912.7, 932.7 and 952.7 for information for the point count values of various size trees and for determining how sprouts will be counted toward meeting stocking requirements.

NOTE: Authority cited: Sections 4551 and 4561.1, Public Resources Code. Reference: Sections 4561 and 43561.1, Public Resources Code.

HISTORY

1. Editorial correction filed 8–29–84; effective thirtieth day thereafter (Register 84, No. 35).
2. Amendment of first and last paragraphs filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 1072. Stocking Sampling Procedures.

The procedures set forth in this article shall be adhered to when sampling for stocking. More than one procedure for sampling may be used on plans where more than one regeneration method or intermediate treatment is used in the timber operations.

The sampling procedures are divided into the following categories:

(a) Basal Area Stocking Sampling Procedure. This procedure shall be used where it is necessary to determine whether the specific basal area standards for such situations as the selection and shelterwood (preparatory steps) regeneration methods and commercial thinning intermediate treatment have been met.

(b) Point Count Stocking Sampling Procedure. This procedure shall be used where it is necessary to determine whether specific point count standards must be met. For example, the procedure can be used for the clearcut and seed tree regeneration methods.

(c) Combination Stocking Sampling Procedure. This procedure shall be used where stocking standards can be met using either basal area or point count, such as for the sanitation–salvage intermediate treatment, alternative prescriptions, or where exceptions to the stocking standards have been provided for in the rules and are specified in the plan.

(d) Waiver Request Procedure. This procedure may be used to request from the Director a waiver of sampling procedures provided in 14 CCR 1072(a), (b), or (c) where, based upon an RPF's, an RPF supervised designee's, or owner of timberland's inspection, he/she has determined that the stocking requirements of the Act and rules have obviously been met.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

HISTORY

1. Amendment of subsection (d) filed 7–16–84; effective thirtieth day thereafter (Register 84, No. 29).
2. Amendment of subsection (d) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1072.1. Number of Plots Required.

There shall be at least one plot per acre, with a minimum of 20 plots, for each timber operating area sampled. The timber owner or his/her agent is encouraged, in lieu of sampling the entire logged area or area being sampled, to delineate by ocular estimate the least stocked 40 acres (16.187 ha) of the logged area or area being sampled and sample this area to determine if it is acceptably stocked. If the least stocked area sampled is determined to be acceptably stocked in accordance with these regulations, the entire logged area, or area being sampled, shall be assumed to be acceptably stocked. If the area sampled is not acceptably stocked the area sampled shall be regenerated to bring it into conformance and the remainder of the logged area shall be sampled, or the next least stocked 40 acres (16.187 ha) shall be sampled to determine whether the rest of the logged area is acceptably stocked.

The Director, in making the stocking inspection specified in PRC 4588 may, independent of the sample specified in the Report of Stocking, sample what he determines is the least stocked 40 acres (16.187 ha) of the logged area to determine if the area is stocked.

NOTE: Authority cited: Sections 4551, 4561 and 4587, Public Resources Code. Reference: Sections 4561, 4587 and 4588, Public Resources Code.

§ 1072.2. Plot Layout.

Plots shall be placed on the area being sampled in a uniform grid. The grid shall be considered uniform if the distance between lines does not exceed by two and one half times the distance between plots on the lines.

The starting point of each plot line shall be referenced to a survey corner if convenient or to a suitable, readily locatable permanent landmark and shall be indicated in the Report of Stocking and flagged in the field. The compass bearings shall be recorded in the Report of Stocking.

NOTE: Authority cited: Sections 4551, 4561 and 4587, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

§ 1072.3. Equipment.

The following equipment and methods for measuring distance are acceptable when basal area, point count, or combination stocking sampling procedures are used. Hand compass and pacing may be used for locating plot centers. A measuring tape or other calibrated measuring device shall be used for determining the radius of plots. For basal area and combination stocking sample procedures, an angle–gauge, wedge prism, or other device capable of measuring ocularly a predetermined angle (to determine basal area) will normally be needed.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Section 4587, Public Resources Code.

§ 1072.4. Exclusions.

Roads and landings that will not be regenerated, meadows, wet areas, rocky areas, and areas not normally bearing timber shall not be used as plot centers for sampling purposes. Stream protection zones may be excluded from the sample where stocking cannot be achieved due to legal restrictions on regenerating the zone and it is explained in the stocking report. Notwithstanding the provisions of 14 CAC 1072.2, a random right/left offset from the plot center may be used. Alternatively the plot may be treated as an unstocked plot for purposes of determining acceptable stocking. The reason for the offset shall be stated in the stocking report.

Offsets shall be in one–half chain (33 feet) (10.06 m) intervals at a right angle to the plot line with a maximum distance of 1.5 chains (99 feet) (30.19 m) allowed. The direction and distance of the offset, if any, shall be noted on the plot sheet.

NOTE: Authority cited: Sections 4551, 4561 and 4587, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

§ 1072.5. Basal Area Stocking Sampling Procedure.

The silvicultural rules of each forest district and the Act contain basal stocking standards to be met following the completion of a timber operation. The following procedure shall be used to determine if these stocking standards have been met: One or more basal area factors suitable for determining stocking shall be used. The same basal area factor shall be used on all of the plots on a sampling area. A countable tree for basal area is described in PRC 4528. If each plot has a minimum basal area equal to or greater than that specified in 1071(a), or as required by the rules if different, then the plot shall be counted as stocked.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Section 4587, Public Resources Code.

§ 1072.6. Point Count Stocking Sampling Procedure.

The silvicultural rules of each forest district and the Act contain point count stocking standards to be met following the completion of a timber

[The next page is 364.31.]

operation. The following procedure shall be used to determine if these stocking standards have been met.

Since there are separate values for three different size classes, three circular concentric plots may be needed at each plot center. The following standards are for a 300 point count.

(a) For trees counted as one point each, a plot with a 6.80 foot radius is used (1/300th of an acre). If a countable tree of a value of at least one point is found in the plot, it is stocked, so recorded, and the timber owner or agent thereof moves on to the next plot center. If no countable tree is found, the next concentric plot is measured.

(b) For trees counted as three points each, a plot with a 11.78 foot radius is used (1/100th of an acre). If a countable tree of a value of at least three points is found in the plot, it is stocked, so recorded, and the timber owner or the agent thereof moves on to the next plot center. If no countable tree is found, the next larger concentric plot is measured.

(c) For trees counted as six points each, a plot with a 16.65 foot radius is used (1/50th of an acre). If a countable tree of a value of at least six points is found in the plot, it is stocked. If no countable trees of the required sizes are found in the three concentric plots, the plot center is recorded as being unstocked and the timber owner or agent thereof moves on to the next plot center. For point counts of 450 per acre, the three concentric circular plot radius sizes are: 5.55 feet (1/450th of an acre), 9.61 feet (1/150th of an acre), and 13.6 feet (1/75th of an acre). For point counts of 150 per acre, the three concentric circular plot radius sizes are: 9.61 feet (1/150th of an acre), 16.65 feet (1/50th of an acre), 23.55 feet (1/25th of an acre).

The point count values of various size trees and for determining how sprouts will be counted is found in 14 CAC 912.7, 932.7 and 952.7.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Section 4587, Public Resources Code.

HISTORY

1. Editorial correction filed 8–29–84; effective thirtieth day thereafter (Register 84, No. 35).

§ 1072.7. Combination Stocking Sampling Procedure.

The procedure is used where the silvicultural rules of each forest district and the Act allow the stocking standards to be met through combination of point count and basal area. The following procedure shall be used to determine if these stocking standards have been met: At each plot center the timber owner or agent thereof shall check for either basal area or countable trees. The same basal area factor shall be used on all plots in the sample. If the plot is not stocked with countable trees as specified in 14 CAC 1072.5, it shall be necessary to sample for countable trees as specified in 14 CAC 1072.6.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Section 4587, Public Resources Code.

§ 1073. Unacceptable Results.

(a) No more than five (5) unstocked plots shall be contiguous to each other. A contiguous unstocked plot is any plot within the rectangle constructed around the two adjacent plots on the same line and the three plots adjacent to them on the two nearest lines. See Figure 1073(a).

An unstocked plot shall not be counted as contiguous to another unstocked plot if any of the following occur:

(1) Where, in use of the point count or combination stocking sampling procedure, an unstocked plot has a countable tree located in the largest circular concentric plot described in the procedure.

(2) Where the forest practice rules allow only the basal area sampling procedure to be used, the continuity of the six contiguous plots may be considered broken if one or more of the contiguous unstocked plots meets the minimum stocking standards of the Act.

(b) If there are more than five (5) unstocked plots contiguous to each other, the sample shall be assumed to be understocked except where application of the following gives a number of less than six (6).

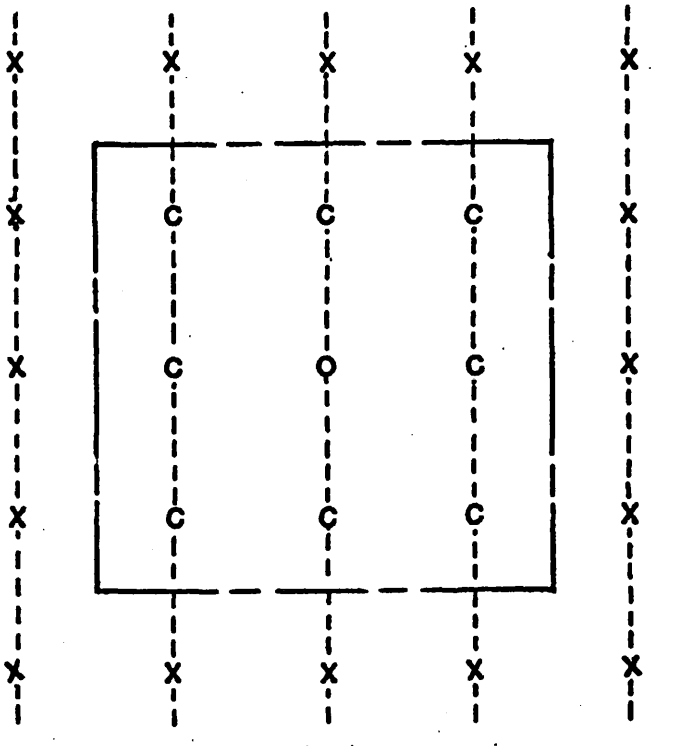
$$\frac{(CUP) \times (SA)}{(NPS)} - \frac{(SIP) \times (0.5) \times (SA)}{(NPS)} \text{ is less than } 6$$

CUP—Number of contiguous unstocked plots

SA—Acres in sample area

SIP—Number of stocked intermediate plots

NPS—Number of plots in sample, excluding intermediate plots. An intermediate plot is a plot placed halfway between two unstocked plots in the sample.



Legend

O—Initial Plot C—Contiguous Plots

X—Non–Contiguous Plots — —Survey Line

Figure 1073(a) Example of the rectangle enclosing contiguous plots

(c) If less than 55% of the plots are stocked when using the basal area, point count, or combination stocking sampling procedures, it is assumed that the area being sampled is understocked. The timber owner or agent thereof shall delineate the understocked areas in the report of stocking. If the timber owner or the agent thereof still believes the area to be stocked, another sample may be run. The second sample shall be laid out in the same manner as the first sample, with the additional plots lying halfway between the initial plot lines. For statistical analysis, the two samples shall be combined and analyzed together.

NOTE: Authority cited: Sections 4551, 4561 and 4587, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

§ 1074. Waiver Request.

The basal area, point count and combination stocking sampling procedures may be waived if the Director, and the owner of timberland or an RPF acting as agent for either the timber owner or owner of timberland, agree that the area is obviously stocked and each of the following conditions is fulfilled:

(a) A request for a waiver of sampling, if filed within five (5) years after completion of timber operations, or as otherwise specified in the Board's rules.

(b) The owner of timberland or an RPF states in the request for a waiver of sampling to the Director that he/she or that RPF's supervised designee has examined the plan area after completion of timber operations and believes those harvested areas for which a waiver of sampling is being requested obviously meet the stocking requirements of the Act and the applicable rules or regulations of the Board.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Sections 4528 and 4561, Public Resources Code.

HISTORY

1. Amendment filed 7–16–84; effective thirtieth day thereafter (Register 84, No. 29).

2. Amendment of subsection (b) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1074.1. Waiver Approval.

If the Director agrees that an area is obviously stocked, then the sampling procedures are waived. If the Director does not agree that the stocking requirements of the Act and applicable rules of the Board have been met, the following shall occur:

(a) The Director shall return the request for a waiver as unacceptable to the owner of timberland or the RPF making the request.

(b) The timber owner or an RPF acting as his/her agent shall use the point count, basal area, or combination stocking sampling procedure, as appropriate on the area, to determine if the stocking requirements of the Act and rules have been met. The results of this sampling shall be submitted to the Director.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Sections 4561 and 4587, Public Resources Code.

HISTORY

1. Amendment filed 7–16–84; effective thirtieth day thereafter (Register 84, No. 29).
2. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1075. Report of Stocking.

A Report of Stocking on a form acceptable to the Director, certifying that the area logged does not meet or meets minimum stocking standards, shall be submitted by the timber owner or the agent thereof to the Director within five (5) years after completion of timber operations, or as otherwise specified in the rules. The report shall contain the following information:

(a) Name, address, and telephone number of timber owner(s) or agent thereof.

(b) The plan number.

(c) Name of person performing the stocking sampling.

(d) Map showing the sampling area, by sampling procedure, if more than one procedure is used; the plot locations indicating status as stocked or non–stocked.

(e The acreage of each sampling area.

(f) The number of plot centers installed by sampling procedure.

(g) The number of stocked plots by sampling procedure.

(h) Certification by the timber owner or agent thereof.

(i) Either the plot reference data specified in 14 CAC 1072.2 or direction as to where the plot reference can be obtained.

The timber owner or agent thereof who files the Report of Stocking shall maintain on file the detailed data on the stocking sampling until such times as a Report of Satisfactory Stocking is issued by the Director. This data shall be available for inspection by the director and subject to use in enforcement proceedings.

NOTE: Authority cited: Sections 4551 and 4587, Public Resources Code. Reference: Sections 4528, 4561 and 4587, Public Resources Code.

Article 6. Stocking Standards for Substantially Damaged Timberlands

§ 1080. Substantially Damaged Timberlands.

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Repealer of former Section 1080 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).
2. Renumbering and amendment of former Section 1085.1 to Section 1080 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).
3. Renumbering of section 1080 to section 895.1 filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).

§ 1080.1. Stocking Requirements for Substantially Damaged Timberlands.

(a) The stocking standards to be maintained or established where substantial damage has occurred prior to the start of timber operations, or where such damage has occurred following the start of timber operations but before a stocking report has been submitted or approved by the Director, are:

(1) On Sites III and better, the stocking shall consist of at least ten (10) countable trees planted for each live tree harvested during conduct of salvage operations following the substantial damage, but need not exceed an average point count of 300 per acre (741.3 per ha). The number of live trees harvested shall be determined by stump count or by an equivalent procedure proposed by the RPF and approved by the Department.

(2) Where only dead, down, or dying trees were salvage logged following the substantial damage, no restocking is required.

(3) No restocking requirements need be met on substantially damaged timberlands on Sites IV and V after timber operations.

(b) If stocking standards were met, but substantial damage occurred before a report of stocking was approved by the Director, a report of stocking may be submitted and approved as specified in 14 CAC 1080.4(a).

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.2 to Section 1080.1 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1080.2. Timber Harvesting Plans for Substantially Damaged Timberlands.

Where timber operations are to be conducted on any substantially damaged timberlands, they shall be designated and described in the Timber Harvesting Plan or the Emergency Notice of Timber Operations submitted to the Director.

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Sections 4561.6 and 4592, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.6 to Section 1080.2 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1080.3. Stocking Distribution.

Any establishment of trees to meet the stocking requirement of 14 CAC 1080 shall be planned to ensure the most feasible utilization of suitable and available growing space and growing stock. The location, spacing, and site preparation measures to meet this requirement shall be described in the THP as shall also the area of timberland qualifying for the stocking standards set forth herein. No more than two restocking efforts shall be required provided that such efforts are accomplished in a good and workmanlike manner.

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.5 to Section 1080.3 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24). Ed. Note—see also Section 1080.4

§ 1080.4. Stocking Reports for Substantially Damaged Timberlands.

(a) In the event that timberland becomes substantially damaged before a stocking report is submitted to the Director, a report may be submitted by the timber owner or his agent stating that the area was adequately stocked prior to the occurrence of substantial damage. A report of stocking for substantially damaged timberlands shall be a certification to the Director by a timber owner or agent thereof that the stocking requirements of 14 CAC 1080.1(a) and (b) have been met.

(b) The Director shall issue a satisfactory report of stocking if it can be certified, based upon first–hand knowledge, that the area was adequately stocked prior to the destruction of stocking. The owner or agent may appeal the Director's denial of his certification to the Board.

(c) Should only a portion of the plan area be substantially damaged, separate stocking reports (one for the damaged area and one for the undamaged area) may be filed.

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Sections 4561.6 and 4588, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.5 to Section 1080.4 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24). Ed. Note—see also Section 1080.3

§ 1080.5. Time Period to Meet Stocking Requirements.

The restocking effort required by 14 CAC 1080.1 shall be accomplished within 5 years after completion of timber operations for salvage or harvest of timber from substantially damaged timberlands unless a longer period of time is needed and is approved by the Board for a specified area.

NOTE: Authority cited: Sections 4551, 4553 and 4561.6, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.3 to Section 1080.5 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1081. Understocked Timberland in Northern and Southern Forest Districts.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4583, 4587 and 4588, Public Resources Code.

HISTORY

1. Repealer filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1081.1. Limitations.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4561 and 4561.5, Public Resources Code.

HISTORY

1. Repealer filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085. Stocking Standards for Substantially Damaged Timberlands.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Repealer filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085.1. Substantially Damaged Timberlands.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Section 4561.6, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1085.1 to Section 1080 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085.2. Stocking Requirements for Substantially Damaged Timberlands.

HISTORY

1. Renumbering and amendment of Section 1085.2 to Section 1080.1 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085.3. Time Period to Meet Stocking Requirements.

HISTORY

1. Renumbering and amendment of Section 1085.3 to Section 1080.5 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085.4. Stocking on Areas Previously Logged.

HISTORY

1. Repealer filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2 (d) (Register 83, No. 24).

§ 1085.5. Stocking Distribution and Stocking Reports.

HISTORY

1. Renumbering and amendment of Section 1085.5 to Sections 1080.3 and 1080.4 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

§ 1085.6. Plan Filing.

HISTORY

1. Renumbering and amendment of Section 1085.6 to Section 1080.2 filed 6–7–83; designated effective 7–1–83 pursuant to Government Code Section 11346.2(d) (Register 83, No. 24).

Article 6.5. Nonindustrial Timber Management Plan Administration

§ 1090. Rule Application.

Where the abbreviation THP, the term Timber Harvesting Plan, or the word plan is used in chapter 4, subchapters 1 through 6 and chapter 4.5 it shall also mean Nonindustrial Timber Management Plan as specified in article 7.5 of the Public Resources Code. In subchapter 7 this equivalency will occur for all sections except 1031 through 1042.

NOTE: Authority cited: Stats 1989, Ch. 1290, Sec. 13, Section 4551, Public Resources Code. Reference: Sections 4593 and 4593.3, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.1. Timber Management Plan and Notice of Timber Operations Filing Locations.

The Nonindustrial Timber Management Plan (NTMP) or Notice of Timber Operations (Notice) for proposed timber operations provided for by Article 7.5, Chapter 8, Part 2, Division 4 of the Public Resources Code (commencing with section 4593) shall be submitted in writing to the Director and shall contain the information specified in 14 CCR 1090.5 at the Department of Forestry and Fire Protection Regional Office having jurisdiction for the timber operations.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551, 4593.4, and 4593.5, Public Resources Code. Reference: Sections 4593 and 4593.5, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

(c) The plan submitter shall prepare and submit to the Director, with the plan, a Notice of Preparation to Harvest Timber (Notice of Preparation)

§ 1090.2. NTMP Submittal and Notice of Preparation.

(a) A plan shall be submitted by the person who owns the timberland included in the plan.

(b) Where the timber is owned by parties other than the landowner, the landowner shall give prompt written notice of such plan to those parties.

(c) The plan submitter shall prepare and submit to the Director, with the plan, a Notice of Preparation to Harvest Timber (Notice of Preparation)

(1) if any proposed plan boundary lies within 300 feet of any property owned by any person other than the plan submitter, or

(2) with any plan amendment that changes a plan boundary so that the new boundary lies within 300 feet of any property owned by any person other than the plan submitter, or

(3) with any plan amendment that changes the silvicultural method if a Notice of Preparation was required for the plan by condition (1) or (2) above.

(d) A Notice of Preparation shall include the following information:

(1) The name of the plan submitter.

(2) The location of the plan area by county, section, township, and range, and the approximate direction and distance to the plan area from the nearest community or well-known landmark.

(3) The name of the nearest perennial blue line stream flowing through or downstream from the plan area.

(4) The acreage of the area to be included in the plan.

(5) The silvicultural method(s) proposed.

(6) The estimated earliest date that the Director may approve the plan.

(7 A statement that the public may review the plan at the specified Regional Office of the Department of Forestry and Fire Protection and a reasonable per page copy fee set by the Director for additional copies.

(e) The person submitting the plan shall furnish to the Department at the time of submission of the plan, a list of all persons, including their mailing addresses, who hold legal or equitable title to property within 300 feet of the plan boundary. Either a list compiled from the latest equalized assessment roll or a list provided by a title insurance company doing business in California shall be deemed sufficient for compliance with the subsection.

(f) The Department shall mail copies of the Notice of Preparation within 2 working days of receipt of the plan to all persons identified in (e) above.

(g) Prior to plan submission, the person submitting the plan shall post a copy of the Notice of Preparation at a conspicuous location that is easily visible to the public and near the plan site. Notwithstanding other Board rules, the notices required by Section 1032.10 of this article shall be completed prior to submission of the NTMP, and within counties with special rules, (14 CCR, Subchapter 4, Art. 13, commencing with section 924, and Subchapter 6, Art. 13, commencing with Section 965.) the noticing requirements will be the same as for a THP.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551, 4593.4, 21080, and 21092, Public Resources Code. Reference: Sections 4551, 4593, and 4593.4, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. Amendment of subsection (g) filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 1090.3. Notice of Preparation—Distribution by Director.

The Director shall distribute copies of each Notice of Preparation within 2 working days of receipt to:

(a) The Office of the County Clerk of the county in which operations are proposed for posting at the customary place for posting environmental affairs.

(b) The local Ranger Unit headquarters for posting.

(c) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

(d) Any additional distribution of the notice required by the rules of the Board for individual counties.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551, 4593.4, and 21092, Public Resources Code. Reference: Sections 4551, 4593, and 4593.4, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.4. Request for Notification of NTMP or Notice of Timber Operations Submission.

(a) Each Regional Office of the Department of Forestry and Fire Protection shall maintain a list of NTMPs or Notice of Timber Operations submitted each day.

(b) When any person requests notice of submissions of timber management plans, the Director shall provide the person, free of charge, with a copy of the list of NTMPs or Notices of Timber Operations submitted on the date or dates requested. If no specific date is requested, a copy of the lists for the preceding week shall be provided.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.4, Public Resources Code. Reference: Sections 4551, 4593 and 4593.4, 21080.5, 21081, and 21092, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.5. Contents of NTMP.

The plan shall serve three functions:

(1) to provide information the Director needs to determine whether the proposed NTMP conforms to the rules of the Board;

(2) to provide information and direction for timber management so it complies with the rules of the Board and the management objectives of the landowner; and

(3) to disclose the potential effects of timber management to the public. For the plan to serve these functions, it shall, as a minimum, contain the following information:

(a) Name, address, and telephone number of the timberland owner(s) or designated agent.

(b) Name, address, and telephone number of the timber owner(s) (If different).

(c) Name, address, telephone number, and registration number of RPF who prepared the plan.

(d) A description of the plan area within which timber operations are to be conducted. The description shall include the following:

(1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s),

(2) township, range, and section number(s),

(3) county name(s),

(4) CALWATER 2.2 planning watershed number(s), and

(5) approximate acreage.

(e) The forest district and subdistrict (if any) in which the NTMP is located.

(f) A description of present and proposed plan area uses other than timber production.

(g) A description by management units(s) of the timber stand characteristics including species composition, age classes, projected growth, present stocking level, present volume per acre, size class distribution, stand management history, and potential pest or protection problems. The description shall provide the basis for the information provided.

(h) A description by management unit(s) of the proposed management objectives, including a discussion of projected timber volumes and sizes available for timber harvesting, managed.

(i) A description by management unit(s) of proposed activities to achieve the management objectives. This must include

(1) projected frequencies of harvest,

(2) silvicultural prescriptions for harvesting,

(3) type of yarding systems to be used for each area,

(4) anticipated interim management activities which may result in rule compliance questions (i.e. erosion control maintenance).

(j) The period of time over which growth will be balanced with harvest.

(k) A description of any cultural or historical resources known to exist with a description of possible impacts and protection methods to be used during timber operations.

(*l*) Whether a timberland conversion certificate is in effect, its date of expiration, and its identification number.

(m) Whether a timber harvesting plan is on file with the Department for any part of the plan area and if a Report of Satisfactory Stocking has been issued by the Department (show plan number).

(n) Information on the presence and protection of any known key habitat or individuals of any threatened or endangered plant or animal species that are listed in the Department of Fish and Game inventories prepared pursuant to the Fish and Game Code or any species of special concern as designated by the Board in these rules.

(o) A description of potential impacts and protections for the quality and beneficial uses of waters within watercourses, lakes, and wet areas.

(p) A description of soils, surface erosion hazard, mass wasting erosion hazard, and erosion control measures.

(q) A description of the existing and proposed road system to be used in implementation of the management plan.

(r) A description of how the site preparation standards and stocking standards will be met.

(s) A description of the proposed yarding methods including protection of residual trees, watercourse crossings, operation on unstable areas.

(t) A description of slash treatment for site preparation, fire protection and pest protection consideration.

(u) A description of the cumulative effects analysis with supporting information, including impact of projected harvesting over the life of the plan.

(v) A copy of the forest practice regulations in effect at the time of submission.

(w) On a USGS quadrangle or equivalent topographical map of a scale not less than 2" to the mile, the following information shall be clearly provided. Additional maps may be required to show specific details, and may be planimetric. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreages.

(1) boundaries of management plan(s) and management unit(s).

(2) boundaries of regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied.

(3) boundaries of yarding (logging) systems, if more than one system is to be used.

(4) location of public roads within the plan area, and private roads appurtenant to the timber operations where such roads are under the ownership or control of the timberland owner and are contiguous with the plan area, and classification of all proposed and existing logging roads as permanent, seasonal, or temporary roads.

(5) probable location of proposed and existing landings in the watercourse and lake protection zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves substantial excavation.

(6) road failures on existing roads to be reconstructed.

(7) location of all existing and proposed permanent watercourse crossing drainage structures and temporary crossings on Class I and II watercourses on roads; if a permanent culvert is involved, its minimum diameter shall be provided.

(8) location of area(s) of high or extreme erosion hazard rating.

(9) location of all watercourses with Class I, II, III, or IV waters.

(10) location of known unstable areas or slides.

(11) location of understocked areas and other areas not normally bearing timber to at least a 20–acre minimum, or as specified in the district rules.

(12) location of boundaries of timber–site classes needed for determination of stocking standards to be applied, down to at least a 10– acre minimum or as specified in the district rules.

(13) location of unique areas including, Coastal Commission Special Treatment Areas or any special treatment area.

(14) A soils map where available.

(x) Any additional information that is submitted on separate pages shall be clearly marked "plan addendum" and shall bear the date on which it was prepared.

(y) Explanation and justification for, and specific measures to be used for, tractor operations on unstable areas, on slopes over 65%, and on areas where slopes average over 50% and the EHR is high or extreme.

(z) Explanation and justification for tractor operations in areas designated for cable yarding.

(aa) Winter period operating plan where appropriate.

(bb) Explanation and justification for use of watercourse, marshes, wet meadows, and other wet areas as landings, roads, or skid trails.

(cc) Explanation and justification of any in–lieu or alternative practices for watercourse and lake protection.

(dd) Explanation of alternatives to standard rules for harvesting and erosion control.

(ee) Explanation and justification for landings that exceed the maximum size specified in the rules.

(ff) Any other information required by the rules or the Act to be included in the plan. The district rules provide for exceptions and alternatives to standard requirements that require inclusion of information in the NTHP.

(gg) Where roads, watercourse crossings, and associated landings in the logging area will be abandoned, the methods for abandonment shall be described.

(hh) On a map complying with subsection 1090.6(x), the locations and classifications of roads, watercourse crossings, and landings to be abandoned shall be shown.

(ii) A certification by the RPF preparing the plan that he, she, or a designee personally inspected the area.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.3, Public Resources Code. Reference: Sections 4593 and 4593.3, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. New subsections (kk) and (*ll*) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
3. Subsections (kk) and (*ll*) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
4. Repealer of subsection (d), new subsections (d)–(d)(5) and relettering of former subsections (m)–(jj) as subsections (*l*)–(ii) filed 11–21–2000; operative 1–1–2001 (Register 2000, No. 47).

§ 1090.6. Notice of Timber Operations.

Following confirmation by the industrial tree farmer that all necessary field work is functional and useable (including, flagging or marking), the non–industrial tree farmer who owns, leases, or otherwise controls or operates on all or any portion of any timberland within the boundaries of an approved Nonindustrial Timber Management Plan shall submit a Notice of Timber Operations including the certification required by PRC 4594.6 to the appropriate office of the Department. Timber operations may commence immediately unless the notice has been filed by mailing, in which case operations may commence 3 days after the notice has been mailed.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4594, Public Resources Code. Reference: Section 4594, Public Resources Code.

HISTORY

1. New section filed 7–11–91 operative 8–12–91 (Register 91, No. 44).
2. Amendment filed 12–8–95; operative 12–8–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 49).

§ 1090.7. Notice of Timber Operations Content.

The purpose of the Notice of Timber Operations is to provide guidance for implementation of the standards and protective measures in the approved NTMP or most recent amended NTMP and the applicable rules of the Board. For the Notice to serve these functions, it shall as a minimum, contain the following:

(a) Identification number of the NTMP

(b) The name and address and phone number of the timberland owner, the timber owner, the Registered Professional Forester, the Licensed Timber Operator and number, the person responsible for on the ground supervision of the timber operations.

(c) Expected dates of commencement and completion of timber operations.

(d) A legal description (Section, Township, Range) of the area of the NTMP on which timber operations will be conducted.

(e) Identification of silvicultural prescriptions to be applied.

(f) The type of heavy equipment to be used for yarding or road construction.

(g) A statement that no archeological sites have been discovered in the harvest area since the approval of the NTMP.

(h) A statement that no listed species has been discovered in the cumulative impacts assessment area since the approval of the NTMP.

(i) A statement that there have been no physical environmental changes in the cumulative impacts assessment area that are so significant as to require any amendment of the NTMP.

(j) Special provisions, if any, to protect any unique area within the area of timber operations.

(k) Instructions on felling, yarding, road construction or reconstructions, hauling, erosion control work, site preparation, erosion control maintenance, winter operations, watercourse protection measures and slash treatment.

(*l*) A certification by the RPF that the notice as submitted will carry out

(1) the best management practices for the protection of the beneficial uses of water, soil stability, forest productivity, and wildlife as required by the current rules of the Board, or

(2) is consistent with the plan and will not result in significant degradation of the beneficial uses of water, soil stability, forest productivity, or wildlife or be in violation of applicable legal requirements.

(m) A verification that the LTO has been briefed by the RPF on the content of the notice and intentions of implementation to comply with the management plan.

(n) On a USGS quadrangle or equivalent map of a scale not less than 2" to the mile, the following information pertinent to the Notice of Operations shall be clearly provided. Additional maps may be required to show specific details, and may be planimetric. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreages.

(1) Boundaries of area to be harvested (quadrangle map or its equivalent).

(2) Boundaries of areas for specified regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied.

(3) Boundaries of areas for specified yarding (logging) systems, if more than one system is to be used.

(4) Location of public roads within the Notice area, and private roads appurtenant to the timber operations where such roads are under the ownership or control of the timberland owner, and are contiguous with the Notice area, and classification of all proposed and existing logging roads as permanent, seasonal, or temporary roads.

(5) Location of proposed and existing landings in the watercourse and lake protection zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves substantial excavation.

(6) Road failures on existing roads to be reconstructed.

(7) Location of all existing and proposed watercourse crossings on logging and tractor roads; if a permanent culvert is involved, its minimum diameter shall be provided.

(8) Designate areas of high or extreme erosion hazard rating, if more than one.

(9) Location of watercourse with Class I, II, III or IV waters.

(10) Location of known unstable areas or slides.

(11) Location of unique areas.

(o) Any other information the Board provides by regulation to meet its rules and the standards of this chapter.

(p) A statement that the Notice of Timber Operations conforms to the provisions of the approved NTMP.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4594, Public Resources Code. Reference: Section 4594, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. New subsection (q) filed 1–21–93 as an emergency; operative 1–21–93 (Register 93, No. 4). A Certificate of Compliance must be transmitted to OAL 5–21–93 or emergency language will be repealed by operation of law on the following day.
3. Editorial correction of printing error restoring inadvertently omitted subsection (h) (Register 93, No. 34).
4. Subsection (d) repealed by operation of Government Code section 11346.1 (Register 94, No. 20).
5. Amendment of subsections (h)–(i) filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 1090.8. NTMP Professional Judgment.

Where the rules or these regulations provide for the exercise of professional judgment by the forester (RPF) or the Director, if there is a disagreement and if requested by either party, they shall confer on the NTMP area during the NTMP review inspection and reach agreement, if possible, on the conditions and standards to be included in the plan.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Section 4551, Public Resources Code. Reference: Sections 4593, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.9. Plan Submitter Responsibility.

The plan submitter, or successor in interest, shall:

(a) Ensure that an RPF conducts any activities which require an RPF.

(b) Provide the RPF preparing the plan or amendments with complete and correct information regarding pertinent legal rights to, interests in, and responsibilities for land, timber, and access as these affect the planning and conduct of timber operations.

(c) Sign the NTMP certifying knowledge of the plan contents and the requirements of this section.

(d) Within five (5) working days of change in RPF responsibilities for NTMP implementation or substitution of another RPF, file with the Director a notice which states the RPF's name and registration number, address, and subsequent responsibilities for any RPF required field work, amendment preparation, or operation supervision. Corporations need not file notification because the RPF of record on each document is the responsible person.

(e) Provide a copy of the approved NTMP and Notice of Timber Operations to the LTO.

(f) Notify the Director prior to commencement of site preparation operations. Receipt of a burning permit is sufficient notice.

(g) Provide the RPF preparing the Notice and LTO each a copy of the current NTMP and subsequent amendments.

NOTE: Authority Cited: Stats. 1989, Ch. 1290, Sec. 13, Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.10. Registered Professional Forester Responsibility.

(a) Upon submission of a NTMP, the Registered Professional Forester (RPF) who prepares and signs a plan is responsible for the accuracy and completeness of its contents.

(b) The RPF preparing the plan shall:

1) inform the Director and landowner by phone or letter if he or she will be attending the review inspection; and

2) provide the landowner a copy of the rules of the Board in effect on the date of NTMP approval.

(c) The RPF preparing the Notice shall list or describe in the Notice any work which will be performed by the RPF Notice preparer or supervised designee. This may include, but is not limited to, field work in identifying watercourse and lake protection zones or special treatment areas, marking trees, or other activities. The RPF is only responsible for the activities required of the RPF by the rules of the Board and those activities for which he or she is employed.

(d) The RPF preparing the Notice shall, in writing, inform the plan submitter(s) of their responsibility pursuant to section 1090.10 of the article for compliance with the requirements of the Act and, where applicable, Board rules regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, and Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. Amendment of subsection (c) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1090.11. Interaction Between RPF and LTO on Notice of Timber Operations.

From the start of the preparation of the Notice of Timber Operation preparation but before commencement of operations, the responsible RPF shall meet with either the LTO, or supervised designee, who will be on the ground and directly responsible for the harvesting operation. The meeting shall be on site if requested by either the RPF or LTO. If any amendment is incorporated to the notice by an RPF after the first meeting, that RPF or supervised designee shall comply with the intent of this section by explaining relevant changes to the LTO; if requested by either the RPF or LTO, another on–site meeting shall take place.

The intent of any such meeting is to assure that the LTO:

(a) Is advised of any sensitive on-site conditions requiring special care during operations.

(b) Is advised regarding the intent and applicable provisions of the approved plan including amendments.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, and Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

HISTORY

1. New section filed 7-11-91; operative 8-12-91 (Register 91, No. 44).
2. Amendment of first paragraph filed 11-26-97; operative 1-1-98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1090.12. Licensed Timber Operator Responsibilities.

Each Licensed Timber Operator shall:

(a) Inform the responsible RPF and plan submitter, either in writing or orally, of any site conditions which in the LTO's opinion prevent implementation of the approved NTMP or Notice.

(b) Be responsible for the work of his or her employees and familiarize all employees with the intent and details of the operational and protection measures of the Notice and amendments that apply to their work.

(c) Keep a copy of the applicable approved Notice and amendments available for reference at the site of active timber operations.

(d) Comply with all provisions of the Act, Board rules and regulations, the applicable Notice and any approved amendments.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, and Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

HISTORY

1. New section filed 7-11-91; operative 8-12-91 (Register 91, No. 44).

§ 1090.13. Notification of Commencement of Operations.

For each Notice of Timber Operations submitted, within fifteen days before, and not later than the day of the start up of a timber operation, the Submitter of the Notice, unless the NTMP identifies another person as responsible, shall notify CDF of the start of timber operations.

The notification, by telephone or by mail, shall be directed to the appropriate CDF Ranger Unit Headquarters, Forest Practice Inspector, or other designated personnel.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, and Section 4551, Public Resources Code. Reference: Sections 4593, 4593.3, and 4594, Public Resources Code.

HISTORY

1. New section filed 7-11-91; operative 8-12-91 (Register 91, No. 44).

§ 1090.14. NTMP Deviations.

(a) "Minor deviations" means any change, minor in scope, in a plan which can reasonably be presumed not to make a significant change in the conduct of timber operations and which can reasonably be expected not to significantly adversely affect timberland productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment or to result in a violation of the applicable water quality control plan.

(b) All other changes are presumed to be substantial deviations which means they could significantly affect the conduct in timber operations and potentially could have a significant adverse effect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation, and aesthetic enjoyment.

Such actions include, but are not limited to:

(1) Change in location of timber harvesting operations or enlargement of the area or volume planned to be cut.

(2) Change in the silvicultural method and cutting system on any portion of the plan area.

(3) Change in type or location of logging (yarding) system or basic type of equipment.

(4) Change in location, nature or increase in length of proposed logging roads incorporating one or more of the following criteria:

(A) Any road in a Watercourse or Lake Protection Zone or where sidecast will extend into the Watercourse or Lake Protection Zone.

(B) Any road located in an extreme Erosion Hazard bating area.

(C) Any road where the average side slope exceeds 50%.

(D) Any road where unstable areas, active soil movement, or slide areas must be traversed.

(E) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original plan.

(F) Any road extension of more than 600 feet (182.9 m).

(5) Any use of existing roads not shown in the original plan when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow vehicle passage.

(6) Use of any roads not shown in the plan which would affect the key habitat of rare or endangered species or other critical wildlife habitat.

(7) Enlargement of landings where such enlargement was not justified in the original plan.

(8) Any change of operation in, or designation of, the Watercourse or Lake Protection Zone.

(9) Any downgrading of Watercourse classification.

(10) A change to winter operation where summer operations was previously specified.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593, Public Resources Code. Reference: Sections 4593, 4593.8 and 4593.9, Public Resources Code.

HISTORY

1. New section filed 7-11-91; operative 8-12-91 (Register 91, No. 44).

§ 1090.16. Notice NTMP of Filing.

(a) The Director shall prepare a notice of filing which shall contain the basic information contained in the Notice of Preparation (14 CCR 1090.2) plus the assigned timber management plan number.

(b) Within 2 working days of the date the plan is filed, the Director shall transmit copies of the Notice of Filing to:

(1) The person submitting the plan.

(2) The office of the County Clerk of the county in which the operations are proposed. The notice shall be posted at the normal place for posting environmental notices.

(3) The local Ranger Unit headquarters for posting.

(4) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

(5) All public agencies having custodial responsibility for lands within 300 feet of the NTMP boundary.

(6) Any person requesting in writing a copy of the notice.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551, and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.3, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7-11-91; operative 8-12-91 (Register 91, No. 44).

§ 1090.17. Agency and Public Review for the NTMP.

(a) Upon receipt of the filed plan in accordance with 14 CCR 1090.16 the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the Department of Conservation, Division of Mines and Geology, and to the appropriate California Regional Water Quality Control Board, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the California Coastal Commission and all other agencies having jurisdiction by law over natural resources affected by the plan.

(b) The Director shall also transmit a copy of any specific plan to any person who has made a written request therefore.

(c) The Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

The Director shall invite written comments, and will consider these comments. All comments regarding plans shall be in writing and shall be addressed to the Director at the regional office where the plan is filed.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. Amendment filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).

§ 1090.18. Director's Determination.

The Director shall have 45 days from the date the initial inspection is completed, or in the event the Director determines that such inspection need not be made, 45 days from the date of filing of an accepted plan in accordance with 14 CCR 1090.16 or such longer period as may be mutually agreed upon by the Director and the person submitting the plan, to determine if the plan is in conformance with the applicable rules adopted by the Board. The Director shall insure that an interdisciplinary review team has had an opportunity to review each plan before determining if the plan conforms to the rules of the Board. The Director shall consider all written comments regarding the plan.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.19. Review Teams to be Established to Review Timber Management Plan.

Interdisciplinary review teams shall be established by the Director to review plans and assist the Director in the evaluation of proposed timber management plan(s) and its impacts on the environment. The Review Team composition, function, tasks and procedures shall be the same as those described in 14 CCR 1037.5.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.20. Nonconformance of NTMP.

If the Director determines that a plan is not in conformance with the rules of the Board the plan shall be returned in accordance with 14 CCR 1054. In addition, the Director shall state any changes and reasonable conditions that in the Director's professional judgment are needed to bring the plan into conformance with the applicable rules of the Board and offer to confer with the forester (RPF) in order to reach agreement on the conditions necessary to bring the plan into conformance.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.21. Conformance of NTMP.

If the Director determines that the plan is in conformance with the rules of the Board, then the person submitting the plan shall be notified timber operations thereunder may only commence after submission of a Notice of Timber Operations as prescribed in 14 CCR 1090.7.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.22. Notice of Conformance of the NTMP.

Within 10 working days of the date a plan is found in conformance, the Director shall transmit a notice thereof to the agencies and persons referred to in 14 CCR 1090.17 and for posting at the places named in 14 CCR 1090.16. A copy of the notice shall be filed with the Secretary for Resources. The notice of conformance shall include a written response of the Director to significant environmental points raised during the evaluation process.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.7, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.23. Public Inspection.

Notices of Conformance, pursuant to 14 CCR 1090.22 and notices of approval by the Board, pursuant to 14 CCR 1054, shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the Office of the Resources Agency. Each such list shall remain posted for a period of 30 days.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4593, 4593.4, and 4593.7, Public Resources Code. Reference: Sections 4593 and 4593.8, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.24. Amendment.

Amendments proposing substantial deviation from an original plan shall be submitted to the Director in writing by the person who submitted the original plan, or the successor in interest. Substantial deviations shall not be undertaken until such amendment has been filed and acted upon by the Director in the manner as required in article 6.5 of subchapter 6 of these rules for the original plan.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.8, Public Resources Code. Reference: Sections 4593 and 4593.8, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.25. Report Minor Deviations.

Minor deviations may be undertaken by the person who submitted the NTMP or Notice without submission of an amendment to the plan and shall be reported immediately in writing to the Director.

Actions described in 14 CCR 1090.14 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 1090.14 but considered to be minor by the submitter, may be undertaken only if the person who submitted the plan submits the proposed deviation in writing to the Director for review and receives approval.

Approval shall be given if the Director determines that the proposed minor deviation conforms to the standards provided in 14 CCR 1090.14(a). The Director shall have 5 working days to act on the application. If the Director or the representative of the Director does not act within 5 working days of receipt of such a deviation, timber operations may commence pursuant to such amendment.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.9, Public Resources Code. Reference: Sections 4593, 4593.8, and 4593.9, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).
2. Amendment filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 1090.26. Change of Ownership.

Any change in ownership of land must be reported to the Director by the new landowner within 180 days of the date such change is recorded in the county where the property is located. Also, before the passage of title, it shall be responsibility of the seller to notify the purchaser of either the timber or timberland of their responsibility for compliance with the stocking standards of the Act and the rules of the Board of Forestry.

After a plan is found in conformance with the rules and regulations of the Board, the Director may file a Notice of Stocking Requirements on the property with the recorder of the county within which the plan is located if any area logged under a Notice of Timber Operations has not had a report of satisfactory stocking is issued by the Director.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Sections 4551 and 4593.10, Public Resources Code. Reference: Sections 4593, 4593.4 and 4593.10, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

§ 1090.27. Cancellation of Plans.

All parties, who submitted plans or their successors, must sign the request to the Director for cancellation of a plan. Once cutting has commenced, the plan may not be canceled except as to lands not harvested.

NOTE: Authority cited: Stats. 1989, Ch. 1290, Sec. 13, Section 4551, Public Resources Code. Reference: Sections 4593, 4593.4, and 4593.7, Public Resources Code.

HISTORY

1. New section filed 7–11–91; operative 8–12–91 (Register 91, No. 44).

Article 6.75. Sustained Yield Plan

§ 1091.1. Sustained Yield Plan.

(a) General. This Article establishes requirements applicable to Sustained Yield, watershed impacts, and fish and wildlife.

(b) Authority and Intent. This Article carries out the Legislature's direction that the Board adopt regulations to assure the continuous growing and harvesting of commercial forest tree species and to protect the soil, air, fish and wildlife, and water resources in accordance with the policies of the Forest Protection ACT (FPA). Those policies include creating and maintaining a system of timberland regulations and use which ensures that timberland productivity is maintained, enhanced and restored where feasible and the goal of maximum sustained production of high–quality timber products (MSP) is achieved while giving consideration to environmental and economic values. The Sustained Yield Plan (SYP) may be submitted at the option of the landowner and is intended to supplement the THP process by providing a means for addressing long–term issues of sustained timber production, and cumulative effects analysis which includes issues of fish and wildlife and watershed impacts on a large landscape basis.

In the interpretation and implementation of this Article, it is recognized that the accuracy of, and therefore the need for, detailed future projections becomes less as the time horizon lengthens. It is not the intent of this Article that speculation shall be promoted such that analyses shall be undertaken which would produce only marginally reliable results or that unneeded data would be gathered. Moreover, it is recognized that in certain cases, landowners, and particularly owners of smaller areas, may not have nor can be reasonably expected to obtain or project information which otherwise might be helpful. It is the intent of this Article that the requirements for informational or analytical support for a SYP shall be guided by the principles of practicality and reasonableness; no information or analysis shall be required which in the light of all applicable factors is not feasible. However, it is the intent of this Article that all potential adverse environmental impacts resulting from proposed harvesting be described, discussed and analyzed before such operations are allowed. Should such analysis not be included in the SYP, it must be contained in those THPs which rely on the SYP, including any impact discovered after the SYP is approved.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New article 6.75 (sections 1091.1–1091.14) and section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
2. Editorial correction (Register 96, No. 45).

§ 1091.2. Relation to THPs.

If submitted, a SYP shall address issues of sustained timber production, watershed impacts and fish and wildlife by preparing an SYP for a Management Unit. The SYP shall not replace a THP. However, to the extent that sustained timber production, watershed impacts and fish and wildlife issues are addressed in the approved SYP, these issues shall be considered to be addressed in the THP; that is the THP may rely upon the SYP.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.3. Definitions.

"Management Unit" means the part or parts of timberland ownership which are analyzed together as part of an SYP and may include areas outside of an ownership when addressing watershed and wildlife issues. The Management Unit shall be limited to one forest district. The landowner has the option of including within their management unit their entire ownership within the forest district and any areas outside the district that the Director agrees are part of a logical management unit, or they may divide the ownership into management units based on administrative, regulatory and ecological factors with concurrence from the Director. The Management Unit must include one or more planning watersheds, and may include associated resource assessment areas.

"Planning Horizon" means the 100 year period over which sustained timber production, watershed, and fish and wildlife effects shall be evaluated.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
2. Amendment of "Management Unit" filed 5–16–94; operative 5–16–94 (Register 94, No. 20).
3. Amendment of "Management Unit" filed 8–7–95; operative 8–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 32).

§ 1091.4. Sustained Yield Plan Contents.

(a) Contents of SYP. If a SYP is submitted, it shall be prepared under the supervision of and signed by an RPF and shall include the following information:

(1) Name and Address of timber and timberland owner.

(2) Ownership description and location, including legal descriptions and maps depicting the ownership and Management Units which shall be at a scale sufficient to allow the Director to determine the area covered by the SYP.

(3) Management objectives for resources addressed in the SYP, including timber products.

(4) General narrative description of the forest types, fish and wildlife habitats and watercourses and lakes.

(5) Descriptions of Management Units (e.g., planning watersheds or larger areas) and rationale for Management Unit selection.

(6) Identification and mapping of Planning watersheds classified as sensitive watersheds and description of the measures taken to protect resources within those watersheds.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
2. Amendment of subsection (a) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).

§ 1091.45. Sustained Timber Production Assessment.

(a) Consistent with the protection of soil, water, air, fish and wildlife resources a SYP shall clearly demonstrate how the submitter will achieve maximum sustained production of high quality timber products while giving consideration to regional economic vitality and employment at planned harvest levels during the planning horizon. The average annual projected harvest over any rolling 10–year period, or over appropriately longer time periods for ownerships which project harvesting at intervals less frequently than once every 10 years, shall not exceed the long–term sustained yield estimate for a SYP submitter's ownership.

(b) Where a SYP is based upon data on file with the Director, such data shall be updated every 10 years. Proprietary information shall be treated consistent with PRC 21160.

(c) Each sustained timber production assessment shall include:

(1) A summary table of Wildlife Habitat Relationships compositions and stand structure types (WHR), or comparable stand structure types within forest vegetation types with their respective acreage. For an ownership's specific stand structure types, the RPF shall provide a written description of the stand structure and characteristics which define each type, and comparisons of those types to WHR typing. The WHR system,

which is herein incorporated by reference, and its uses described in "Guide to the California Wildlife Habitat Relationships System," California Department of Fish and Game, March 1988.

(2) An estimate of the long-term sustained yield of the ownership stated in terms of board feet per year or cubic feet per year, or other reasonable measurement consistent with products chosen by the owner, and a description of how the estimate was reached. For ownerships that have not attained long-term sustained yield, the SYP shall estimate and justify the transition period necessary to achieve long-term sustained yield.

(3) A projection of growth and harvest for each WHR type or comparable stand structure type within forest vegetation type over each 10 year period in the planning horizon, and a description in narrative form of the accuracy and methodology used to estimate growth.

(4) A discussion of the accuracy of the inventory data for the management unit and/or ownership. Inventory data, models and growth and harvest projections utilized for harvest scheduling projections shall be available for confidential audits by reviewing agencies along with the basis for such data, including but not limited to the cruise design and sample plot data and statistical validity of such estimates. The SYP shall describe how the submitter will, over time, make reasonable progress to improve inventory estimates for the major WHR or vegetation types, with a goal of achieving standard errors that are no greater than 15 percent of their respective inventory estimates within the effective period of the SYP. The major WHR types include all tree-dominated habitats in size classes 4, 5, and 6 with canopy closure classes of S,P,M, and D.

(5) A description of the prescriptions applied to each stand type projected. A narrative discussion of the methods used to project inventory, growth and harvest and WHR type or comparable stand structures type.

(d) The use of Spreadsheet Assisted Resource Analysis (SARA) planning model, Cooperative Redwood Yield Project Timber Output Simulator (CRYPTOS), and California Conifer Timber Output Simulator (CACTOS) growth models and WHR types are encouraged in order to aid in the Departmental review.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1-7-94; operative 3-1-94 (Register 94, No. 1).
2. Amendment of subsection (c)(4) filed 11-7-96; operative 1-1-97 (Register 96, No. 45).

§ 1091.5. Fish and Wildlife Assessment.

The following fish and wildlife issues shall be addressed in an SYP:

(a) Assessment Area. The area for the fish and wildlife impacts assessment shall be at least the Management Unit under the SYP and may include the entire ownership within a forest district. Areas outside the ownership may be included as necessary to assess the potential individual or cumulative effect of timber operations.

In areas with multiple ownerships, landowners may cooperate to establish a management unit and develop a fish and wildlife habitat assessment and management plan.

(b) Impacts to be addressed. The Assessment shall address threatened, endangered and sensitive species and other fish and wildlife species which timber operations could adversely impact, resulting in significant adverse individual or cumulative impacts. The Assessment shall address, as feasible, such species' habitat needs and the availability, shapes and distribution of habitats in relation to harvest schedule and growth projections and the impacts of harvesting on such habitats. The SYP shall discuss and include feasible measures planned to avoid or mitigate potentially significant adverse environmental effects on such fish and wildlife. The plan may also discuss positive effects of the timber or timberland owner's operations on fish and wildlife.

For the initial ten year period, maps by Management Unit showing significant changes to WHR types or stand structure types that are likely to result from projected timber operations shall be included. For the remaining periods within the planning horizon, type changes shall, at a minimum, be discussed in a narrative manner (including tabular analyses by management unit) and may include maps.

(c) Where significant impacts are identified and feasible mitigation is not available, a THP relying upon the SYP shall address these remaining impacts. Reasonable Mitigation considered but rejected as infeasible shall be identified.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1-7-94; operative 3-1-94 (Register 94, No. 1).

§ 1091.6. Watershed Assessment and Planning.

The following watershed issues shall be addressed in an SYP:

(a) Assessment Area. The minimum assessment area shall be no less than a planning watershed. The assessment area may include multiple watersheds within a Management Unit, and areas outside the ownership may be included.

(b) Impacts Analysis and Mitigation. The Assessment shall include an analysis of potentially significant adverse impacts, including cumulative impacts, of the planned operations and other projects, on water quality, fisheries and aquatic wildlife.

(c) The SYP shall contain a description of the individual planning watersheds in sufficient detail to allow a review of the analysis of impacts.

(1) For all planning watersheds in the ownership within a forest district descriptions shall include as appropriate:

(A) Estimate of the stand structure type acreage and percent composition of the watershed by decade.

(B) General maps and descriptions of unstable areas and unstable soils known to the plan submitter to be actively or potentially discharging sediment, as well as those mapped by public agencies.

(2) For the initial ten year period, for all planning watersheds in which harvesting will take place, descriptions shall include as appropriate:

(A) Map of existing roads and approximate location and miles of proposed new, reconstructed and abandoned roads.

(B) Estimate of the SYP submitter's ownership acres of forest types to be harvested by silvicultural method and yarding method, and the location of submitter's approved and submitted THPs and presently projected future timber operations.

(C) A general description of areas known to be sensitive to ground disturbance and present sources of erosion.

(d) The SYP shall also discuss and include feasible measures planned to mitigate or avoid significant adverse impacts. Where significant impacts are identified and feasible mitigation is not available, a THP relying upon a SYP shall address these remaining impacts. The SYP submitter shall utilize any one or a combination of methods to assess adverse watershed impacts including but not limited to:

(1) Board of Forestry Technical Rule Addendum #2 (14 CCR 912.9, 932.9, 952.9).

(2) The use of a Cumulative Watershed Effects Analysis, including the Equivalent Roaded Area (ERA) method, for screening planning watersheds to determine whether watershed-specific thresholds of concern have been exceeded when appropriate.

(3) Other methods proposed in the SYP and approved by the Director.

(e) Multiple Ownerships. In areas with multiple ownerships, landowners may cooperate to establish a management unit and develop a watershed assessment.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1-7-94; operative 3-1-94 (Register 94, No. 1).

§ 1091.7. Limitation on Information Requirements.

Where landowners do not cooperate to develop a watershed or fish and wildlife assessment, or where a management unit is adjacent to lands operated by landowners or timber owners who have not submitted a SYP, the information required of a SYP submitter regarding past, present and reasonably foreseeable probable future projects shall be limited to information regarding the same ownership, to matters of public record, readily available to the submitter and shall be guided by the principles of practi-

cality and reasonableness. The sufficiency of the information provided in a SYP to evaluate environmental effects shall be judged in light of what is reasonably feasible and necessary.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.8. Compliance and Effectiveness Evaluation.

The SYP shall include provisions for determining the compliance with and effectiveness of the measures adopted in the SYP to mitigate or avoid significant environmental effects. Such provisions may include evaluation by the SYP submitter and evaluation of affected areas with representative conditions. Progress reports shall be provided periodically to CDF at their request. Such evaluations shall be developed in consultation with the Director and appropriate review agencies.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.9. SYP Effective Period.

The effective period of SYP shall be no more than ten years.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Section 4551.3, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
2. Change without regulatory effect amending section and adding new NOTE filed 9–26–97 pursuant to section 100, title 1, California Code of Regulations (Register 97, No. 39).

§ 1091.10. Review of Sustained Yield Plan (SYP).

The Director shall review and approve or disapprove a SYP. The Director's determination shall be based on multi–disciplinary review used to determine whether the SYP satisfies the requirements of MSP and, in case of watershed and fisheries and wildlife issues, whether the SYP identifies potentially significant adverse impacts and includes feasible measures necessary to mitigate or avoid such impacts and is consistent with 14 CCR 897 (b). Where significant impacts are identified and feasible mitigation is not available, a THP relying upon the SYP shall address these remaining impacts. Reasonable Mitigation considered but rejected as infeasible shall be identified.

For purposes of Public Resources Code 4582.7 submission of a SYP shall be deemed to constitute agreement by the SYP submitter to extend the review and comment periods to the times specified in this article.

(a) Within 20 days of receipt of an SYP, the Director shall determine if the SYP is in proper order, and meets the informational requirements of the rules, and if so, the SYP shall be filed. If the SYP is not acceptable for filing the Director shall return the SYP with written specifications of the deficiencies.

Where the Director does not make this determination within 20 days the plan shall be deemed filed. Once the SYP is accepted for filing the Director shall have 45 days or a longer period as mutually agreed to by the submitter and the Director to review and determine if the SYP contains sufficient and complete information to permit further review by the public and other agencies. If it does not, the Director will communicate with the submitter with written specification of the deficiencies including any information necessary to review and analyze the SYP. When the submitter provides adequate written response to each of the deficiencies, the SYP will be scheduled for further review. The Director shall deny the SYP if the information is not provided or is insufficient.

Once the SYP is ready for public and agency review the Director shall schedule a date for the start of a 90 day or longer period as mutually agreed to by the submitter and the Director.

(b) The Director shall schedule the SYP for the 90 day review as the SYP is determined to be ready for further review while considering departmental workload.

(c) Public Notice of SYP.

The Director shall 15 days prior to the start of the 90 day scheduled review transmit notice to the public and agencies consistent with the noticing requirements of sections 1037.5 and 1037.1 b(1–5). The notice shall advise the public of the name of the submitter, geographic location of the SYP, where a copy of the SYP can be reviewed or obtained and when and where the public hearing will be held.

(d) Public Hearing.

The Director shall hold a public hearing on the SYP within 45 days form the start of the Public Review Period. The SYP submitter shall participate with the Director in that hearing.

(e) Determination Period.

At the end of the review and comment period the Director shall have 30 days to review public input, consider recommendations and mitigation measures of other public agencies, respond in writing to the issues raised and determine if the SYP is in conformance with the rules. Within this period, the Director shall make a determination of conformance.

(f) SYP Disapproval.

If the Director disapproves a SYP, the Director shall provide written reasons for disapproval that conform with section 1054.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).
2. Amendment of subsection (a) filed 5–16–94; operative 5–16–94 (Register 94, No. 20).

§ 1091.11. Appeals.

Appeals of SYP's shall be the same as provided in the FPA for THPs. For Head of Agency Appeals, the appealing agency shall have 10 days from the Directors determination date to notify the Board of their intent to appeal. The other requirements of Section 1056(a) shall be submitted to the Board within 30 days after the Director's decision. The 30 days specified in section 1056.2 commence when the appeal statement meets the requirements of 1056(a).

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 20168.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.12. Emergency Departures from SYP.

In the case of an Emergency as specified in the rules of the Board (14 CCR 1052.1), the SYP submitter shall notify the Director of such departure in writing and shall comply with Section 1091.13. This notice shall accompany any notice required by Section 1052 for cutting timber on an emergency basis. If an amendment to the SYP is required pursuant to Section 1091.13, it shall be filed within 20 days of the filing of the Emergency Notice. The SYP submitter shall comply with the Emergency Notice requirements.

NOTE: Authority cited:Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.13. Amendments.

Except under emergency circumstances, substantial deviations from the SYP shall not be undertaken in the THPs unless an amendment has been submitted to and approved by the Director following the same procedures as for approving an SYP initially. No THPs may be approved which rely upon a substantial deviation proposed in an amendment to a SYP until such a deviation is approved by the Director.

(a) Substantial Deviations. For purposes of the sustained timber production portion of any SYP, any deviation from the average harvesting projections in any ten–year period which exceeds ten percent, including a deviation caused by changes of ownership and catastrophic events, shall be considered a substantial deviation. For purposes of watershed and fish and wildlife issues, any deviation from the plan which could result in significant adverse effects to watershed or fish and wildlife values shall be considered a substantial deviation.

(b) Minor deviations shall be reported to the Director immediately in writing but shall not require amendment of the plan.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

§ 1091.14. Timber Harvest Plans Submitted Within a SYP Management Unit.

Each timber harvest plan submitted for an area within an ownership subject to and relying upon an approved SYP shall demonstrate consistency with the SYP and reference the SYP in response to THP questions addressing subjects covered in the SYP. Each THP shall contain feasible mitigation included in the SYP to address identified impacts. Responses to significant environmental issues raised during THP review on subjects addressed in the SYP shall refer to the SYP. Where new issues or potentially significant adverse effects not addressed in the SYP exist, they shall be identified in the THP or a substantial or minor deviation shall be submitted for the SYP as appropriate. Additional feasible mitigation measures to address new issues identified shall be discussed and included in the THP or amendment.

NOTE: Authority cited: Sections 4551 and 4561, Public Resources Code. Reference: Sections 4551.5, 4561, 21003 and 21068.5, Public Resources Code.

HISTORY

1. New section filed 1–7–94; operative 3–1–94 (Register 94, No. 1).

Article 6.8. Program Timberland Harvesting Plan

§ 1092. Rule Application [Effective until 1–1–99].

(a) Where the abbreviation THP, the term Timber Harvesting Plan, or the word plan is used in Chapter 4, Subchapters 1 through 6 and Chapter 4.5 it shall also mean PTHP. In Subchapter 7 this equivalency will occur for all sections except 1032 through 1042.

(b) Within 14 CCR Division 1.5, Chapter 4, Subchapters 4–6, Articles 2,3,4,5,6,7,8,9,11,12,13 and 14, the operational (specific prescriptive) standards of the rules shall apply to all timber operations conducted under a PTHP. However, as necessary for site–specific project level management, alternate standards can be developed which provide equal or better protection to the resource which may be impacted. These alternate standards may only be accepted by the Director when the PTEIR provides an analysis demonstrating that implementation will result in impacts which are below the level of significant effect on the environment as defined in the State CEQA Guidelines (14 CCR 15382) and other applicable state laws.

(c) Where the PTEIR has adequately addressed an environmental impact, the PTHP need only include reference to the PTEIR provisions. Alternate standards may only be used in a PTHP where the analysis of potential impacts and mitigation's in the PTEIR is of such detail that a reasonable person could reach a conclusion that the resulting impacts would be less than significant.

(d) Within 14 CCR Division 1.5, Chapter 14, Subchapters 1, and 3–6, the planning (performance) standards which are to be incorporated into a THP under the functional equivalent process shall be addressed within the PTEIR to achieve the performance objectives set forth in the intent language of the regulation. The PTEIR shall demonstrate how resource protection set forth in the intent of the Act is provided for on the ownership or portion of ownership.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New article 6.8 (sections 1092–1092.32) and section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Editorial correction of subsection (b) (Register 98, No. 33).
3. Amendment of section heading and section filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33). *Text of version effective through 12–31–98 retained for reference.*

§ 1092. Rule Application [Effective 1–1–99].

(a) Where the abbreviation "THP", the term "Timber Harvesting Plan", or the word "plan" is used in Chapter 4, Subchapters 1 through 6 and Chapter 4.5 it shall also mean "PTHP". In Subchapter 7, this equivalency will occur for all sections except 1032 through 1042.

(b) Within 14 CCR Division 1.5, Chapter 4, Subchapters 4–6, Articles 2,3,4,5,6,7,8,9,11,12,13, and 14, the operational (specific prescriptive) standards of the rules shall apply to all timber operations conducted under a PTHP. However, as necessary for site–specific project level management, alternate standards can be developed which provide equal or better protection to the resource which may be impacted. These alternate standards may only be accepted by the Director when the PTEIR provides an analysis demonstrating that implementation will result in impacts which are below the level of significant effect on the environment as defined in the State CEQA Guidelines (14 CCR 15382) and other applicable state laws.

(c) Where the PTEIR has adequately addressed an environmental impact, the PTHP need only include reference to the PTEIR provisions. Alternate standards may only be used in a PTHP where the analysis of potential impacts and mitigations in the PTEIR is of such detail that a reasonable person could reach a conclusion that the resulting impacts would be less than significant.

(d) Within 14 CCR Division 1.5, Chapter 4, Subchapters 1, and 3–6, the planning (performance) standards which are to be incorporated into a THP under the functional equivalent process shall be addressed within the PTEIR to achieve the performance objectives set forth in the intent language of the regulation. The PTEIR shall demonstrate how resource protection set forth in the intent of the Act is provided for on the area encompassed by the PTEIR.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33).

§ 1092.01. PTEIR and PTHP [Effective until 1–1–99].

(a) A Program Timber Harvesting Plan (PTHP) may be filed for ownerships where a PTEIR has been certified by the Director.

(b) The PTEIR shall assess impacts and provide mitigation for those on and off–site impacts resulting from timber operations involved with an ownership, or portion of an ownership. Use of the PTEIR establishes the need for a separate THP process which is provided in this Article. The PTHP relies upon the environmental analysis contained in the PTEIR. All PTHP's shall be accompanied by a checklist which will demonstrate that the proposed operations are within the scope of the PTEIR for the ownership. The PTHP fulfills the requirements of CEQA by being written within the scope of the analysis contained in the PTEIR. The PTHP also must meet the requirements of the Forest Practice Act and the rules of the board.

(c) The checklist which accompanies a PTHP must be developed in each PTEIR to address the site specific impacts and practices for each ownership or portion of an ownership. The checklist shall indicate mitigation to be applied in all areas of resource protection addressed in the PTEIR for individual and cumulative effects, including but not limited to air, wildlife, water, soil, recreation, hazard reduction, pest protection, noise, aesthetics, cultural resources, areas regulated by the board in Sections 4513, 4551, 4551.5, 4561, and 4581 of the Public Resources Code.

(d) Where a PTHP is found by the Director not to be within the scope of the PTEIR, the PTHP submitter has the following alternatives: 1) the PTHP may be modified to be within the scope of the PTEIR, 2) the PTHP may be withdrawn and submitted as a THP under the functional equivalent process, or 3) an addendum supplement or subsequent PTEIR may be prepared and certified which addresses any remaining impacts identified in the PTHP.

(e) A PTHP shall be limited to an area with reasonably similar timber geology, soil, topography, climate, and stream characteristics that would constitute a logical harvesting unit. A PTHP should be limited to that area

on which timber operations normally will be completed in one 12–month period, but in no case shall it extend beyond 36 months after the PTHP is determined to be in conformance or otherwise becomes effective under PRC 4582.7. PTHPs shall be limited to lands within a particular forest district.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Editorial correction of subsection (b) (Register 98, No. 33).
3. Amendment of section heading filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33).

§ 1092.01. PTEIR and PTHP [Effective 1–1–99].

(a) A Program Timber Harvesting Plan (PTHP) may be filed for ownerships where a PTEIR has been certified by the Director.

(b) The PTEIR shall assess impacts and provide mitigation for those on and off–site impacts resulting from timber operations involved with an ownership, portion of an ownership, or multiple ownerships. Use of the PTEIR establishes the need for a separate THP process which is provided in this Article. The PTHP relies upon the environmental analysis contained in the PTEIR. All PTHPs shall be accompanied by a checklist which will demonstrate that the proposed operations are within the scope of the PTEIR. The PTHP fulfills the requirements of CEQA by being written within the scope of the analysis contained in the PTEIR. The PTHP also must meet the requirements of the Forest Practice Act and the rules of the board.

(c) The checklist which accompanies a PTHP must be developed in each PTEIR to address the site specific impacts and practices for each ownership, portion of an ownership, or multiple ownerships. The checklist shall indicate mitigation to be applied in all areas of resource protection addressed in the PTEIR for individual and cumulative effects, including but not limited to air, wildlife, water, soil, recreation, hazard reduction, pest protection, noise, aesthetics, cultural resources, areas regulated by the board in Sections 4513, 4551, 4551.5, 4561, and 4581 of the Public Resources Code.

(d) Where a PTHP is found by the Director not to be within the scope of the PTEIR, the PTHP submitter has the following alternatives: 1) the PTHP may be modified to be within the scope of the PTEIR, 2) the PTHP may be withdrawn and submitted as a THP under the functional equivalent process, or 3) an addendum supplement or subsequent PTEIR may be prepared and certified which addresses any remaining impacts identified in the PTHP.

(e) A PTHP shall be limited to an area with reasonably similar timber geology, soil, topography, climate, and stream characteristics that would constitute a logical harvesting unit. A PTHP should be limited to that area on which timber operations normally will be completed in one 12–month period, but in no case shall it extend beyond 36 months after the PTHP is determined to be in conformance or otherwise becomes effective under PRC 4582.7, unless an amendment to extend the effective period is submitted and accepted by the Department per PRC 4590(a)(1). PTHPs shall be limited to lands within a particular forest district.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551, 4553 and 4590(a)(1), Public Resources Code.

HISTORY

1. New section filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33).
2. Editorial correction of subsection (b) (Register 99, No. 26).

§ 1092.02. Director's Guidance for Review of PTEIR.

In certifying the PTEIR and adopting the CEQA findings the Director shall certify that the timberland management described in the PTEIR will achieve the resource protection goals in PRC Sections 4513, 4551, 4561, and 4581 and any goals that may be required by CEQA.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.03. Program Timber Harvesting Plan Filing Locations.

The PTHP shall be submitted in writing to the Director at the appropriate Department of Forestry and Fire Protection offices listed in 14 CCR 1032.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Section 4581, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.04. Program Timber Harvesting Plan (PTHP) Submittal.

(a) A PTHP shall be submitted by the person who owns, leases, contracts, or operates on timberland and plans to harvest timber for commercial purposes.

(b) Where the land or timber is owned or operated by parties other than the person executing the PTHP the person submitting the PTHP shall give prompt written notice of such PTHP to those parties.

(c) The RPF preparing the PTHP shall submit to the Director, with the PTHP, a copy of a Notice of Intent to Harvest: (1) if any proposed boundary lies within 300 feet of any property not owned by the timberland owner, or (2) any PTHP amendment that changes a PTHP boundary so that the new boundary lies within 300 ft. of property not owned by the timberland owner.

(d) A Notice of Intent shall include the following information:

(1) The names of the timberland owner, the RPF who prepared the PTHP, and the PTHP submitter.

(2) The location of the PTHP area by county, section, township, and range, and the approximate direction and distance to the PTHP area from the nearest community or well–known landmark.

(3) The name of and distance from the nearest perennial watercourse flowing through or downstream from the PTHP area.

(4) The acres proposed to be harvested.

(5) The regeneration methods and intermediate treatments to be used.

(6) The estimated earliest date that the Director may approve the PTHP. This is 15 days from receipt of the PTHP by the Department, except in counties for which rules and regulations have been adopted pursuant to Section 4516.5 and 4516.8 of the PRC where the earliest date the Director may approve the PTHP is 45 days after the receipt of the PTHP by the Department.

(7) A statement that the public may review the PTHP at the appropriate Regional Office of CDF and that a copy of the PTHP may be obtained from the Department upon payment of the applicable charge.

(8) A map which provides the approximate boundary of the PTHP area, a map legend, and a scale.

(9) A statement that questions or concerns regarding the specific PTHP should be directed to the appropriate CDF Region or Area Office.

(e) The RPF preparing the PTHP shall furnish to the Department at the time of submission of the PTHP the names and mailing addresses of all property owners within 300 ft. of the PTHP boundary. Either a list compiled from the latest equalized assessment roll or a list provided by a title company doing business in California compiled within 60 days of submission of the PTHP shall be deemed sufficient for compliance with the subsection.

(f) The Department shall mail copies of the Notice of Intent within two working days of receipt of the PTHP to all persons identified in (e) above.

(g) Before PTHP submission, the person submitting the PTHP shall post a copy of the Notice of Intent including a map as described in (d)(8) at a conspicuous location on the public road nearest the PTHP site. The Notice shall be on colored paper or identified with colored flagging so as to be easily visible to the public.

(h) A statement of whether there is a known overhead electric power line on the proposed plan area except lines from transformers to service panels.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Section 4581, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.05. Notice of Intent Distribution.

The Director shall distribute copies of each Notice of Intent within two working days of receipt to:

(a) The office of the County Clerk of the county in which operations are proposed for posting at the customary place for posting environmental affairs.

(b) The local Ranger Unit headquarters for posting.

(c) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

NOTE: Authority cited: Sections 4551, 4551.5, 4552 and 21092, Public Resources Code. Reference: Sections 4581, 4582.4, 21080.5, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.06. Request for Notification of PTHP Submission.

(a) Each Regional Office of the Department shall maintain a list of PTHPs submitted that month.

(b) When any person requests notice of submissions of PTHPs, the Director shall provide the person, free of charge, with a copy of the list of PTHPs submitted on the date or dates requested. If no specific date is requested, a copy of the list for the preceding month shall be provided.

NOTE: Authority cited: Sections 451, 4551.5, 4552 and 4582.4, Public Resources Code; and Section 14880, Government Code. Reference: Sections 4581, 4582, 4582.4, 21080.5, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.07. Request for Information on Domestic Water Supplies.

The PTHP submitter shall provide notice by letter to all other landowners within 1,000 feet downstream of the PTHP boundary whose ownership adjoins or includes a Class I, II, or IV watercourse(s) which receives surface drainage from the proposed timber operations. The notice shall request that the PTHP submitter be advised of surface domestic water use from the watercourse, within the PTHP or within 1,000 feet downstream of the PTHP boundary. When required to notice by letter, the PTHP submitter shall also publish the notice one time in a newspaper of general circulation in the area affected by the proposed project. Such letter and publication shall notify the party of the proposed timber operation and describe its legal location and identify the name, if any, of the watercourse it may effect. The letter and publication shall request a response by the property owner within ten days of the post–marked date on the letter or the date of publication as appropriate. Copies of either notice, proof of service and publication, and any response shall be attached to the PTHP when submitted. If domestic use is noted, the PTHP shall contain mitigations necessary to protect domestic water use. The PTHP shall not be submitted until ten days after the above notification(s) have been done. The RPF may propose, with justification and explanation, an exemption to such notification requirements, and the Director may agree.

NOTE: Authority cited: Sections 4551 and 4582.3, Public Resources Code. Reference: Sections 4551, 4581, 4582.3, 21080 and 21092, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.08. Filing Date.

The filing date is the date on which the PTHP is found by the Director to be accurate, complete, and in proper order.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582 and 4583, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.09. PTHP Contents [Effective until 1–1–99].

The purpose of the PTHP is to provide guidance for implementation of the standards and protective measures in the certified PTEIR. For the PTHP to serve these functions it shall contain the following:

(a) Identification number of the PTEIR and where it can be reviewed;

(b) The name and address and phone number of the timberland owner, the timber owner, the RPF, the Licensed Timber Operator and license number and the person responsible for on the ground supervision of the timber operations. If the Licensed Timber Operator is not known at the time of plan submission, this information shall be provided prior to the start of timber operations.

(c) Expected dates of commencement and completion of timber operations.

(d) A legal description of the area of the PTHP on which timber operations will be conducted.

(e) Identification of silvicultural prescriptions to be applied.

(f) A confidential Archaeological Addendum as defined in 895.1 or a statement by the RPF that the PTHP has been surveyed in accord with current Forest Practice rules and no additional sites have been found.

(g) A statement that no significant adverse impacts would occur to any threatened, or endangered plant or animal species in the area of the PTHP.

(h) A statement that there have been no physical environmental changes in the PTHP area that are so significant as to require any addendum or supplement to the PTEIR;

(i) Special provisions, if any, to protect any unique area within the area of timber operations.

(j) A certification by the RPF that he or she or a supervised designee has personally inspected the PTHP area.

(k) A verification that the LTO has been briefed by the RPF or supervised designee on the contents and operational requirements of the PTHP prior to the start of timber operations.

(*l*) On a titled USGS quadrangle or equivalent topographic maps of a scale not less than 2″ to the mile, the information in subsections (1–5) shall be clearly shown. Additional maps, which may be topographic or planimetric may be used to provide the information required in other subsections or show specific details, to improve map clarity. The appurtenant roads referenced in subsection (5) may b shown on a map which may be planimetric with a scale as small as one–half inch equals one mile. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreage.

(1) Boundaries of the area to be harvested.

(2) Boundaries of areas for specified regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied.

(3) Boundaries of the Site Class of timberlands within the PTHP area.

(4) Boundaries of areas for specified yarding (logging) systems, if more than one system is to be used;

(5) Location of public roads within the PTHP, and private roads appurtenant to the timber operations where such roads are under the ownership or control of the timber owner, timberland owner or timber operator, and classification of all proposed and existing logging roads as permanent, seasonal, or temporary roads.

(6) Location of proposed and existing landings in the watercourse and lake protection zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves substantial excavation.

(7) Road failures on existing roads to be reconstructed.

(8) Location of all watercourse crossings of classified watercourses except temporary crossings of class III watercourses without flowing water during timber operations at that crossing.

(9) Location of erosion hazard rating areas, if more than one rating exists.

(10) Location of watercourse with Class I, II, III or IV waters.

(11) Location of known unstable areas or slides. Location of unique areas.

(m) Type of yarding (logging) systems and equipment to be used. Yarding systems will be placed in one or more of the following groups:
(1) Animal
(2) Tractor, skidder, forwarder
(3) Cable
(A) Ground–lead
(B) High–lead
(C) Skyline
(4) Balloon, helicopter
(5) Other, as explained in the PTHP

(n) A completed checklist from the certified PTEIR shall be attached to the PTHP and shall contain a listing of the practices which deviate from standard operational rules of the Board as presented in the PTEIR.

(o) Explanation and justification of any operational practices which are not specified in the certified PTEIR and which are allowed by the rules with explanation and justification.

(p) A certification by the RPF preparing the PTHP that the proposed operations are within the scope of the environmental analysis contained in the PTEIR as set forth in 14 CCR 1092 and therefore will not result in any significant environmental impacts beyond those addressed in the PTEIR.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4527, 4582 and 4583, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of subsections (j) and (k) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
3. Amendment of subsection (g) filed 5–21–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 21).
4. Amendment of section heading (and incorporation of 5–21–98 amendment of subsection (g) into version of section 1092.09 effective 1–1–99 and restoration of former subsection (g)) filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33). *Text of version effective through 12–31–98 retained for reference.*
5. Editorial correction inserting inadvertently omitted subsection (*l*)(4) (Register 99, No. 18).

§ 1092.09. PTHP Contents [Effective 1–1–99].

The purpose of the PTHP is to provide guidance for implementation of the standards and protective measures in the certified PTEIR. For the PTHP to serve these functions it shall contain the following:

(a) Identification number of the PTEIR and where it can be reviewed;

(b) The name and address and phone number of the timberland owner, the timber owner, the RPF, the Licensed Timber Operator and license number and the person responsible for on the ground supervision of the timber operations. If the Licensed Timber Operator is not known at the time of plan submission, this information shall be provided prior to the start of timber operations.

(c) Expected dates of commencement and completion of timber operations.

(d) A legal description of the area of the PTHP on which timber operations will be conducted. The description shall include the following:
(1) U.S. Geological Survey (USGS) Quadrangle name(s) and date(s),
(2) township, range, and section number(s),
(3) county name(s),
(4) CALWATER 2.2 planning watershed number(s), and
(5) approximate acreage.

(e) Identification of silvicultural prescriptions to be applied.

(f)(1) A confidential Archaeological Addendum as defined in 895.1, if the PTHP covers 3.0 acres or more, or,

(2) A statement by the RPF that the area covered by the PTHP has been surveyed in accord with current Forest Practice Rules, and a Confidential Archaeological Addendum was filed and approved as part of the PTEIR associated with the PTHP, or the area covered by the PTHP is less than 3.0 acres.

(g) A statement that no significant adverse impacts would occur to any threatened or endangered plant or animal species in the area of the PTHP or that if timber operations are being conducted in compliance with an accepted "no take" or authorized incidental "take" procedure, either of which has authorization or concurrence of a wildlife agency acting within its authority under state or federal endangered species acts for a listed species, the PTHP shall so state.

(h) A statement that there have been no physical environmental changes in the PTHP area that are so significant as to require any addendum or supplement to the PTEIR;

(i) Special provisions, if any, to protect any unique area within the area of timber operations.

(j) A certification by the RPF that he or she or a supervised designee has personally inspected the PTHP area.

(k) A verification that the LTO has been briefed by the RPF or supervised designee on the contents and operational requirements of the PTHP prior to the start of timber operations.

(*l*) On a titled USGS quadrangle or equivalent topographic maps of a scale not less than 2″ to the mile, the information in subsections (1–5) shall be clearly shown. Additional maps, which may be topographic or planimetric may be used to provide the information required in other subsections or show specific details, to improve map clarity. The appurtenant roads referenced in subsection (5) may be shown on a map which may be planimetric with a scale as small as one–half inch equals one mile. Color coding shall not be used. A legend shall be included indicating the meaning of the symbols used. See the district rules for the appropriate minimum mapping acreage.
(1) Boundaries of the area to be harvested.
(2) Boundaries of areas for specified regeneration methods, intermediate treatments, special harvesting methods, and alternative prescriptions that are to be applied.
(3) Boundaries of the Site Class of timberlands within the PTHP area.
(4) Boundaries of areas for specified yarding (logging) systems, if more than one system is to be used;
(5) Location of public roads within the PTHP, and private roads appurtenant to the timber operations where such roads are under the ownership or control of the timber owner, timberland owner or timber operator, and classification of all proposed and existing logging roads as permanent, seasonal, or temporary roads.
(6) Location of proposed and existing landings in the watercourse and lake protection zone, and landings outside the zone that are greater than 1/4 acre in size or whose construction involves substantial excavation.
(7) Road failures on existing roads to be reconstructed.
(8) Location of all watercourse crossings of classified watercourses except temporary crossings of class III watercourses without flowing water during timber operations at that crossing.
(9) Location of erosion hazard rating areas, if more than one rating exists.
(10) Location of watercourse with Class I, II, III or IV waters.
(11) Location of known unstable areas or slides. Location of unique areas.

(m) Type of yarding (logging) systems and equipment to be used. Yarding systems will be placed in one or more of the following groups:
(1) Animal
(2) Tractor, skidder, forwarder
(3) Cable
(A) Ground–lead
(B) High–lead
(C) Skyline
(4) Balloon, helicopter
(5) Other, as explained in the PTHP

(n) A completed checklist from the certified PTEIR shall be attached to the PTHP and shall contain a listing of the practices which deviate from standard operational rules of the Board as presented in the PTEIR.

(o) Explanation and justification of any operational practices which are not specified in the certified PTEIR and which are allowed by the rules with explanation and justification.

(p) A certification by the RPF preparing the PTHP that the proposed operations are within the scope of the environmental analysis contained in the PTEIR as set forth in 14 CCR 1092 and therefore will not result in any significant environmental impacts beyond those addressed in the PTEIR.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4527, 4581, 4582 and 4583, Public Resources Code.

HISTORY

1. New section filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33).
2. Amendment of subsection (d), new subsections (d)(1)–(d)(5), amendment of subsections (f)(2), (g) and (*l*) and amendment of NOTE filed 11–21–2000; operative 1–1–2001 (Register 2000, No. 47).

§ 1092.10. PTHP Professional Judgment.

Where the rules or these regulations provide for the exercise of professional judgment by the RPF or the Director, and there is a disagreement the parties shall confer on the PTHP area, if requested by either party, during the PTHP review and reach agreement, if possible, on the conditions and standards to be included in the PTHP to maintain consistency with the PTEIR.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.11. PTHP Submitter Responsibility.

The PTHP submitter, or successor in interest, shall:

(a) Ensure that an RPF conducts any activities which require an RPF.

(b) Provide the RPF preparing the PTHP or amendments with complete and correct information regarding pertinent legal rights to, interests in, and responsibilities for land, timber, and access as these affect the planning and conduct of timber operations.

(c) Sign the PTHP certifying knowledge of its contents and the requirements of this section.

(d)(1) Retain an RPF who is available to provide professional advice to the LTO and timberland owner upon request throughout the active timber operations regarding:

(A) the plan,

(B) the Forest Practice Rules, and

(C) other associated regulations pertaining to timber operations.

(2) The plan submitter may waive the requirement to retain an RPF to provide professional advice to the LTO and timberland owner under the following conditions:

(A) the plan submitter provides authorization to the timberland owner to provide advice to the LTO on a continuing basis throughout the active timber operations provided that the timberland owner is a natural person who personally performs the services of a professional forester and such services are personally performed on lands owned by the timberland owner;

(B) the timberland owner agrees to be present on the logging area at a sufficient frequency to know the progress of operations and advise the LTO, but not less than once during the life of the plan; and

(C) the plan submitter agrees to provide a copy of the portions of the approved PTHP and any approved operational amendments to the timberland owner containing the General Information, Plan of Operations, PTHP Map, Yarding System Map, Erosion Hazard Rating Map and any other information deemed by the timberland owner to be necessary for providing advice to the LTO regarding timber operations.

All agreements and authorizations required under 14 CCR § 1035(d)(2) shall be documented and provided in writing to the Director to be included in the plan.

(e) Within five (5) working days of change in RPF responsibilities for PTHP implementation or substitution of another RPF, file with the Director a notice which states the RPF's name and registration number, address, and subsequent responsibilities for any RPF required field work, amendment preparation, or operation supervision. Corporations need not file notification because the RPF of record on each document is the responsible person.

(f) Provide a copy of the approved PTHP and any amendments to the LTO.

(g) Notify the Director prior to commencement of site preparation operations. Receipt of a burning permit is sufficient notice.

(h) Disclose to the LTO, prior to the start of operations, through an on–the–ground meeting, the location and protection measures for any archaeological or historical sites requiring protection if the RPF has submitted written notification to the plan submitter that the plan submitter needs to provide the LTO with this information.

NOTE: Authority cited: Sections 4551 and 4582, Public Resources Code. Reference: Sections 4582 and 4582.5, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. New subsections (d)(1)–(d)(2)(C), subsection relettering, new subsection (h) and amendment of NOTE filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1092.12. Registered Professional Forester Responsibility.

(a) Upon submission of a PTHP, the RPF who prepares and signs a PTHP is responsible for the accuracy and completeness of its contents.

(b) The RPF preparing the PTHP shall list or describe in the PTHP any work which will be performed by the PTHP preparer and any additional work requiring an RPF which the PTHP preparer does not intend to perform. This may include, but is not limited to, field work in identifying watercourse and lake protection zones or special treatment areas, marking trees, or other activities. The RPF is only responsible for the activities for which he or she is employed, or those required by the rules of the Board. The RPF shall state whether or not he or she has been retained to provide professional advice throughout the timber operations.

(c) The RPF preparing the PTHP shall, in writing, inform the PTHP submitter(s) of their responsibility pursuant to Section 1092.11 of this Article and the timberland owner(s) of their responsibility for compliance with the requirements of the Act and, where applicable, Board rules regarding site preparation, stocking, and maintenance of roads, landings, and erosion control facilities.

(d) Upon entering into an agreement to accept responsibility for any part of the preparation or implementation of a plan or any work beyond the preparation of a plan, including providing professional advice; all responsible RPFs shall disclose to the real party of interest for whom the RPF is providing professional forestry services any known current or potential conflict of interest the RPFs have with regard to the timber or land that is subject to operations under the plan. All responsible RPFs shall disclose to the timberland owner and plan submitter whether they are the real party of interest for whom the RPF is providing professional forestry services.

(e) Disclosure of newly discovered conflicts of interest an RPF has with regard to the plan submitter, timberland owner, timber owner, the LTO and timber purchaser, pertaining to the timber or land that is subject to operations under the plan, shall be required as long as an RPF has responsibilities relative to a plan. The disclosure shall include identification of the real party of interest for whom the RPF is providing professional forestry services.

(f) All disclosures made between an RPF and an affected party pursuant to this section may be kept confidential.

(g) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall be present, or ensure that the RPF's supervised designee is present, on the logging area at a sufficient frequency to know the progress of operations and advise the LTO and timberland owner, but not less than once during the life of the plan.

(h) An RPF retained by the plan submitter to provide professional advice throughout the timber operations shall inform the LTO during operations of any mitigation measures incorporated into the plan that are intended to address operations that have a high likelihood of resulting in immediate, significant and long–term harm to the natural resources of the State if such mitigation measures are not strictly applied to minimize such impacts.

(i) The RPF shall without delay notify in writing the LTO, the plan submitter, and the Department of a decision to withdraw professional services from the plan.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4583.2 and 4583.5, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of subsection (b) and new subsections (d)–(i) filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1092.13. Interaction Between RPF and LTO on the PTHP.

From the start of the PTHP preparation process but before commencement of operations, the responsible RPF, shall meet with either the LTO, or supervised designee who will be on the ground and directly responsible for the harvesting operation. The meeting shall be on site if requested by either the RPF or LTO. If any amendment is incorporated into the PTHP by an RPF after the first meeting, the RPF shall comply with the intent of this section by explaining relevant changes to the LTO; if requested by either the RPF or LTO, another on–site meeting shall take place. The intent of any such meeting is to assure that the LTO:

(a) Is advised of any sensitive on–site conditions requiring special care during operations.

(b) Is advised regarding the intent and applicable provisions of the approved PTHP including amendments.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.14. Licensed Timber Operator Responsibilities.

Each affected Licensed Timber Operator shall:

(a) Sign the plan and major amendments to the plan, or sign and file with the Director a facsimile of such plan or amendments, agreeing to abide by the terms and specifications of the plan. This shall be accomplished prior to implementation of the following; which the affected LTO has responsibility for implementing:

(1) those operations listed under the plan and

(2) those operations listed under any amendments proposing substantial deviations from the plan.

(b) Inform the responsible RPF and PTHP submitter, either in writing or orally, of any site conditions which in the LTO's opinion prevent implementation of the PTHP.

(c) Be responsible for the work of his or her employees and familiarize all employees with the intent and details of the operational land protection measures of the PTHP and amendments or minor deviations that apply to their work.

(d) Keep a copy of the applicable approved PTHP and amendments available for reference at the site of active timber operations. The LTO is not required to possess any confidential addenda to the plan such as the Confidential Archaeological Addendum, nor is the LTO required to keep a copy of such confidential plan addenda at the site of active timber operations.

(e) Comply with all provisions of the Act, Board rules and regulations, the applicable PTHP and any approved amendments or minor deviations.

(f) In the event that the LTO executing the plan was not available to attend the on–site meeting to discuss archaeological site protection with the RPF or supervised designee familiar with on–site conditions pursuant to Section 929.2 [949.2, 969.2] (b), it shall be the responsibility of the LTO executing the plan to inquire with the plan submitter, timberland owner, or their authorized agent, RPF who wrote the plan, or the supervised designee familiar with on–site conditions, in order to determine if any mitigation measures or specific operating instructions are contained in the Confidential Archaeological Addendum or any other confidential addendum to the plan.

(g) Provide the RPF responsible for professional advice throughout the timber operations an on–site contact employee authorized by the LTO to receive RPF advice.

(h) Keep the RPF responsible for professional advice throughout the timber operations advised of the status of timber operation activity.

(1) Within five days before, and not later than the day of the start–up of a timber operation, the LTO shall notify the RPF of the start of timber operations.

(2) Within five days before, and not later than the day of the shutdown of a timber operation, the LTO shall notify the RPF of the shutdown of timber operations.

(A) The notification of the shutdown of timber operations is not required if the period of the shutdown does not extend beyond a weekend, including a nationally designated legal holiday.

(i) Upon receipt of written notice of an RPF's decision to withdraw professional services from the plan, the LTO or on–site contact employee shall cease timber operations, except for emergencies and operations needed to protect water quality, until the LTO has received written notice from the plan submitter that another RPF has visited the plan site and accepts responsibility for providing advice regarding the plan as the RPF of record.

NOTE: Authority cited: Sections 4551, 4552 and 4571, Public Resources Code. Reference: Sections 4551, 4551.5 and 4582, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1092.15. Notification of Commencement of Operations.

For each calendar year, within fifteen days before, and not later than the day of the start up of a timber operation, the PTHP Submitter, or designee shall notify CDF of the start of timber operations. The notification, by telephone or by mail, shall be directed to the appropriate CDF Ranger Unit Headquarters, Forest Practice Inspector, or other designated personnel.

NOTE: Authority cited: Sections 4551, 4551.5, 4553 and 4604, Public Resources Code. Reference: Sections 4551, 4551.5 and 4582, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.16. PTHP Review Inspection—Filing Return.

Within ten (10) days of the receipt of a PTHP, the Director shall determine if the PTHP is accurate, complete and in proper order, and if so, the PTHP shall be filed. During this same period, the Director shall determine if a preharvest inspection is necessary. If a preharvest inspection is needed, the Department will notify the submitter, the Department of Fish and Game, the Department of Conservation, Division of Mines and Geology, the appropriate California Regional Water Quality Control Board, and the LTO who will operate under the plan, if known, to determine if they want to attend and schedule a mutually agreeable time and date of the inspection. When the Director finds a PTHP inaccurate, incomplete, or otherwise not in proper order, the PTHP shall be returned to the submitter with written specifications of the deficiencies.

NOTE: Authority cited: Sections 4551, 4551.5, 4552 and 21080.5, Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 50 Cal. App. 3d 959. Reference: Sections 4581, 4582, 4582.5, 4582.6, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of section and NOTE filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).
3. Amendment filed 11–30–2000; operative 1–1–2001 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 48).

§ 1092.17. Notice of PTHP Filing.

(a) The Director shall prepare a notice of filing which shall contain the basic information contained in the Notice of Intent (14 CCR 1092.04).

(b) Within two working days of the date the PTHP is filed, the Director shall transmit copies of the Notice of Filing to:

(1) The person submitting the PTHP.

(2) The office of the County Clerk of the county in which the operations are proposed. The notice shall be posted at the normal place for posting environmental notices.

(3) The local Ranger Unit headquarters for posting.

(4) At such other locations as the Director may deem desirable and feasible to provide adequate public notice.

(5) All public agencies having custodial responsibility for lands within 300 ft. of the PTHP boundary.

(6) Anyone else, as required by Public Resources Code 4582.4 and 4582.6.

NOTE: Authority cited: Sections 4551, 4551.5, 4552, 4582.4, 4582.6 and 21080.5, Public Resources Code; and *NRDC v. Arcata National Corp.* (1976), 59 Cal. App. 3d 959. Reference: Sections 4581, 4582.5, 4582.7, 4582.75, 4592, 21081 and 21092, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.18. Agency and Public Review for the PTHP.

(a) Upon filing a PTHP in accordance with 14 CCR 1092.16 the Director shall place it, or a true copy thereof, in a file available for public inspection, and shall transmit a copy to the Department of Fish and Game, the appropriate California Regional Water Quality Control Board, the Department of Conservation, Division of Mines and Geology, the Department of Parks and Recreation, the county planning agency and, if the areas are within their jurisdiction, to the California Tahoe Regional Planning Agency and the California Coastal Commission.

(b) The Director shall also transmit a copy of any specific PTHP to any person who has made a written request.

(c) The Department shall bill such persons for the cost of providing such copies and such monies shall be paid to the Department.

The Director shall invite written comments, and will consider these comments. All comments should address any areas where there is a question of consistency with the PTEIR, the Act, the applicable rules of the Board and any other applicable legal requirements. All comments shall be in writing and shall be addressed to the Director at the regional office where the PTHP was filed.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment filed 5–31–2000; operative 7–1–2000 (Register 2000, No. 22).

§ 1092.19. Time Periods for Review.

The Director shall have 30 days from the date the preharvest or initial inspection is completed, or in the event the Director determines that such inspection is not needed, 15 days from the date of PTHP filing in accordance with 14 CCR 1092.16 or such longer period as may be mutually agreed upon by the Director and the person submitting the PTHP, to review the PTHP and to take written comment.

After the public review period has ended the Director shall have up to fifteen working days, or a longer period mutually agreed upon by the Director and the person submitting the PTHP, to review the public and agency comments, to respond in writing to issues regarding the conformance of the PTHP to the PTEIR and compliance with the rules of the board and to determine if the PTHP is in conformance with the PTEIR, Forest Practice Act and Board of Forestry rules.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Change without regulatory effect amending section filed 5–22–2002 pursuant to section 100, title 1, California Code of Regulations (Register 2002, No. 21).

§ 1092.20. Director's Guidance for Review of PTHP.

(a) In reviewing a PTHP the Director shall determine if the PTHP is in compliance with the rules of the board specified in 14 CCR Article 6.8 and whether the proposed activity is within the scope of the PTEIR, and that the PTEIR adequately describes the proposed activity for the purposes of CEQA.

(b) In determining if a PTHP is within the scope of the PTEIR the Director shall determine if one or more of the following conditions exist which requires action under 14 CCR 1092.01(d):

1) Where activities are proposed in the PTHP that could result in significant environmental impacts not considered in the PTEIR.

2) Where substantial changes have occurred with respect to the circumstances under which the PTHP is undertaken that could result in significant environmental impacts not previously covered; or

3) Where new relevant information regarding impacts or mitigation measures becomes available that shows any of the following:

A) the PTHP would have one or more significant effects not disclosed in the PTEIR.

B) effects previously examined would be substantially more intensive or extensive than shown in the PTEIR.

C) mitigation measures or alternatives previously determined to substantially reduce one or more significant impacts but found to be infeasible would in fact be feasible, or

D) feasible mitigation measures or alternatives not previously considered in the PTEIR were identified that would substantially reduce one or more significant effects.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.21. Special Conditions Requiring Disapproval of a PTHP.

The Director shall disapprove a PTHP as not conforming to the rules of the Board if any one of the following conditions exist:

(a) Boundaries of the area to be harvested are not clearly delineated in the PTHP.

(b) Public acquisition of the parcel for purposes which would be impaired by timber harvesting, is legislatively authorized, funded and imminent,

(c) There is evidence that the information contained in the PTHP is incorrect, incomplete or misleading in a material way, or is insufficient to evaluate significant environmental effects. The sufficiency of the information provided in the PTHP to evaluate significant environmental effects shall be judged in light of what is reasonable and necessary.

(d) Implementation of the PTHP as proposed would result in either a "taking" or finding of jeopardy of species listed as rare, threatened or endangered under the state or federal Endangered Species Acts, or would cause significant, long–term damage to listed species. The Director is not required to disapprove a plan if incidental "take" is authorized by a wildlife agency acting within its authority under state or federal endangered species acts.

NOTE: Authority cited: Sections 4551, 4555 and 4582, Public Resources Code. Reference: Sections 2053, 2080.1, 2090–2097, 2830 and 2835, Fish and Game Code; Sections 4555, 4582.7 and 4582.75, Public Resources Code; Section 51115.1, Government Code; the federal Endangered Species Act of 1973, 16 U.S.C. et seq.; and *Laupheimer v. State* (1988) 200 Cal. App. 3d 440; 246 Cal. Rptr. 82.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of subsection (d) and NOTE filed 5–21–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5 (Register 98, No. 21).
3. Editorial correction of subsection (d) (Register 98, No. 33).

§ 1092.22. Nonconformance of PTHP.

If the Director determines that a PTHP is not within the scope of the PTEIR or is not in conformance with the applicable rules of the Board the PTHP shall be returned in accordance with 14 CCR 1054. In addition, the Director shall state any changes and reasonable conditions that in the Director's professional judgment are needed to bring the PTHP within the scope of the PTEIR or into conformance with the applicable rules of the Board and offer to confer with the RPF in order to reach agreement on the conditions necessary to bring the PTHP into conformance.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.23. Conformance of PTHP.

If the Director determines that the PTHP is within the scope of the PTEIR and is in conformance with the Forest Practice Act and applicable rules of the Board, then the person submitting the PTHP shall be notified and timber operations may commence.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4582.7 and 4582.75, Public Resources Code.

HISTORY

1. New section filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.24. Notice of Conformance of the PTHP.

Within ten working days of the date a PTHP is found in conformance, the Director shall transmit a notice thereof to the agencies and persons referred to in 14 CCR 1092.18 and for posting at the places named in 14 CCR 1092.17. A copy of the notice shall be filed with the Secretary for Resources. The notice of conformance shall include a written response of the Director to questions of consistency with the PTEIR raised during the evaluation process and shall also contain the following statements:

(a) The proposed activity is within the scope of the PTEIR, and

(b) The PTEIR adequately describes the environmental effects of the activity for the purposes of CEQA.

NOTE: Authority cited: Sections 4551, 4552 and 4553, Public Resources Code. Reference: Section 4552, Public Resources Code.

HISTORY

1. New section filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.25. Public Inspection.

Notices of Conformance, pursuant to 14 CCR 1092.24 and notices of approval by the Board, pursuant to 14 CCR 1054.8, shall be available for public inspection, and a list of such notices shall be posted on a weekly basis in the Resources Agency office. Each such list shall remain posted for a period of 30 days.

NOTE: Authority cited: Sections 4551, 4552 and 4553, Public Resources Code. Reference: Section 4552, Public Resources Code.

HISTORY

1. New section filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.26. Amendment.

Changes that are not "minor deviations" as defined in 14 CCR 895.1 are presumed to be substantial deviations if they potentially could have a significant adverse affect on timber productivity or values relating to soil, water quality, watershed, wildlife, fisheries, range and forage, recreation and aesthetic enjoyment that are beyond impacts identified in the PTEIR. Such actions may include, but are not limited to:

(a) Change in location of timber harvesting operations or enlargement of the area to be cut.

(b) Change in the silvicultural method and cutting system on any portion of the PTHP area.

(c) Change in type or location of logging (yarding) system or basic type of equipment.

(d) Change in location, nature or increase in length of proposed logging roads incorporating one or more of the following criteria:

(1) Any road in the Watercourse and Lake Protection Zone or where sidecast will extend into the Watercourse and Lake Protection Zone.

(2) Any road located in an extreme Erosion Hazard Rating area in the Coast Forest District, extreme Estimated Erosion Potential area in the Northern Forest District, or a high Erosion Potential area in the Southern Forest District.

(3) Any road where the average side slope exceeds 50%.

(4) Any road where unstable areas, active soil movement, or slide areas must be traversed.

(5) Any increase in gradient allowed by the District Rules as an exception and not provided for in the original PTHP.

(6) Any road extension of more than 600 feet (182.9 m).

(e) Any use of existing roads not shown in the original PTHP when reconstruction work to allow for vehicle travel will be substantial. Substantial work on an existing road means more than minor repair and dressing of the travel surface and removal of vegetation to allow for vehicle passage.

(f) Enlargement of landings where such enlargement was not justified in the original PTHP.

(g) Any change of operation in, or designation of, the Watercourse and Lake Protection Zone.

(h) Any downgrading of stream classification.

(i) A change to winter operation where summer operations was previously specified.

(j) Amendments proposing timber operations in a PTHP which would place the PTHP outside the scope of the PTEIR must be considered under 14 CCR 1092.01(d).

(k) Substantial deviations shall not be undertaken until such amendment has been filed and approved by the Director as required by this Article for the original PTHP.

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.27. Report Minor Deviations.

(a) Minor deviations as described in 14 CCR 895.1 shall be submitted in writing to the Director before undertaking the deviation. Actions described in 14 CCR 1092.26 which are normally presumed to be substantial deviations may, in a given instance, be minor deviations. Actions listed as substantial deviations in 14 CCR 1092.26 or discussed in the PTEIR that are considered to be minor by the submitter may be undertaken only if requested in writing to and approved by the Director.

(b) The Director shall have five working days to determine if the proposed deviation is substantial or minor. Upon the date of receipt, the Director shall send copies of the proposed deviation to the Department of Fish and Game, the appropriate California Regional Water Quality Control Board, the Department of Conservation, Division of Mines and Geology, and any County which has special rules adopted under Section 4516.5 of the Public Resources Code.

(c) Where the Director fails to act within the five day period or a determination is made that the proposed deviation is minor, work may commence.

(d) Where the Director determines the proposed deviation is substantial, the review process in 14 CCR 1092.18 will be followed.

NOTE: Authority cited: Section 4591.1, Public Resources Code. Reference: Sections 4583.2 and 4591.1, Public Resources Code.

HISTORY

1. New section filed 11-26-96; operative 1-1-97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of subsection (b) filed 5-31-2000; operative 7-1-2000 (Register 2000, No. 22).

§ 1092.28. Effective Period of the PTHP and PTEIR.

(a) The effective period of the PTHP within the meaning of PRC 4590 and 4591 is the 3 year period following the date the PTHP is determined to be in conformance or otherwise becomes effective pursuant to 4582.7. Timber operations shall commence no earlier than the expected date of commencement stated in the PTHP and shall be completed no later than the expected date of completion stated in the PTHP except under the following conditions:

(1) An amendment to change the completion date stated in a PTHP has been submitted to the Director at least ten days before the expected date of completion.

(2) An amendment to extend the effective period of a PTHP beyond three years is submitted in compliance with PRC 4590 which includes a map showing clearly the area pertinent to the request for extension.

(b) Upon receipt of such amendment, the Director shall determine whether the change in date constitutes a substantial deviation of the PTHP. An extension of time is presumed to be a minor deviation, provided the extension does not lead to practices that constitute a substantial deviation, as defined Section 1092.26. If the Director determines that

such a change of date is a substantial deviation, then the PTHP extension shall not be approved.

(c) The PTEIR will be effective until such time as substantial changes in conditions occur or significant environmental impacts are identified which are not addressed in the PTEIR. When this occurs the PTEIR may be amended or supplemented to address such new information. Alternatively, PTHP's may be modified to fall within the scope of the PTEIR.

NOTE: Authority cited: Sections 4551, 4553, 4590 and 4591. Public Resources Code. Reference: Sections 4582.7, 4590, 4591 and 4591.1, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.29. Change of Ownership [Effective until 1–1–99].

Any change in ownership of land addressed in the PTEIR must be reported to the Director by the new landowner within 180 days of the date such change is recorded in the county where the property is located. Also, before the passage of title, it shall be responsibility of the seller to notify the purchaser of either the timber or timberland of their responsibility for compliance with the stocking standards of the Act and the rules of the Board of Forestry.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4588 and 4608, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Amendment of section heading filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33). *Text of version effective through 12–31–98 retained for reference.*

§ 1092.29. Change of Ownership [Effective 1–1–99].

(a) Any land ownership change upon which there is an unapproved work completion report or stocking report, must be reported to the Director.

(b) Prior to recordation, the existing PTHP timberland owner shall notify the acquiring timberland owner of the existence of the PTHP, the requirement to notify the Director of the change of ownership, and the acquiring party's responsibility for compliance with the stocking standards of the Act and the applicable rules of the Board of Forestry.

(c) The acquiring party shall notify the Director within 10 days of the date title is recorded by the county recorder.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4588 and 4608, Public Resources Code.

HISTORY

1. New section filed 8–10–98; operative 1–1–99 pursuant to Public Resources Code section 4554.5(b) (Register 98, No. 33).

§ 1092.30. Cancellation of PTHP.

All parties who submitted the PTHP, or their successors, must sign the request to the Director for cancellation of a PTHP. Once cutting has commenced, the PTHP may not be canceled except as to lands not harvested.

NOTE: Authority cited: Sections 4551 and 4552, Public Resources Code. Reference: Sections 4588 and 4608, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.31. Appeals.

Appeals of PTHPs shall be the same as provided for in the FPA for THPs. For Head of Agency Appeals, the appealing agency shall have ten days from the Directors determination date to notify the Board of their intent to appeal. The other requirements of Section 1056(a) shall be submitted to the Board within 30 days after the Director's decision. The 30 days specified in Section 1056.2 commence when the appeal statement meets the requirements of 1056(a).

NOTE: Authority cited: Sections 4551 and 4553, Public Resources Code. Reference: Sections 4551 and 4553, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).

§ 1092.32. Interim Measures for Maximum Sustained Production of High Quality Timber Products.

Timberland ownership's of 50,000 acres or more may use subsection (c) of Sections 913.11, 933.11, and 953.11 if a Notice of Preparation for a PTEIR has been filed with the Department. This option may only be used until the PTEIR is certified or rejected by the Department. Maximum Sustained Production will be maintained under the provisions of the PTEIR after certification of the PTEIR by the Department.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4513, 4551.5, 4561 and 21080.5, Public Resources Code.

HISTORY

1. New section filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
2. Editorial correction (Register 98, No. 33).

Article 6.9. Road Management Plan

§ 1093. Road Management Plan.

General. The Road Management Plan (RMP) may be submitted as part of a plan at the option of one or more timberland owners and is intended to supplement the harvesting plan process through the provision of additional information specific to the long–term management of road systems. The RMP provides a means for addressing long–term issues related to the construction and maintenance of road systems, and analysis of the potential for cumulative adverse impacts to fish, wildlife and the beneficial uses of water on a broader landscape basis. The extent to which the RMP may be used as part of a cumulative impacts assessment for timber operations proposed in a plan shall be based upon the extent and quality of information provided in the RMP. In evaluating cumulative effects during the preparation of the RMP, if the RPF has adequately considered the factors set forth in the applicable sections of Technical Rule Addendum No. 2, no additional evaluation will be necessary to address these factors in the plan.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New article 6.9 (sections 1093–1093.6) and section filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1093.1. Guidelines for Orderly Evaluation of Activities Proposed by an RMP.

A RMP shall specify measures to be applied to a road system within a Road Management Unit to protect, maintain, enhance or restore environmental resources as required by the Forest Practice Act and the Forest Practice Rules, and consistent with other laws and regulations and the objectives of the timberland owner. Specific objectives and requirements of an RMP shall include:

(a) Identification of the long–term access and transportation objectives of the timberland owner(s).

(b) Identification of the beneficial uses of water and the biological resources that could be affected by road management activities, including aquatic and terrestrial wildlife, rare, threatened or endangered species.

(c) Identification of issues regarding public safety, soil productivity, soil stability, and air quality associated with fugitive dust that could be affected by road management activities.

(d) Identification, prioritization and implementation of road–related activities that will:

(1) avoid or mitigate significant adverse impacts to resources identified in subsections (b) and (c) above.

(2) reduce long–term management costs.

(3) protect and maintain the quality and beneficial uses of water (as defined in the applicable Water Quality Control Plan) where they are in good condition, and, insofar as feasible, restore them where they are impaired.

(e) Identification of noxious weed species (as defined by the State of California Department of Food And Agriculture, Division of Plant Health & Pest Prevention Services, Noxious Weed Species and Noxious Weed Seed Lists A, B, C, and Q at http://www.cdfa.ca.gov/phpps/ipc/encycloweedia/pdfs/noxiousweed_ratings.pdf) when populations of such species could be expanded by road management activities.

(f) The RMP shall be prepared by an RPF. The RPF may be required to utilize the services of other licensed professionals or qualified experts pursuant to PRC §752(b).

(g) The information and management practices in a RMP will be scaled to the current and historical condition, and sensitivity of the beneficial uses of water and the resources identified in (b) and (c) above.

(h) The RMP may be as extensive and detailed as the timberland owner desires and may contain approaches to solving problems that include exceptions, in lieu, or alternative practices that meet the requirements of the Forest Practice Rules.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New section filed 11–29–2007; operative 1–1–2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1093.2. Contents of Road Management Plan.

The Road Management Plan shall, at a minimum, contain the following information:

(a) Name and Address of timber and timberland owner(s).

(b) Ownership(s) description and location, including legal descriptions (by Township, Range and Section) and a regional map depicting the ownership(s) and Road Management Units covered by the RMP.

(c) The RMP shall contain a goals and objectives element, an evaluation element, an operational element, a verification element, and an adaptive management element.

(1) The goals and objectives element shall include at least the following:

(A) A description of the timberland owner's long–term road planning process and objectives.

(B) The timberland owner's desired future conditions, performance standards, and priorities for the road system and for the beneficial uses of water and other resources needed to attain the objectives of the RMP.

(C) The identification of any additional permitting requirements that the submitter proposes to satisfy through the RMP.

(D) A description of the Road Management Unit including maps clearly depicting the following information:

1. The ownership boundaries of the area covered by the RMP.

2. The location of existing or proposed roads known at the time of RMP submission.

Maps shall be topographic, at a scale and detail sufficient to allow the Director to evaluate the area covered by the RMP, and may be provided in electronic format.

(2) The evaluation element shall contain at least the following information:

(A) A general description of the watersheds covered by the RMP including information on soils, topography, vegetation, the condition of the watersheds, and the condition of the watercourses and lakes within the watersheds. This description shall include the current and historic road system as it pertains to sediment production, delivery to, and transport within watercourses and lakes, and the effect of sediment on the beneficial uses of water and other resources.

(B) Identification of significant constraints associated with the road system within the Road Management Unit or planning watershed which may include, but are not limited to, cultural, biological, economic, geographical, geological, legal, and social constraints.

(C) An inventory and assessment of the road system shall be conducted. If an inventory has not been completed, the RMP shall include a prioritized schedule for completion of the inventory. At a minimum, the inventory and assessment shall be complete for the area encompassed in the plan to which the RMP is appended. The inventory and assessment shall include the following:

1. A brief description of the method used to do the inventory and assessment.

2. An inventory of permanent, seasonal and temporary roads, landings, crossings, and historic roads. The inventory shall include a description of roads within each Road Management Unit, and road system maps at a scale sufficient to clearly show the classification of all roads and their location relative to the beneficial uses of water and other resources that may be affected by roads and landings. The scale of the map shall be specified in the RMP and approved by the Director.

3. An assessment of the road system related to location, condition, trend, and sensitivity of beneficial uses of water and other resources that may be affected by roads and landings. The assessment shall include:

a. The road surface drainage network including watercourse crossings and their relationship to the natural hydrologic system.

b. The ability of permanent watercourse crossings to accommodate the 100–year flood flow, including debris and sediment loads.

c. The ability of permanent watercourse crossings to accommodate fish passage at all life stages.

d. The location and identification of known sediment source sites related to inventoried roads, landings, and drainage structures directly associated with watercourses and lakes.

e. The identification of any known unstable areas and unstable soils associated with roads or in close proximity to roads.

f. The evaluation of other constraints identified in subsection (2)(B) above as they affect the RMP.

4. The prioritization of any proposed maintenance, repair, improvement or abandonment of individual components of the overall road system. The road management priorities shall include clear and logical links to the stated objectives and evaluation findings.

a. Road–related sediment sources, including but not limited to road segments and specific road points, shall be prioritized as "High", "Medium", and "Low". The prioritization shall take into account volume of materials that could be delivered to a watercourse or lake, proximity to a watercourse or lake (delivery hazard), and watercourse or lake classification (resource vulnerability).

5. Creation of a treatment schedule for sediment source priority areas.

a. Highest priority sites shall be addressed in the shortest time frame practicable. To the extent possible, treatment of lower priority areas shall be coordinated with treatment of higher priority areas.

6. Prioritization of drainage facilities and structures not currently facilitating passage for all life stages of fish.

7. Creation of a schedule for modification of drainage facilities and structures not currently facilitating passage for all life stages of fish.

(D) An evaluation of significant environmental effects that may result from the proposed actions described in the RMP shall be conducted.

(E) An analysis of cumulative effects shall be conducted in conformance with 14 CCR §§ 898, 912.9 [932.9,952.9] and Technical Rule Addendum No. 2.

(3) The operational element shall, at a minimum, address proposed road management operations, stated time frames for actions, clear lines of responsibility for implementation, and schedules to be implemented in a plan, including:

(A) A road construction, reconstruction and use component to ensure that operations occur on a stable operating surface. This component shall include, at a minimum, restrictions for wet weather operations, surfacing objectives, and provisions for water drafting.

(B) A road maintenance and inspection component that includes a description of erosion control and soil stabilization treatments that may be used under the RMP.

(C) A road improvement component, including proposed actions or treatments and an implementation schedule as provided in subsections (2)(C) 4. and 5. above.

(D) A road abandonment component, if proposed, including provisions for closure and access control.

(E) Contingency plans for addressing emergencies as defined by 14 CCR § 15359.

(F) Actions consistent with the California Forest Practice Rules for Logging Roads and Landings, Title 14, Subchapters 4, 5 & 6, Article 12 [Article 11. Northern District]. The RPF may propose an exception to a standard rule as provided in Article 12 [Article 11. Northern District] to achieve identified goals and objectives where the exception provides equal protection to water quality and minimizes soil erosion.

(4) The verification element shall include the procedures and schedule to be used to:

(A) Monitor implementation of, and verify compliance with, the operational provisions of the RMP.

(B) Monitor the effectiveness and progress of the plan's operational element in achieving the RMP's stated goals and objectives. Such provisions may include evaluation by the RMP submitter and evaluation of affected areas with representative conditions.

(C) Report monitoring and evaluation information developed through subsections (4)(A) and (B) above to the Department on an annual basis or as specified in the RMP and as approved by the Director.

(5) The adaptive management element shall include:

(A) The criteria used to determine when to update and revise the RMP based on new information, scientific reports and data, new legal requirements, monitoring results, and changing environmental conditions.

(B) The process to implement changes to the RMP resulting from new information, scientific reports and data, new legal requirements, monitoring results, and changing environmental conditions.

(C) The method to be used to monitor the progress toward achieving the RMP's goals and objectives pursuant to subsection (4)(C) above.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New section filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1093.3. Limitation on Information Requirements.

Information requirements shall be guided by the principles of practicality and reasonableness. Where the Management Unit(s) to be included in an RMP contain(s) land or timber owner(s) who are not participating in the development and approval of the RMP, the information required of the RMP submitter regarding past, present, and reasonably foreseeable probable future projects shall be limited to: 1) information regarding the ownership(s) seeking RMP approval, and 2) matters of public record readily available to the submitter.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New section filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1093.4. RMP Effective Period.

The effective period of the RMP shall not exceed the effective period of the plan to which the RMP is appended.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New section filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

§ 1093.6. Notice of Filing.

When a RMP is submitted as part of a plan, the Director shall so indicate on the notice of filing.

NOTE: Authority cited: Sections 4551, 4551.5, 4553, 4562.7 and 21000(g), Public Resources Code. Reference: Sections 751, 4512, 4513, 4551, 4551.5, 4562.5, 4562.7, 21000 and 21001, Public Resources Code; Sections 100, 1243 and 13050(f), Water Code; Sections 1600 and 5650(c), Fish and Game Code; and *NRDC v. Arcata National Corp.* (1976) 59 Cal. App. 3d 959, 131 Cal. Rptr. 172.

HISTORY

1. New section filed 11-29-2007; operative 1-1-2008 pursuant to Public Resources Code section 4554.5(a) (Register 2007, No. 48).

Article 7. Conversion of Timberland

§ 1100. Definitions.

The following are definitions of words and terms as used in this article:

(a) "Alternate Use" or "Alternative Use" means a proposed land use that is not a compatible use within a timberland production zone. (Reference: Section 51134(b), Government Code.)

(b) "Bona Fide Intention" or "bona fide intent" means a present, sincere intention of the applicant to conform with and successfully execute the conversion plan, as determined by the Director in accordance with provisions of Section 1105.2. (Reference: Section 4623, Public Resources Code.)

(c) "Coastal Commercial Timberlands" means timberland as defined in PRC 4526, for those lands which lie within the coastal zone and outside a timberland production zone; or as defined in Gov. C. 51100(f) for those lands which lie within both the coastal zone and a timberland production zone. (Reference: Sections 4526 and 30243, Public Resources Code; Section 51100(f), Government Code.)

(d) "Coastal Zone" means those lands defined in PRC 30103. (Reference: Section 30103, Public Resources Code.)

(e) "Compatible Use" means compatible use as defined in Gov. C. 51100(h) and 51111, as made specific by county or city ordinance adopted pursuant thereto. (Reference: Sections 51100(h) and 51111, Government Code.)

(f) "Contiguous" means two or more parcels of land that are adjoining or neighboring or are sufficiently near to each other, as determined by the County Board of Supervisors or City Council, that they are manageable as a single forest unit. (Reference: Section 51100(b), Government Code.)

(g) "Timberland Conversion" means:

(1) Within non-Timberland Production Zone (TPZ) timberland, transforming timberland to a nontimber growing use through timber operations where:

(A) Future timber harvests will be prevented or infeasible because of land occupancy and activities thereon; or

(B) Stocking requirements of the applicable district forest practice rules will not be met within five years after completion of timber operations; or

(C) There is a clear intent to divide timberland into ownerships of less than three acres (1.214 ha.).

(2) Within Timberland Production Zone (TPZ) lands, the immediate rezoning of TPZ lands, whether timber operations are involved or not, except as exempt from a timberland conversion permit under 14 CAC 1104.1.

(h) "Conversion Permit" means the timberland conversion permit, issued by the Director or the Board upon appeal, approving the application for timberland conversion and authorizing a conversion of timberland to use or uses other than the growing of timber. (Reference: Sections 4622, 4624, 4624.5 and 4625, Public Resources Code.)

(i) "Government Agency" means the State or any department, agency, or public body thereof, a city or county, public corporation, municipal corporation, or public district. (Reference: Sections 21062 and 21063, Public Resources Code.)

(j) "Immediate Rezoning" means a change in zoning for land use by the appropriate county or city having jurisdiction of an area within a Timber Production Zone to allow an alternative use pursuant to Article 4

(commencing with Section 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code. (Reference: Section 4526, Public Resources Code; Section 51100(f), Government Code; Section 1021, Title 14, CAC.)

(k) "Land Parcel" means a piece of land under one ownership where no part is completely separated from any other part by a different fee ownership.

(*l*) "Parcel" means parcel as defined in Section 51104(i) of the Government Code.

(m) "Timberland" means timberland as defined in PRC 4526, for land outside a timberland production zone. "Timberland" means timberland as defined in Gov. C. 51100(f), for land within a timberland production zone. (Reference: Section 4526, Public Resources Code; Section 51100(f), Government Code.)

(n) "Timberland Preserve Zone" or "TPZ" means timberland preserve zone as defined in Gov. C. 51100(g). (Reference: Section 51100(g), Government Code.)

NOTE: Authority cited: Section 4621, Public Resources Code. Reference: Sections 700, 701, 4526, 4621, 4622, 4623, 4624, 4624.5, 4625, 4626, 21062, 21063, 30103 and 30243, Public Resources Code; and Sections 51100, 51111 and 51134(b), Government Code.

HISTORY

1. Renumbering and amendment of former Section 1100 to Section 1101, and renumbering and amendment of former Section 1102 to Section 1100 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Editorial correction filed 9–29–83; designated effective 10–1–83 (Register 83, No. 40).

§ 1100.1. Public Records.

NOTE: Authority cited: Sections 4621, Public Resources Code; Sections 6250–6261, Government Code. Reference: Section 6252(d), Government Code; Section 4582.6, Public Resources Code.

HISTORY

1. Renumbering of Section 1100.1 to Section 1103.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1101. Purpose.

The purpose of these regulations is to interpret and make specific certain provisions of the Z'berg–Nejedly Forest Practice Act of 1973, contained in Chapter 8 (commencing with Section 4511) of Part 2, Division 4 of the Public Resources Code; the Environmental Quality Act of 1970, contained in Division 13 (commencing with Section 21000) of the Public Resources Code; portions of the Z'berg–Warren–Keene–Collier Forest Taxation Reform Act of 1976 (Chapter 176, California Statutes of 1976), contained in Chapter 67 (commencing with Section 51100) or Part 1, Division 1, Title 5 of the Government Code; the California Coastal Act of 1976, contained in Division 20 (commencing with Section 30000) of the Public Resources Code; and the Public Records Act, contained in Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code. These regulations pertain to the conversion of certain timber–growing lands to a use or uses other than the growing of timber.

NOTE: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4621 and 30243, Public Resources Code; Section 51133, Government Code; Chapters 176, 1300 and 1330, Statutes of 1976.

HISTORY

1. Renumbering of former Section 1101 to Section 1102, and renumbering and amendment of former Section 1100 to Section 1101 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1102. Authority Delegated to Director.

The Board delegates its authority and responsibilities to the Director for administration of Article 9 (commencing with Section 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, and Article 4 (commencing with Section 51130) of Chapter 6.7, Part 1, Division 1, Title 5 of the Government Code, and the administrative regulations adopted pursuant to each of the above cited authorities, except that all hearings thereunder shall be before the Board.

NOTE: Authority cited: Section 4627, Public Resources Code. Reference: Sections 4621–4628, Public Resources Code; and Section 51133, Government Code.

HISTORY

1. Amendment filed 1–24–80; effective thirtieth day thereafter (Register 80, No. 4).
2. Renumbering and amendment of former Section 1102 to Section 1100, and renumbering of former Section 1101 to Section 1102 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1103. Conversion of Timberland.

Any person, firm, corporation, company, partnership or government agency owning timberland for which the timberland owner proposes conversion as defined in Section 1102 shall apply to the Director on a form prescribed by him for issuance of a Timberland Conversion Permit.

NOTE: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Section 4621, Public Resources Code.

HISTORY

1. Amendment filed 1–24–80; effective thirtieth day thereafter (Register 80, No. 4).

§ 1103.1. Prohibited Activity.

(a) No timber operations or other conversion activities shall be conducted on timberland which is proposed to be converted to a use other than the growing of timber unless a conversion permit has been issued by the Director or the Board upon appeal and the permit has been recorded in compliance with 14 CCR 1107.4(a).

(b) No timber operations shall be conducted on timberland for which a conversion permit has been issued until a Timber Harvesting Plan has been filed with, and found in conformance by, the Director in accordance with Article 7 (commencing with Section 4581) of Chapter 8, Part 2, Division 4 of the Public Resources Code and the rules and regulations of the Board issued pursuant thereto.

(c) The timberland owner shall provide each timber operator copies of both the recorded conversion permit, and recorded amendments thereto, and the approved Timber Harvesting Plan. Copies of said documents shall be conveniently available for inspection at all times during timber operations conducted pursuant to said conversion permit.

NOTE: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

HISTORY

1. Amendment filed 1–24–80; effective thirtieth day thereafter (Register 80, No. 4).
2. Renumbering and amendment of former Section 1103.1 to Section 1104, and renumbering and amendment of former Section 1109 to Section 1103.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
3. Change without regulatory effect filed 6–19–89 (Register 89, No. 28).

§ 1103.2. Public Records.

All applications, forms, documents, correspondence, maps, photographs, and other materials submitted to the Director or Board relating to an application for conversion are public records pursuant to the provisions of the Public Records Act, contained in Chapter 3.5 (commencing with Section 6250) of Division 7, Title 1 of the Government Code.

NOTE: Authority cited: Section 4621, Public Resources Code; and Sections 6250–6261, Government Code. Reference: Section 6252(d), Government Code; and Section 4582.6, Public Resources Code.

HISTORY

1. Amendment and new subsections (b)–(g) filed 8–17–81; effective thirtieth day thereafter (Register 81, No. 34).
2. Renumbering and amendment of former Section 1103.2 to Section 1104.1, and renumbering of former Section 1100.1 to Section 1103.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1103.5. Timber Harvesting Plan Processing.

NOTE: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1103.5 to Section 1106.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1103.7. Coastal Zone Conversion.

NOTE: Authority cited: Sections 4155, 4621, 21100 and 30243, Public Resources Code. Reference: Sections 21100, 30243, Public Resources Code.

HISTORY

1. Amendment filed 12–20–79 as an emergency; effective upon filing (Register 79, No. 51). A Certificate of Compliance must be filed within 120 days or emergency language will be repealed on 4–19–80.
2. Repealed by operation of Section 11422.1(c), Government Code (Register 75, No. 44).
3. Adoption filed 6–11–80; effective thirtieth day thereafter (Register 80, No. 24).

4. Renumbering and amendment of Section 1103.7 to Section 1108 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1104. Operations Requiring Conversion Permit.

Except as exempted by Sections 1104.1 and 1104.2 of this article a timberland conversion permit issued by the Director is required for conversion of timberland as defined in Section 1100. Issuance of the Timberland Conversion Permit to the timberland owner must be completed before conversion operations begin."Conversion operations" include final immediate rezoning of timberland production zone lands, and timber operations as defined in PRC 4527 on nontimberland production zone timberlands.

NOTE: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4527, Public Resources Code.

HISTORY

1. Renumbering of former Section 1104 to Section 1105, and renumbering and amendment of former Section 1103.1 to Section 1104 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Editorial correction filed 9–29–83; designated effective 10–1–83 (Register 83, No. 40).
3. Change without regulatory effect filed 6–19–89 (Register 89, No. 28).

§ 1104.1. Conversion Exemptions:

Timber operations conducted under this subsection shall be exempt from conversion permit and timber harvesting plan requirements of this article except no tree that existed before 1800 A.D and is greater than sixty (60) inches in diameter at stump height for Sierra or Coastal Redwoods, and forty–eight (48) inches in diameter at stump height for all other tree species shall be harvested unless done so under the conditions or criteria set forth in subsection 1104.1(i). Timber operations shall comply with all other applicable provisions of the Z'berg–Nejedly Forest Practice Act, regulations of the Board and currently effective provisions of county general plans, zoning ordinances and any implementing ordinances. The Notice of Conversion Exemption Timber Operations shall be considered synonymous with the term "plan" as defined in 14 CCR 895.1 when applying the operational rules and regulations of the Board.

(a) This conversion exemption is applicable to a conversion of timberland to a non–timber use only, of less than three acres in one contiguous ownership, whether or not it is a portion of a larger land parcel and shall not be part of a THP. This conversion exemption may only be used once per contiguous land ownership. No person, whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, may obtain more than one exemption pursuant to this section in a five–year period. If a partnership has as a member, or if a corporation or any other legal entity has as an officer or employee, a person who has received this exemption within the past five years, whether as an individual or as a member of a partnership, or as an officer or employee of a corporation or other legal entity, then that partnership, corporation, or other legal entity is not eligible for this exemption. "Person," for purposes of this section, means an individual, partnership, corporation, or any other legal entity.

(1) A Notice of Conversion Exemption Timber Operations (notice) must be prepared by an RPF and submitted to the Director. The notice shall contain the following:

(A) the names, addresses, and telephone numbers of the timber owner, owner of the timberland to be converted, RPF, timber operator, and the submitter of the Notice of Conversion Exemption Timber Operations;

(B) legal description of the area where the timber operation is to be conducted, showing section, township, range, county and assessor parcel number;

(C) maps showing the ownership boundaries, the location of the timber operation, boundaries of the conversion, access routes to operation, location and classification of all watercourses, and landing locations;

(D) incorporation of a signed and dated statement from the authorized designee of the County Board of Supervisors stating that the conversion is in conformance with all county regulatory requirements, including county public notice requirements. When counties do not have an authorized designee, the RPF shall certify that the county has been contacted and the conversion is in conformance with county regulatory requirements (this may be incorporated into the notice);

(E) incorporation of a statement by the owner of the timberland to be converted:

1. certifying that this is a one–time conversion to non–timberland use,

2. certifying that after considering the owner's own economic ability to carry out the proposed conversion and the feasibility evaluation required by 14CCR 1104.1(a)(6) that there is "bona fide intent", as defined in CCR 1100(b), to convert,

3. specifying what the non–timberland use will be after conversion, and

4. certifying and declaring under penalty of perjury that he/she whether acting as an individual, acting as a member of a partnership, or acting as an officer or employee of a corporation or other legal entity, has not obtained an exemption pursuant to this section in the last five years unless a waiver has been granted pursuant to 1104.1(a)(9); and

(F) signature of the submitter, timberland owner responsible for the conversion, the timber operator, and the RPF.

(2) The following conditions apply to conversion exemption timber operations:

(A) All timber operations shall be complete within one year from the date of acceptance by the Director.

(B) All conversion activities shall be complete within two years from the date of acceptance by the Director unless under permit by local jurisdiction. Failure to timely complete the conversion shall require compliance with stocking standards of PRC 4561 and stocking report requirements of Forest Practice Act and Board regulations.

(C) The RPF or supervised designee shall visit the site and flag the boundary of the conversion exemption timber operation and flag any applicable WLPZs and equipment limitation zones.

(D) This section refers to slash and woody debris resulting from timber operations associated with conversion exemptions. The timber operator shall be the responsible party for the treatment of logging slash and woody debris. Responsibility for treatment of logging slash and woody debris may be assumed by the landowner, provided that the landowner acknowledges in writing to the Director at the time of notice such responsibility and specific slash and woody debris treatment requirements and timing.

1. Unless otherwise required, slash greater than one inch in diameter and greater than two feet long, and woody debris, except pine, shall receive full treatment no later than April 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

2. All pine slash three inches and greater in diameter and longer than four feet must receive initial treatment if it is still on the parcel, within 7 days of its creation.

3. All pine woody debris longer than four feet must receive an initial treatment prior to full treatment.

4. Initial treatment shall include limbing woody debris and cutting slash and woody debris into lengths of less than four feet, and leaving the pieces exposed to solar radiation to aid in rapid drying.

5. Full treatment of all pine slash and woody debris must be completed by March 1 of the year following its creation, or within one year from the date of acceptance of the conversion exemption by the Director, whichever comes first.

6. Full slash and woody debris treatment may include any of the following:

a. burying;

b. chipping and spreading;

c. piling and burning; or

d. removing slash and woody debris from the site for treatment in compliance with (a)–(b).

Slash and woody debris may not be burned by open outdoor fires except under permit from the appropriate fire protection agency, if required, the local air pollution control district or air quality management district. The burning must occur on the property where the slash and woody debris originated.

7. Slash and woody debris, except for pine, which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying by April 1 of the year following its creation. Pine slash and woody debris which is cut up for firewood shall be cut to lengths 24 inches or less and set aside for drying within seven days of its creation.

All treatment work must be completed prior to the expiration date for the conversion exemption.

8. Any treatment which involves burning of slash or woody debris shall comply with all state and local fire and air quality rules.

9. This section does not supersede more restrictive treatments or time frames within a Forest district or subdistrict.

(E) Timber operations may be conducted during the winter period. Tractor operations in the winter period are allowed under any of the following conditions:

1. During dry, rainless periods where saturated soils conditions, as defined in 14 CCR 895.1, are not present. Erosion control structures shall be installed on all constructed skid trails and tractor roads prior to sunset if the National Weather Service forecast is a "chance" (30% or more) of rain within the next 24 hours.

2. When ground conditions in the conversion exemption area and appurtenant roads satisfy the "hard frozen" definitions in 14 CCR 895.1.

3. Over–snow operations where no soil disturbance occurs.

(F) No timber operations within a WLPZ unless specifically approved by local permit (e.g. County, City).

(G) The timber operator shall not conduct timber operations until receipt of the Director's notice of acceptance. Timber operations shall not be conducted without a valid on–site copy of the Director's notice of acceptance of operations and a copy of the Notice of Conversion Exemption Timber Operations as filed with the Director.

(H) No sites of rare, threatened or endangered plants or animals shall be disturbed, threatened or damaged and no timber operations shall occur within the buffer zone of a sensitive species as defined in 14 CCR 895.1.

(I) No timber operations on significant historical or archeological sites.

(J) The RPF and the timber operator shall meet (on–site, or off–site) if requested by either party to ensure that sensitive on–site conditions and the intent of the conversion regulations such as, but not limited to, slash disposal, will be complied with during the conduct of timber operations.

(3) A neighborhood notification of conversion exemption timber operations shall be posted on the ownership visible to the public by the RPF or supervised designee, at least 5 days prior to the postmark date of submission of the Notice of Conversion Exemption Timber Operations to the Director. The date of posting shall be shown on the neighborhood notice. In addition, immediately prior to the submission of the exemption to the Director, the landowner shall mail a letter to adjacent landowners within 300 feet of the boundaries of the exemption, and to Native Americans, as defined in 895.1 notifying them of the intent to harvest timber. The mailed letter of notice and the posted notice shall contain the following information on a form prepared by the RPF:

(A) the name, address and telephone number of the timberland owner, the timber operator, the agency of the county responsible for land use changes and the designated representative; if any, and the RPF;

(B) the location of the project, parcel number, street address, section, township and range, and;

(C) A statement explaining that this is a conversion from timberland use to a new land use, what the new land use will be, and that the maximum size is less than three acres.

(4) The Director shall determine if the Notice of Conversion Exemption Timber Operations is complete and accurate within fifteen days from the date of receipt.

(A) If the Notice of Conversion Exemption Timber Operations is not complete and accurate it shall be returned to the submitter identifying the specific information required. When found complete and accurate, the Director shall immediately send a notice of acceptance of operations to the submitter.

(5) The timberland owner shall, within one month from the completion of conversion exemption timber operations, which includes all slash disposal work, submit a work completion report to the Director.

(6) The timberland owner shall, using the services of an RPF to the extent the information required is within the scope of professional forestry practice, provide information documenting that the conversion to the stated non–timber use is feasible based upon, at a minimum, the following:

(A) the extent of the vegetation removal and site preparation required for the conversion;

(B) the suitability of soils, slope, aspect, and microclimate for the stated non–timber use;

(7) The Department shall provide for inspections, as needed, to determine that the conversion was completed.

(8) The notice shall expire if there is any change in timberland ownership.

(A) If the conversion has not been completed, the timberland owner on the notice shall notify the Department of the change in timberland ownership on or before 5 calendar days after a change in ownership.

(B) If operations have been conducted, but not completed under the exemption, the timberland owner on the notice shall notify the new timberland owner at least 15 days prior to the sale of the timberland of the requirements under 14CCR 1104.1(a)(8)(C).

(C) If operations have been conducted, but not completed under the exemption, the new timberland owner shall:

1. submit a new notice, or

2. comply with the following:

a. harvest no additional timber;

b. meet stocking requirements of 14CCR 1104.1(a)(2)(B);

c. dispose of the slash created under the exemption activities according to 14CCR 1104.1(a)(2)(D);

d. provide erosion control for skid trails, roads, landings, and disturbed areas as required by the Forest Practice Rules.

e. submit a report within 90 days of the change of timberland ownership that items a through d above were completed.

(9) A timberland owner may request a waiver to the five–year limitation described in 14 CCR 1104.1(a). The Director may grant the waiver upon finding that one of the following conditions exist:

(A)1. the construction of a building approved by the appropriate county/city permitting process is listed in the accepted Notice of Conversion Exemption Timber Operations as the non–timberland use after the conversion, and

2. the timberland owner demonstrates to the Director that substantial liabilities for building construction have been incurred on each conversion exemption that the timberland owner has received in the last 5 years at the time the waiver is requested, and

3. operations conducted on all exemptions issued to the timberland owner within the past 5 years, prior to the time the waiver is requested, have been conducted in a manner that meets or exceeds the intent of the Act and rules or any corrective work required by the Director has been satisfactorily completed.

(B) the change of ownership which caused the previous notice to expire was not the result of the sale of the timberland and the new timberland owner provides information demonstrating that the imposition of the 5–year limitation described in 14 CCR 1104.1(a) would impose an undue hardship on the timberland owner.

(C) the notice has expired and no operations have been conducted.

(D) The timberland owner provides an explanation and justification for the need of a waiver that demonstrates that the imposition of the 5–year limitation described in 14 CCR 1104.1(a) would impose an undue hardship on the timberland owner.

(b) Construction or maintenance of right–of–way by a public agency on its own or any other public property.

(c) The clearing of trees from timberland by a private or public utility for construction of gas, water, sewer, oil, electric, and communications (transmitted by wire, television, radio, or microwave) rights–of–way, and for maintenance and repair of the utility and right–of–way. The said right–of–way, however, shall not exceed the width specified in the Table of Normal Rights–of–Way Widths for Single Overhead Facilities and Single Underground facilities and the supplemental allowable widths.

Nothing in this section shall exclude the applicable provisions of PRC 4292 and 4293, and 14 CCR 1250 through 1258 inclusive for fire hazard clearance from being an allowable supplement to the exempt widths.

(d) Table of Rights–of–Way Widths for Single Overhead Facilities (A single facility for overhead electric lines means a single circuit)

Utility	*Size*	*Width*	
Electric (Overhead Distribution and transmission Single Circuits)	0–33 KV	20′	
	34–100 KV	45′	
	101–200 KV (pole)	75′	
	101–200 KV (tower)	80′	
	201–300 KV (tower)	125′	
	301– KV and above (tower)	200′	
Telephone cable or open wire when underbuilt	All	30′	
Communications (Radio, Television, Telephone and Microwave)	All	30′	
Active or passive microwave repeater and/or radio sites	All	40′	
Microwave paths emanating from antennas or passive repeaters	All	20′ from edges of antenna or passive repeater, and following centerline of path.	
Radio and Television antennas	All	30′ In all directions	
Telephone cable or open wire when underbuilt	All	30′	

(e) The above right–of–way widths for above ground facilities shall be allowed supplemental clearances as follows:

(1) Equal additional rights–of–way for each additional facility, including these allowable supplemental clearances under this section.

(2) Additional clearance widths for poles and towers, and for conductor sway as provided in PRC 4292 and 4293, and 14 CCR 1250 through 1258 inclusive, as applicable.

(3) Additional clearance for removal of danger trees as defined in 14 CCR 895.1.

(4) Additional land area for substation and switch yards, materials storage and construction camps, with clearance for firebreaks, and security fencing

(f) Table of Rights–of–Way Widths for Single Underground Facilities

Utility	*Size*	*Width*	
Electric, Underground	4″–6″ Conduit	50′	
	More than 6″ Conduit	60′	
Gas, Oil, Water and Sewer (Underground pipe)	6″ diameter or smaller	50′	
	Over 6″–12″ diameter	60′	
	Over 12″–24″ diameter	75′	
	Over 24 ″diameter	100′	
Penstocks, Syphons	All	100′	
Ditches and Flumes	All	150′	
Access Roads	All	Access road widths may be up to 14′ with an additional 10′ width at turnout locations, plus additional width for cuts and fills. Access roads shall be installed and maintained so as to comply with the stream protection requirements and erosion control requirements of the Forest Practice Act, related regulations, and the District Forest Practice Rules.	

(g) The above right–of–way widths for underground facilities and penstocks, syphons, ditches and flumes shall be allowed supplemental clearances as follows:

(1) Additional width for cuts and fills.

(2) Removal of trees or plants with roots that could interfere with underground facilities, or with cuts and fills for installation.

(3) Additional clearance for removal of danger trees as defined in 14 CCR 895.1.

(4) For compressor, metering and control stations on natural gas pipelines; including firebreaks and security fencing:

(A) 450 foot width at one side of right–of–way and 500 foot length along the compressor stations.

(B) 300 feet x 300 feet on or alongside the right–of–way for metering and control stations.

(h) In–lieu practices for watercourse and lake protection zones as specified under Article 6 of these rules, exceptions to rules, and alternative practices are not allowed.

(i) Harvesting of large old trees shall only occur when:

(1) the tree is not critical for the maintenance of a Late Successional Stand and

(2) an RPF attaches to the exemption an explanation and justification for the removal based on the RPF's finding that one or more of the criteria or conditions listed under subsection (A), (B), or (C) are met. The requirements of (i)(2) need not be met if an approved management document; including but not limited to a HCP, SYP, NTMP or PTEIR; addresses large old tree retention for the area in which the large old tree(s) are proposed for removal and the removal is in compliance with the retention standards of that document. All trees to be harvested pursuant to this subsection shall be marked by an RPF prior to removal.

(A) The tree(s) is a hazard to safety or property. The hazard shall be identified in writing by an RPF or professionally certified arborist;

(B) The removal of the tree(s) is necessary for the construction of a building as approved by the appropriate county/city permitting process and as shown on the county/city approved site plan, which shall be attached to the Notice of Exemption;

(C) The tree is dead or is likely to die within one year of the date of proposed removal, as determined by an RPF or professionally certified arborist.

NOTE: Authority cited: Sections 4551, 4553, 4584, 4604, 4611 and 4628, Public Resources Code. Reference: Sections 4512, 4513, 4628 and 4584, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1103.2 to Section 1104.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Editorial correction of subsection (c) printing error (Register 88, No. 45).
3. Change without regulatory effect filed 6–19–89 (Register 89, No. 28).
4. Amendment of subsections (a), (c), (e) and (g) filed 9–27–90; operative 10–27–90 (Register 90, No. 45).
5. Amendment of subsection (a), new subsection (a)(3) and subsection renumbering and new subsections (a)(4)(G)–(a)(5) filed 7–19–93 as an emergency; operative 7–19–93 (Register 93, No. 30). A Certificate of Compliance must be transmitted to OAL by 11–16–93 or emergency language will be repealed by operation of law on the following day.
6. Order of 7–19–93 repealed by operation of Government Code section 11346.1(e) (Register 94, No. 17).
7. Repealer of first paragraph through subsection (a)(3)(f) and new first paragraph through subsection (a)(5) filed 8–31–94; operative 1–1–95 (Register 94, No. 35).
8. Editorial correction inserting inadvertently omitted HISTORY 1–6 (Register 95, No. 35).
9. Amendment of subsection (a)(3) filed 11–26–96; operative 1–1–97 pursuant to Public Resources Code section 4554.5 (Register 96, No. 48).
10. Editorial correction restoring inadvertently omitted subsections (b)–(g)(4)(B) and correcting HISTORY 7 (Register 96, No. 50).
11. Repealer of subsection (a)(2)(D) and new subsections (a)(2)(D)–(a)(2)(D)10. filed 11–24–97; operative 1–1–98 (Register 97, No. 48).
12. Amendment of subsections (a)(1), (a)(1)(A), (a)(1)(D), (a)(1)(F), (a)(2)(C), (a)(2)(J), (a)(3) and (a)(3)(A) filed 11–26–97; operative 1–1–98 pursuant to Public Resources Code section 4554.5 (Register 97, No. 48).
13. Editorial correction of subsection (a)(2)(D)8. (Register 99, No. 26).
14. Amendment of section and NOTE filed 2–17–2000; operative 7–1–2000 pursuant to Public Resources Code section 4554.5 (Register 2000, No. 7).
15. Editorial correction of subsection (c) (Register 2001, No. 46).
16. Amendment of first paragraph and new subsections (i)–(i)(2)(C) filed 11–16–2001; operative 1–1–2002 pursuant to Public Resources Code section 4551.5 (Register 2001, No. 46).
17. Editorial correction of subsections (a)(1) and (a)(1)(E) (Register 2002, No. 22).
18. Amendment of subsections (a), (a)(1) and (a)(1)(E), new subsections (a)(1)(E)1.–4. and (a)(6)–(9)(D) and amendment of NOTE filed 5–30–2002; operative 7–1–2002 (Register 2002, No. 22).

§ 1104.2. Exemption for Conversion of Non–TPZ Land for Subdivision Development.

Timber operations for the conversion of land not in the Timberland Production Zone (TPZ) for subdivision development are exempt from this article, subject to all of the following conditions:

(a) The county board of supervisors or city council having jurisdiction has approved a tentative subdivision map pursuant to the Subdivision Map Act commencing with Government Code Section 66410.

(b) The county board of supervisors or city council having jurisdiction has granted required use permits and other necessary approvals.

(c) Before timber operations begin and before a Timber Harvesting Plan (THP) is submitted, the timberland owner shall file a Notice of Exemption from Timberland Conversion Permit for Subdivision on a form prescribed by the Director. The Notice shall include, but need not be limited to, the following:

(1) Names and addresses of timberland owner(s), timber owner(s), and developer(s).

(2) Documentation that a Notice of Determination has been filed with the Office of Planning and Research pursuant to PRC 21108 or with the appropriate county clerk pursuant to PRC 21152.

(3) Estimated date of completion of the project.

(4) Acres of timberland to be converted.

(5) Legal property description of the conversion area.

(6) Signature, title, and date of signing of the timberland owner(s). In the case of a partnership, at least one of the partners shall sign the application. For a corporation, a corporate officer shall sign. In other cases of more than one owner, all owners shall sign. An agent may sign for the owner(s) if so designated in writing submitted with the Notice.

(7) Plat or map of the area to be converted.

(8) Documentation of the county or city tentative subdivision map approval, conditions of approval, required use permit, or other required county or city project approvals.

(d) Except as provided in this article, the applicable requirements of PRC 4511 through 4628 inclusive, PRC 5093.50 through 5093.68 inclusive, and all regulations adopted pursuant thereto shall apply to the timber operations.

(e) If the subdivision development project is not completed or is abandoned, the Director may take corrective action pursuant to PRC 4605–4611 to have restocked those parts of the area from which timber has been harvested and which do not meet the stocking requirements of this chapter. For purposes of this subsection, the project shall be deemed abandoned or not completed if:

(1) The county or city tentative map approval has expired; and

(2) No further work has been carried on to complete the subdivision for three years after the expected date of completion stated in the THP. The Director shall order inspections as needed to determine whether the project has been completed as proposed.

(f) Partial performance shall be recognized. Those portions of the subdivision shall be deemed completed and excluded from the stocking requirement where the development has been completed and residential services have been provided pursuant to the plan for development.

NOTE: Authority cited: Sections 4551, 4621 and 4628, Public Resources Code. Reference: Sections 4551.5, 4621.1 and 21100, Public Resources Code.

HISTORY

1. New section filed 4–22–85; effective thirtieth day thereafter (Register 85, No. 17).

§ 1104.3. Timberland Conversion Permit Fees.

The applicant shall pay an application fee in the amount of $600 for the cost of processing an application for the conversion of timberland to a non timber growing use. Where the land proposed to be converted lies within a TPZ the applicant shall also follow the requirements of Section 1105.1. The fee(s) shall be submitted with the application to the appropriate regional headquarters. Where actual state cost exceeds the application fee, the additional charge equal to the excess cost will be computed using State Administrative Manual Sections 8752.1 and 8740 (dated March 1990). The Department will keep the applicant informed of any additional charges and will advise the applicant of any estimated future costs. All additional charges shall be paid by the applicant to the Department of Forestry Accounting Office before the issuance of the Timberland Conversion Permit. Costs of recording the documents pursuant to this article shall be paid by the applicant.

NOTE: Authority cited: Sections 4621(b) and 4621.2(d), Public Resources Code. Reference: Sections 4621, 4621(b) and 4621.2, Public Resources Code.

HISTORY

1. Renumbering of section 1104.3 to section 1105.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. New section filed 6–24–92; operative 7–24–92 (Register 92, No. 26).

§ 1105. Application.

The conversion permit application shall be in a form prescribed by the Director and shall require but not be limited to the following information: the name and address of the applicant; the name and address of the timberland owner of record; the name and address of the timber owner; the legal description, general plan designation, and zoned status of the proposed conversion area; the proposed future use or uses of said area; the dates when conversion is to be commenced and completed; the approximate number of acres to be converted; the zoned status of adjacent property; a description of other land owned by the applicant in the surrounding area which could accommodate the proposed use or uses; together with a copy of the conversion plan. The application shall be executed under penalty of perjury.

NOTE: Authority cited: Sections 4621 and 4623, Public Resources Code. Reference: Section 4623, Public Resources Code.

[The next page is 364.55.]

HISTORY

1. Renumbering of former Section 1105 to Section 1105.4, and renumbering of former Section 1104 to Section 1105 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1105.1. Application Fees.

In addition to the requirements of Section 1104.3, the applicant shall pay a fee in the amount of $100 for the cost of processing an application for conversion where the land proposed to be converted lies within a TPZ. Fees for the recording of documents pursuant to this article shall be borne by the applicant.

NOTE: Authority cited: Sections 4621(b) and 4621.2(d), Public Resources Code. Reference: Sections 4621, 4621(b) and 4621.2, Public Resources Code.

HISTORY

1. Renumbering of former sections 1104.3 to section 1105.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Change without regulatory effect amending section filed 6–24–92; operative 7–24–92 pursuant to section 100, title 1, California Code of Regulations (Register 92, No. 26).

§ 1105.2. Director's Determination.

The Director shall determine the applicant's bona fide intention to convert in light of the present and predicted economic ability of the applicant to carry out the proposed conversion; the environmental feasibility of the conversion, including, but not limited to, suitability of soils, slope, aspect, quality and quantity of water, and micro–climate; adequacy and feasibility of possible measures for mitigation of significant adverse environmental impacts; and other foreseeable factors necessary for successful conversion to the proposed land use.

NOTE: Authority cited: Sections 4623 and 4627, Public Resources Code. Reference: Section 4623, Public Resources Code.

HISTORY

1. New section filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1105.3. Conversion Plan.

A conversion plan in a form prescribed by the Director shall become a part of the application. The plan conversion shall set forth in detail information pertaining to present and future use, soils, topography, conversion techniques, conversion time schedule and such other information as may be required and is applicable to the particular future use to which the land will be devoted.

NOTE: Authority cited: Sections 4621, 4623, Public Resources Code. Reference: Sections 4621 and 4627, Public Resources Code.

HISTORY

1. Renumbering of former Section 1106 to Section 1105.3 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1105.4. Additional Proof.

The Director or the Board upon appeal may require that the applicant provide such further or additional proof or information as in the Director's or Board's judgment is necessary to allow him to decide whether or not to issue a conversion permit pursuant to PRC 4621.2 and 4623.

NOTE: Authority cited: Sections 4621.2 and 4623, Public Resources Code. Reference: Section 4624.5, Public Resources Code.

HISTORY

1. Renumbering of former Section 1105 to Section 1105.4 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106. Conversion Permit Issuance.

(a) The Director shall issue a conversion permit if:

(1) in his judgment the bona fide intent of the applicant to convert is established;

(2) he makes the written findings pursuant to PRC 4621.2, when applicable;

(3) he makes the written findings pursuant to PRC 21081, if an environmental impact report has been prepared;

(4) he finds that necessary and feasible mitigation measures have been incorporated into the proposed conversion; and

(5) he finds that no other proximate and suitable land not within a TPZ is available for the proposed alternative use for lands within a TPZ, if PRC 4621.2 applies.

(b) The Board upon appeal shall apply the same standards as the Director in subsection (a) above in determining whether to issue a conversion permit.

NOTE: Authority cited: Sections 4625, 4627, and 21081, Public Resources Code. Reference: Sections 4621.2 and 21081, Public Resources Code.

HISTORY

1. Renumbering of former Section 1106 to Section 1105.3, and renumbering and amendment of former Section 1107 to Section 1106 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106.1. Contents of Conversion Permit.

The conversion permit shall include, but not be limited to, the name of the permittee, identification of code section of the forest practice rules and regulations from which the timber operations are exempt, description of the lands to which the conversion permit is applicable, and the period of time during which the conversion permit is valid.

NOTE: Authority cited: Section 4625, Public Resources Code. Reference: Section 4625, Public Resources Code.

HISTORY

1. Renumbering of former Section 1107.3 to Section 1106.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106.2. Timber Harvesting Plan Processing.

Prior to the start of timber operations, the applicant shall submit to the Director a Timber Harvesting Plan applicable to timber operations set forth in the conversion plan. The THP may be submitted concurrently with the Timberland Conversion Permit application but the Director may not approve the THP until the Timberland Conversion Permit is issued.

NOTE: Authority cited: Sections 4621 and 4627, Public Resources Code. Reference: Sections 4581 and 4582, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1103.5 to Section 1106.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Amendment filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1106.3. Recordation, Renewal, Transferability.

(a) The permittee shall submit the conversion permit to the County Recorder for recording in each county in which the property is located before beginning any operations contemplated under said permit. Amendments, suspensions, revocations, and cancellations of conversion permits shall be recorded in the same manner.

(b) A conversion permit may be renewed by the Director upon a proper showing of cause and necessity by the permittee. The Director may deny renewal and require a new application if he finds that circumstances have substantially changed.

(c) The privilege granted to the permittee is nontransferable and nonassignable for any purpose without written approval of the Director.

NOTE: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

HISTORY

1. Renumbering of former Section 1107.4 to Section 1106.3 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106.4. Conversion Permit Denial.

(a) The Director shall deny a conversion permit:

(1) for any of the reasons set forth in PRC 4624;

(2) if, in the Director's judgment, the applicant has failed to provide satisfactory proof of his bona fide intent to convert;

(3) if the Director cannot make the findings required by PRC 21081, if an environmental impact report has been prepared;

(4) if the Director finds that necessary and feasible mitigation measures have not been incorporated into the proposed conversion; or

(5) for lands within a TPZ, if PRC 4621.2 applies and the Director finds that other proximate and suitable land not within a TPZ is available for the proposed alternative use.

(b) The Board upon appeal shall deny a conversion permit for any of the reasons specified in subsection (a) above.

NOTE: Authority cited: Sections 4624 and 4627, Public Resources Code. Reference: Sections 4621.2, 4624, 4624.5 and 21081, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1107.1 to Section 1106.4 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106.5. Denial, Suspension, Revocation.

(a) Except as provided in subsection (b), the Director may deny, suspend or revoke a conversion permit in accordance with the requirements of Article 9 (commencing with Section 4621) of Chapter 8, Part 2, Division 4 of the Public Resources Code, provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code.

(b) The Director may deny a conversion permit pursuant to PRC 4621.2(e) provided that all proceedings in connection with such action shall be conducted in accordance with the provisions of subsection (a) above, except that the applicant must request a hearing before the Board within 15 days of service of the denial. The hearing shall be commenced within 60 days from the filing of the appeal unless a later hearing date is mutually agreed upon by the applicant and the Board.

NOTE: Authority cited: Sections 4621.2(e), 4624, 4626 and 4627, Public Resources Code; Sections 11500 et seq., Government Code. Reference: Section 4621, Public Resources Code; and Sections 11500 et seq., Government Code.

HISTORY

1. Renumbering and amendment of former Section 1107.2 to Section 1106.5 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1106.6. Environmental Documentation.

NOTE: Authority cited: Sections 21000, et seq.. Public Resources Code. Reference: Section 15065(b), Title 14 of California Administrative Code.

HISTORY

1. Repealer filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1107. Cancellation by Permittee.

Upon application by the permittee for cancellation, the conversion permit may be cancelled by the Director upon such terms and conditions as he may set forth. Upon cancellation of the conversion permit, an agreement of cancellation, executed by the permittee and the Director, shall be recorded by the permittee in those counties in which the permit was originally recorded. Upon such recording, the subject land shall revert back to timberland and stocking shall be established pursuant to PRC 4561 and 4561.3. The Director shall provide a copy of the cancellation agreement to the county assessors and the county planning directors of those counties in which the property is located.

NOTE: Authority cited: Section 4621, Public Resources Code. Reference: Sections 4561 and 4561.3, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1107 to Section 1106, and renumbering of former Section 1108 to Section 1107 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1107.1. Conversion Permit Denial.

NOTE: Authority cited: Sections 4624 and 4627, Public Resources Code. Reference: Sections 4621.2, 4624 and 21081, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1107.1 to Section 1106.4 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1107.2. Denial, Suspension, Revocation.

NOTE: Authority cited: Sections 4621.2(e), 4624 and 4626. Public Resources Code. Reference: Sections 4621 and 4624, Public Resources Code; Sections 11500, et seq., Government Code.

HISTORY

1. Renumbering and amendment of Section 1107.2 to Section 1106.5 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1107.3. Contents of Conversion Permit.

NOTE: Authority cited: Section 4625, Public Resources Code. Reference: Section 4625, Public Resources Code.

HISTORY

1. Renumbering of Section 1107.3 to Section 1106.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1107.4. Recordation, Renewal, Transferability.

NOTE: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

HISTORY

1. Renumbering of Section 1107.4 to Section 1106.3 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1108. Coastal Zone Conversion.

A timberland conversion permit is required for conversion of coastal commercial timberland to uses other than the growing of timber. Except as hereafter provided, conversion of any such timberland shall be limited to providing for necessary timber processing and related facilities.

The Director, or the Board upon appeal, may approve conversion of coastal commercial timberland for other than necessary timber processing and related facilities only if all of the following conditions are met:

(a) Such conversion will not introduce new uses or significantly intensify existing uses that are incompatible with timber growing on areas adjacent to the area proposed for conversion, or that have a substantial adverse impact on coastal resources, as determined by the Director; and

(b) The area proposed for conversion is in a unit of noncommercial size as determined by the California State Coastal Commission or the zoning in a certified local coastal plan; and

(c) The conversion complies with all other applicable laws, rules, and regulations.

NOTE: Authority cited: Sections 4621, 21100 and 30243, Public Resources Code. Reference: Sections 21100, 30007.5 and 30243, Public Resources Code.

HISTORY

1. Renumbering of former Section 1108 to Section 1107, and renumbering and amendment of former Section 1103.7 to Section 1108 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Editorial correction of subsection (b) filed 9–29–83; designated effective 10–1–83 (Register 83, No. 40).
3. Amendment filed 8–31–84; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 84, No. 35).

§ 1109. Immediate Rezoning.

Immediate rezoning of land within a TPZ shall be accomplished in compliance with one of the two procedures set forth in 14 CAC 1109.1 and 1110.

NOTE: Authority cited: Section 4622, Public Resources Code. Reference: Section 4622, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1109 to 1103.1, and renumbering and amendment of former Section 1110 to Section 1109 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1109.1. City or County Tentative Approval.

When a county Board of Supervisors or City Council tentatively approves an immediate rezoning pursuant to Gov. C. 51133, for which a conversion permit is also required, it shall forward the following to the Director: documentation of its tentative approval upon a four–fifths vote of the full body; copies of the Notices sent to landowners within one mile (1.61 km) of the exterior boundary of the land upon which immediate rezoning is proposed, and the formal findings that immediate rezoning is not inconsistent with the purpose of subdivision (j) of Section 3 of Article XIII of the State Constitution, and findings that rezoning is in the public interest, as required by Gov. C. 51133(a); minutes of public hearing(s), including hearings held by the appropriate local planning agency pursuant to the application for immediate rezoning and any related applications for local government general plan land use category change, conditional use permit, or other entitlement for use; copies of documents, plans, maps, and photographs submitted in conjunction with the said public hearing(s); and copies of completed environmental documentation submitted pursuant to the application for immediate rezoning.

Upon the receipt of the foregoing materials, the completed conversion application and conversion plan, and such further information as may be required, the Director shall determine whether or not to approve the conversion pursuant to PRC 4621.2. Upon approval of the conversion by the Director or by the Board upon appeal, the Director shall so notify the county Board of Supervisors or City Council, who may then finalize the immediate rezoning.

NOTE: Authority cited: Section 4621.2, Public Resources Code. Reference: Section 51133, Government Code.

HISTORY

1. Renumbering and amendment of former Section 1110.1 to Section 1109.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1109.2. Public Interest.

In determining whether or not to make the written finding contained in PRC 4621.2(a)(1), the Director or the Board upon appeal shall consider the following elements of public interest:

(a) Whether the alternative use will serve a public need; provide a public service; benefit the local community and region, including economic and social benefits; avoid damage or threatened damage to other property, especially public parks and other publicly–owned lands; or involve costs and secondary impacts caused by services required by the alternative use.

(b) The adverse environmental impacts of the alternative use and mitigation thereof. Impacts shall include, but not be limited to, impacts on lakes, streams, and other waters; wildlife; air quality; and aesthetics.

(c) The impact on the long term timber supply capability of California, including the cumulative impact from conversion of similar properties.

(d) The availability of proximate and suitable land to accommodate the alternative use which lies outside of a TPZ or which would involve the removal of lower quality timberlands from productive use.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(1), (a)(3), and (b), Public Resources Code; Sections 51110(b), 51110.1(b), 51112(b) and (c), 51134(a)(1) and (b), Government Code.

HISTORY

1. Renumbering of former Section 1111 to Section 1109.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1109.3. No Substantial and Unmitigated Adverse Effect upon Other Timberland Production Zones Within One Mile (1.609 km).

In determining whether or not to make the written finding contained in PRC 4621.2(a)(2), the Director or the Board upon appeal shall consider such adverse factors as increased fire hazard and risk, forest pest potential, mass land movement, gully and sheet erosion, increased windthrow, shock to nearby stands from exposure, harmful fumes, emissions, dust, discharge of waste or chemicals, unconfined grazing of livestock, diversion or impoundment of water, wildlife use changes damaging to other properties, and other potential adverse factors.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(2), Public Resources Code.

HISTORY

1. Renumbering of former Section 1111.2 to Section 1109.3 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Editorial correction of section heading filed 9–29–83; designated effective 10–1–83 (Register 83, No. 40).

§ 1109.4. Suitability of Soils, Slopes, and Watersheds.

In determining whether or not to make the written finding contained in PRC 4621.2(a)(3), the Director or the Board upon appeal shall consider the following elements: whether the soil types and characteristics can support the proposed use, the erosion potential of the soils and slopes in light of the proposed use, potential mass land movement or subsidence, possible harm to quality or quantity of water produced in the watershed, fire hazard and risk to the watershed, adverse effects to fish and wildlife from removal of habitat cover, and such other elements as appropriate.

NOTE: Authority cited: Section 4621.2(a)(3) and 4623, Public Resources Code. Reference: Section 4621.2(a)(3), Public Resources Code.

HISTORY

1. Renumbering of former Section 1111.4 to Section 1109.4 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1109.5. No Other Reasonable or Comparable Timber Growing Use.

In determining pursuant to PRC 4621.2(c) whether or not timberlands within a TPZ that are the subject of a conversion application may be put to another reasonable or comparable timber–growing use, the Director or the Board upon appeal shall consider timber stand volume, timber growth rate, timber site and soil, climate, potential markets, any other relevant factors.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(c), Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1111.6 to Section 1109.5 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1109.6. Supplemental Data and Opinions.

As an aid to the Director or the Board upon appeal in making the findings and approving the proposed conversion pursuant to PRC 4621.2, the Director or the Board upon appeal may upon their own initiative consult with or request reports from appropriate experts. The Director or the Board upon appeal may also require the applicant to furnish appropriate and necessary information or documentation, including that from appropriate expert consultants at the applicant's expense.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2, Public Resources Code.

HISTORY

1. Renumbering of former Section 1111.8 to Section 1109.6 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1110. Conversion Permit Within TPZ Not Required.

Requests for immediate rezoning for an area exempted from this article pursuant to 14 CCR 1104.1 shall be processed in accordance with Gov. C. 51134.

NOTE: Authority cited: Section 51134, Government Code. Reference: Section 51134, Government Code.

HISTORY

1. Renumbering and amendment of former Section 1110 to Section 1109, and renumbering and amendment of former Section 1110.2 to Section 1110 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32). For prior history, see Registers 78, No. 28 and 78, No. 13.
2. Change without regulatory effect filed 6–16–89 (Register 89, No. 28).

§ 1110.1. City or County Tentative Approval.

NOTE: Authority cited: Section 4621.2, Public Resources Code. Reference: Section 4621.2, Public Resources Code; Section 51133, Government Code.

HISTORY

1. Certificate of Compliance as to filing of 3–31–78 included with filing in Register 78, No. 13. Editorial correction (Register 78, No. 28).
2. Renumbering and amendment of Section 1110.1 to Section 1109.1 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1110.2. Conversion Permit Within TPZ Not Required.

NOTE: Authority cited: Section 4526, Public Resources Code. Reference: Section 51134, Government Code; Section 1021, Title 14, Cal. Adm. Code.

HISTORY

1. Certificate of Compliance as to filing of 3–31–78 included with filing in Register 78, No. 13. Editorial correction (Register 78, No. 28).
2. Renumbering and amendment of Section 1110.2 to Section 1110 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1111. Public Interest.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(1), (a)(3), and (b), Public Resources Code; Sections 51110(b), 51110.1(b), 51112(b) and (c), 51134(a)(1) and (b), Government Code.

HISTORY

1. Renumbering of Section 1111 to Section 1109.2 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1111.2. No Substantial and Unmitigated Adverse Effect upon Other Timberland Production Zones Within One Mile (1.609 km).

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(a)(2), Public Resources Code.

HISTORY

1. Renumbering of Section 1111.2 to Section 1109.3 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).
2. Change without regulatory effect of section heading changing "Preserve" to "Production" filed 6–19–89 (Register 89, No. 28).

§ 1111.4. Suitability of Soils, Slopes, and Watersheds.

NOTE: Authority cited: Section 4621.2(a)(3) and 4623, Public Resources Code. Reference: Section 4621.2(a)(3), Public Resources Code.

HISTORY

1. Renumbering of Section 1111.4 to Section 1109.4 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1111.6. No Other Reasonable or Comparable Timber Growing Use.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2(c), Public Resources Code; Section 51112(b), Government Code.

HISTORY

1. Renumbering and amendment of Section 1111.6 to Section 1109.5 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1111.8. Supplemental Data and Opinions.

NOTE: Authority cited: Section 4623, Public Resources Code. Reference: Section 4621.2, Public Resources Code.

HISTORY

1. Renumbering of Section 1111.8 to Section 1109.6 filed 8–5–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1112. Chart: Land Use Changes and Conversion Requirements.

HISTORY

1. Repealer of Section 1112 and Appendix A filed 12–12–80; effective thirtieth day thereafter (Register 80, No. 50). For prior history, see Register 78, No. 45.

Chapter 4.5. Hearings

§ 1115. Time for Request.

The board of supervisors or planning commission of any county for which rules have been adopted pursuant to Section 4516.6 of the Public Resources Code may request a public hearing on any timber harvesting plan or non–industrial timber management plan submitted for lands within the county. Such request must be made no later than one (1) calendar day after the pre–harvest inspection date. The request may be in writing, by phone, or by facsimile. The request must be for a specific plan that has been filed according to 14 CCR 1032. For good cause the Director may extend the deadline.

NOTE: Authority cited: Sections 4582.6(b), Public Resources Code. Reference: Section 4582.6(b), Public Resources Code.

HISTORY

1. New Chapter 4.5 (Sections 1115–1115.4) filed 8–25–83; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 83, No. 35).
2. Amendment filed 12–28–95; operative 12–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).

§ 1115.1. Scheduling.

Upon receipt of a request pursuant to 14 CCR 1115, the Department shall schedule a public hearing to be held no more than twenty–five (25) and no less than five (5) calendar days from the date of the request.

NOTE: Authority cited: Section 4582.6(b), Public Resources Code. Reference: Section 4582.6(b), Public Resources Code.

HISTORY

1. Amendment filed 12–28–95; operative 12–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).

§ 1115.2. Notification.

The Department shall notify the public of the fact that such a public hearing will be held. The notice shall include information on the time and location of the hearing. The notice shall be given at least five (5) days before the date that the public hearing will be held. At a minimum, a copy of the notice shall be mailed to the county requesting the hearing, the Review Team members, and other interested parties as identified pursuant to 14 CCR 1032.7(e) and publishing a copy of the notice in a newspaper of general circulation in the area.

NOTE: Authority cited: Section 4582.6(b), Public Resources Code. Reference: Section 4582.6(b), Public Resources Code.

HISTORY

1. Amendment filed 12–28–95; operative 12–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).

§ 1115.3. Conduct of Hearing.

The Department shall conduct a public hearing upon timely request. A Departmental representative shall conduct the hearing. The Departmental representative should be familiar with the THP or Non–Industrial Timber Management Plan under review. The purpose of the public hearing is to gather information from the public regarding the proposed timber operation. The public hearing is considered to be an integral part of the multidisciplinary review of the THP or NTMP. The comments of the public shall be electronically recorded by the Department, and may be recorded by any person present. No departmental action with regard to the approval or disapproval of a timber harvesting plan or Non–Industrial Timber Management Plan shall occur at the public hearing. The Department representative that conducted the hearing shall submit a written report of the hearing to the Departmental employee responsible for approval or disapproval of the plan. The Department shall provide written responses to significant issues raised at the public hearing in the official response of the director required by 14 CCR 1037.8.

NOTE: Authority cited: Section 4582.6(b), Public Resources Code. Reference: Section 4582.6(b), Public Resources Code.

HISTORY

1. Amendment filed 12–28–95; operative 12–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).

§ 1115.4. Comments.

NOTE: Authority cited: Section 4582.6(b), Public Resources Code. Reference: Section 4582.6(b), Public Resources Code.

HISTORY

1. Repealer filed 12–28–95; operative 12–28–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 52).

Chapter 5. Board of Forestry—Organization and Operation

Subchapter 1. Board Organization and Procedure

Article 1. Abbreviations and Definitions

§ 1120. Abbreviations.

The following abbreviations are applicable throughout this Chapter.

"CAC" California Administrative Code.

"DTAC" District Technical Advisory Committee.

"Gov. C." Government Code.

"PRC" Public Resources Code.

"RPF" Registered Professional Forester.

NOTE: Authority cited: Sections 736, 740, Public Resources Code.

HISTORY

1. New Subchapter 1 (Articles 1–4, Sections 1120–1137, not consecutive) filed 2–21–79 as procedural and organizational; effective upon filing (Register 79, No. 9).
2. Editorial correction to History Note 1 (Register 79, No. 14).

§ 1120.1. Definitions.

The following definitions are applicable throughout Chapter 5 unless the context clearly requires otherwise.

"Board" means the California State Board of Forestry.

"Chairman" means the Chairman of the California State Board of Forestry.

"Department" means the Department of Forestry.

"Director" means the Director of the Department of Forestry.

"Executive Officer" means the Executive Officer of the California State Board of Forestry.

"Registered Professional Forester" means a person qualified and licensed to practice forestry in California pursuant to PRC 750 *et seq.*

NOTE: Authority cited: Sections 736, 740, Public Resources Code. Reference: Sections 700, 701, Public Resources Code.

Article 2. Membership of Committees

§ 1121. District Technical Advisory Committee (DTAC) Appointments.

(a) Recommendations of individuals for consideration by the Board for appointment to each vacant DTAC position shall be solicited. Recommendations must be in writing, must indicate willingness to serve of the person recommended, and must be received annually between September 1 and the October meeting of the Board, except during years when appointments do not need to be made.

(b) Nomination shall be made by a Subcommittee of the Board appointed by the Chairman. Nominations shall be made from names of persons recommended in writing to the Board.

(c) The nominating Subcommittee shall submit to the Board a maximum of two names for each DTAC vacancy. Additional nominations from among names identified in (a) above may be made by members of the Board at the Board meeting during which DTAC members are selected for appointment.

(d) Selection of DTAC members shall be at the November meeting of the Board to provide prompt filling of vacancies normally occurring in January. Selection shall be by roll call vote.

(e) If there are more than two nominees, and none receives a majority vote, there shall be a run–off election between the two nominees securing the highest number of votes in the first roll call.

(f) In the event of unexpected vacancies, new members shall be appointed to serve for the duration of the unexpired term. New nominations may be requested for this purpose or the most recent list of nominees submitted for vacant positions may be used. Such appointments shall be made not earlier than the next meeting of the Board following the Board meeting when the vacancy is announced and shall be made according to other portions of this Section, except for time of year.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4531–4536, Public Resources Code.

HISTORY

1. Repealer of former Article 2 (Sections 1121–1127) and renumbering and amendment of former Article 4 (Sections 1135 and 1136) to Article 2 (Sections 1121 and 1122) filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1122. Professional Foresters Examining Committee Appointments.

(a) The Professional Foresters Examining Committee shall be made up of 7 members who serve at the pleasure of the Board. The Board shall periodically review committee membership for possible replacement of long term members.

(b) The committee members shall be selected by the Board from its own membership or from foresters (RPF) in good standing, or any combination of such persons. Committee members should be from a broad range of geographical areas within the state and also from a broad range of professional forestry employment categories including consultants, industrial, state, federal, professional education, and research. If possible, at least one public member of the Board shall be appointed to this committee.

(c) In case of vacancy on the committee, the Chairman of the Board shall appoint a nominating Subcommittee of the Board who shall solicit nominations from organizations of professional foresters and other interested persons.

(d) The nominating Subcommittee shall submit to the Board a maximum of two names for each committee vacancy. Additional nominations from among persons qualified under (b) above, may be made by members of the Board at the meeting during which the election is held.

(e) Selection to fill a committee vacancy shall take place at the next regular Board meeting following the meeting at which a vacancy is recognized. Selection shall be by roll call vote.

(f) If there are more than two nominees, and none receives a majority vote, there shall be a run–off election between the two nominees securing the highest number of votes in the first roll call.

(g) The Committee Chairman shall be appointed by the Chairman of the Board.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 763, Public Resources Code.

Article 3. Emergency Meetings

NOTE: Authority cited: Sections 736 and 740, Public Resources Code. Reference: Section 736, Public Resources Code; Section 11125, Government Code.

HISTORY

1. Repealer of Article 3 (Sections 1132–1132.4) filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

Article 4. Membership of Committees

§ 1135. District Technical Advisory Committee (DTAC) Appointments.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4531, 4531.5, 4533, 4535, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1135 to Section 1121 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1136. Professional Foresters Examining Committee Appointments.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1136 to Section 1122 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1137. Other Committees.

NOTE: Authority cited: Sections 736 and 740, Public Resources Code. Reference: Sections 742, 743 and 760.5, Public Resources Code.

HISTORY

1. Repealer filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

Subchapter 2. Board of Rulemaking Under Z'Berg–Nejedly Forest Practice Act

§ 1141. Consultation.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 4553, Public Resources Code.

HISTORY

1. New Subchapter 2 (Sections 1141–1149, not consecutive) filed 2–21–79; effective thirtieth day thereafter (Register 79, No. 9).
2. Editorial correction of History Note 1 (Register 79, No. 14).
3. Repealer of former Section 1141, and renumbering and amendment of former Section 1144 to Section 1141 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).
4. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1142. Contents of Statement of Reasons.

In addition to information required by Section 11346.7 of the Government Code, Statements of Reasons accompanying proposed Board rules and regulations shall contain the following material:

(a) A statement of possible significant adverse environmental effects, if any, which can reasonably be expected to occur directly or indirectly from implementing the proposal. If there are no significant adverse environmental effects, the report shall so state.

(b) A statement of mitigation measures available to minimize the significant adverse environmental impacts, and a discussion of why these measures, if any, have or have not been incorporated in the proposal.

(c) A statement and discussion of reasonable alternatives to the proposal, with a brief statement of the pros and cons of each alternative. This discussion may be limited to alternatives which would avoid the significant adverse environmental effects of the proposal.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4553 and 21080.5, Public Resources Code.

HISTORY

1. Amendment filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1143. Circulation of Notice and Statements of Reasons.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 21080.6, Public Resources Code; and Section 11346 and 11347, Government Code.

HISTORY

1. Repealer of former Section 1143, and renumbering and amendment of former Section 1145 to Section 1143 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1144. Evaluation and Adoption of Proposals.

(a) The Board shall evaluate proposals by considering comments of the Department, District Technical Advisory Committees, other public agencies, and the public generally as the proposals relate to the factors listed in subsection (b).

(b) During the evaluation process, attention shall be directed to:

(1) How well the proposal would serve the policies of the Forest Practice Act in Public Resources Code Sections 4512 and 4513.

(2) How well the proposal would eliminate any avoidable environmental damage.

(3) How well the proposal would serve the production of high quality timber while maintaining the productivity of all affected forest resources.

(4) Whether and how the proposal could be modified to accomplish the purposes of the Forest Practice Act and environmental protection in a more effective manner.

(c) The Board shall prepare written responses to significant environmental points raised during the evaluation process and shall make the responses part of the rulemaking file.

(d) The Board shall not adopt a standard, rule or regulation as proposed, if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which implementation of the proposal may reasonably be expected to have on the environment unless specific economic, social or other conditions are found to make infeasible such project alternatives or such mitigation measures.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 21061.1 and 21080.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1144 to Section 1141, and renumbering and amendment of former Section 1146 to Section 1144 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1145. Notice of Decision.

After adopting a standard, rule, regulation or plan, the Board shall file a Notice of Decision with the Secretary for Resources. The notice shall be available for public inspection and shall remain posted for a period of 30 days.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Section 745, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1145 to Section 1143, and renumbering of former Section 1148 to Section 1145 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1146. Evaluation of Proposal.

NOTE: Authority cited: Section 4551, Public Resources Code. Reference: Sections 4512, 4513, 4553, Public Resources Code.

HISTORY

1. Renumbering and amendment of Section 1146 to Section 1144 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1147. Board Action to Consider and Adopt Proposed Standard, Regulation or Rule.

NOTE: Authority cited: Section 4551 of the Public Resources Code. Reference: Section 4553 of the Public Resources Code.

HISTORY

1. Repealer filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1148. Notice of Decision.

NOTE: Authority cited: Section 4551 of the Public Resources Code. Reference: Section 745 of the Public Resources Code.

HISTORY

1. Renumbering of Section 1148 to Section 1145 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1149. Public Reports and Emergency Standards, Rules or Regulations.

NOTE: Authority cited: Section 4551 of the Public Resources Code. Reference: Sections 745, 4555 of the Public Resources Code.

HISTORY

1. Repealer filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

Subchapter 3. Board Actions Other Than Rule Making Under the Z'berg–Nejedly Forest Practice Act

§ 1150. Purpose.

These regulations shall provide the Board of Forestry with procedures for the orderly evaluation of projects and the preparation of environmental documents pursuant to the California Environmental Quality Act of 1970 (PRC Sections 21000, et seq. hereinafter referred to as CEQA) and the State Guidelines for Implementation of CEQA (14 CAC 15000, et seq.). These regulations shall apply to those actions of the Board which have not been certified as exempt by the Resources Secretary pursuant to PRC 21080.5 and 14 CAC 15192.

NOTE: Authority cited: Sections 4551 and 21082, Public Resources Code. Reference: Sections 21000 and 21001, Public Resources Code.

HISTORY

1. New Subchapter 3 (Sections 1150–1154) filed 2–21–79; effective thirtieth day thereafter (Register 79, No. 9).
2. Editorial correction to add History Note 1 (Register 79, No. 14).
3. Amendment filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1151. Board Regulations for CEQA.

The Board hereby incorporates by reference the State Guidelines for Implementation of CEQA (14 CAC 15000, et seq.). The term "public agency" shall refer to the Board of Forestry.

NOTE: Authority cited: Sections 4551 and 21082, Public Resources Code. Reference: Sections 21002.1, 21003 and 21083, Public Resources Code.

HISTORY

1. Amendment filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1152. Declaration of Ministerial Projects.

The category of ministerial projects of the Board which do not require environmental documentation includes classification of State Responsibility Areas pursuant to PRC 4125 et seq.

NOTE: Authority cited: Sections 4551 and 21082, Public Resources Code. Reference: Section 21080, Public Resources Code; and Sections 1200–1225, 15032 and 15037(b)(3), Title 14 California Administrative Code.

HISTORY

1. Renumbering of former Section 1152 to Section 1151, and renumbering and amendment of former Section 1153 to Section 1152 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1153. Declaration of Categorical Exemptions.

Activities of the Board which are categorically exempt and which do not require environmental documentation include:

(a) Class 6: Information Collection. Class 6 consists of basic data collection, research, experimental management, and resource evaluation activities which do not result in a serious or major disturbance to an environmental resource, including but not limited to forest surveys and soil erosion studies. These may be strictly for information gathering purposes, or as part of a study leading to an action which a public agency has not yet approved, adopted, or funded. Such actions include, but are not limited to, actions taken under PRC 742–745 and PRC 4800–4807.

(b) Class 7: Actions by Regulatory Agencies for Protection of Natural Resources. Class 7 consists of actions taken by regulatory agencies as au-

thorized by state law or local ordinance to assure the maintenance, restoration, or enhancement of a natural resource where the regulatory process involves procedures for protection of the environment including but not limited to:

(1) Establishment, dissolution or modification of hazardous fire areas in accordance with PRC 4291 et seq.

(2) Establishment, modification, or dissolution of zones of insect, disease, or animal infestation or infection in accordance with PRC 4716 et seq.

(3) Approval of the State Fire Plan in accordance with PRC 4114.

(4) Adoption of rules for the fire protection system in accordance with PRC 4111.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 21080 and 21083, Public Resources Code; and Sections 15106 and 15107, Title 14, California Administrative Code.

HISTORY

1. Renumbering and amendment of former Section 1153 to Section 1152, and renumbering of former Section 1154 to Section 1153 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

§ 1154. Declaration of Categorical Exemptions.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 21080 and 21083, Public Resources Code; and Sections 15106 and 15107, Title 14, California Administrative Code.

HISTORY

1. Renumbering of Section 1154 to Section 1153 filed 6–16–83; effective thirtieth day thereafter (Register 83, No. 25).

Chapter 6. Hazardous Fire Areas and Conditions*

* Formerly subchapter 5 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

Article 1. General Provisions

§ 1200. Petition Procedure for Establishing Hazardous Fire Areas by Board of Forestry.

(a) Written petition shall be submitted in duplicate and shall contain a sufficient legal description. The petition shall contain the name, post-office address, and acreage owned within the area by each petitioner, and nature of his interest. A map of the proposed area shall be submitted with the petition in addition to the sufficient legal description.

(b) Petition shall be filed with the Executive Officer, State Board of Forestry, Resources Building, 1416 Ninth Street, Sacramento, California 95814.

(c) The period during which the regulations in this chapter creating hazardous fire areas shall be effective is from April 15 to December 1st in any calendar year, unless otherwise specified in the regulations, provided, however, that the Director may, by repeal filed herein, terminate a closure of a declared hazardous fire area

(d) Notices used for posting shall be of the type approved by the Director and shall contain a citation of the statutes authorizing closure.

NOTE: Authority cited: Sections 4252, 4253 and 4256, Public Resources Code. Reference: Sections 4251–4257, Public Resources Code.

HISTORY

1. Redesignation from Subchapter 5, Chapter 2 of Division 2 (Sections 1202–1205.5) to Chapter 4 of Division 1.5 (Sections 1202–1205.5) filed 4–1–77 as procedural and organizational; effective upon filing (Register 77, No. 14). For former history, see Registers 21, Nos. 5 and 7; 55, Nos. 6, 9 and 13; 56, Nos. 10 and 13; 58, Nos. 13 and 21; 61, No. 25; 62, Nos. 1, 24, 25 and 26; 63, No. 2; 67, No. 32; 75, No. 44 and 76, Nos. 23, 32 and 52.
2. Repealer of Chapter 4, Sections 1202–1205.5 and new Chapter 4, Articles 1–7, Sections 1200–1207, filed 6–3–77 as an emergency; effective upon filing. Certificate of Compliance included for Sections 1200–1205.6 (Register 77, No. 23).* For prior history, see Register 67, No. 32; Register 76, Nos. 23 and 52; and Register 77, No. 8.
3. Redesignation from Chapter 4 (Sections 1200–1207) to Chapter 6 (Sections 1200–1207) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
4. Amendment of subsection (c) filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

* Unless otherwise indicated, the issuing agency for Chapter 4 is the State Board of Forestry.

Article 2. North Coast Region

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4252–4257, Public Resources Code.

HISTORY

1. Repealer of Article 2 (Section 1202) filed 3–9–79; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 79, No. 10).

Article 3. Sierra Cascade Region

§ 1203. Diamond International Hazardous Fire Area No. 1.

Diamond International Hazardous Fire Area No. 1 is composed of approximately 93,370 acres of forest land in Tehama and Shasta Counties. The exterior boundary of the area is described as follows:

Beginning at the point where USFS Road 31N16 crosses the N Sec line in the NW1/4 Sec. 3, T30N, R3E, MDB&M: thence W along the N Sec line of Secs 3, 4, 5, 6, 1, and 2 to the NW Corner Sec 2, T30N, R2E; thence S along the W Sec line of Secs 2, 11, 14, 23, and into the NW1/4 Sec. 26, T30N, R2E, to the point where that Sec line intersects the Forward Mill Road; thence SW along Forward Mill Road to the Jct of said road and Ponderosa Way near the N Center Sec 31, T30N, R2E; thence SE on Ponderosa Way to the point where it crosses Mill Creek in the NE1/4 Sec 23, T27N, R2E; thence NE along Mill Creek to the point where it crosses the E Sec line in the SE 1/4 Sec 35, T28N, R3E; thence N along E Sec line of Sec 35 and into 26 to the assumed E1/4 Corner Sec 26, T28N, R3E; thence NW to the Jct of Tamarack Road (aka Diamond Road 50R1) and Diamond R Line Road (aka USFS Road 28N08.2) in NE1/4 Sec. 26, T28N, R3E; thence NW along said Diamond R Line Road to the Jct of USFS Road 29N48 (aka The Turner Mountain Loop Road) in the NE1/4 Sec 26, T28N, R3E; thence NW along 29N48 to where it crosses the E Sec line in the NE1/4 Sec 34, T29N, R3E; thence N along E Sec line of Secs 34 and into 27 to the point where it crosses California State Highway 36 in the NE1/4 Sec 27, T29N, R3E; thence E along Highway 36 to the Jct of U.S.F.S. Forest Highway 17 (aka USFS Road 31N17.2) in the NW1/4 Sec 26, T29N, R3E; thence N along Forest Highway 17 to the Jct of USFS Road 30N74.2 in NE1/4 Sec 15, T30N, R3E; thence NW along USFS Road 30N74.2 to the Jct with USFS Road 31N16 in SE1/4 Sec 10, T30N, R3E; thence N along USFS Road 31N16 to the point of beginning on the N Sec Line of Sec 3, T30N, R3E.

NOTE: Authority cited: Section 4252, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1203.1. Diamond International Hazardous Fire Area No. 2.

Diamond International Hazardous Fire Area No. 2 is composed of approximately 177,301 acres of forest land in Tehama and Butte Counties. The exterior boundary of the area is described as follows: Beginning at the point where California State Highway 32 crosses the North Fork of Calf Creek in SE1/4 Sec 30, T27N, R4E, MDB&M; thence NW along Calf Creek to its confluence with Deer Creek in NE1/4 Sec 30, T27N, R4E; thence SW along Deer Creek to the point where it meets Murphy Trail in NW1/4 Sec 20, T26N, R3E; thence SE along Murphy Trail to its intersection with Diamond H Line Road in SW1/4 Sec 21, T26N, R3E; thence SW along H Line past Campleville Lookout in NE1/4 Sec 14, T25N, R2E, continue S along H Line to its intersection with Musty Buck Road in SE1/4 Sec 36 T25N, R2E; thence S on Musty Buck Road to its intersection with Ponderosa Way in the NW1/4 Sec 25, T24N, R2E; thence SE along Ponderosa Way to its intersection with State Highway 32 in the NE1/4 Sec 32, T24N, R3E; thence N along Hwy 32 to the inter-

section with Garland Road (Diamond Road 180C1) in SW1/4 Sec 21, T24N, R3E; thence SE along Garland Road to its intersection with Doe Mill Road in the NE1/4 of Sec 33, T24N, R3E; thence NE on Doe Mill Road across Butte Creek; thence continuing SE on Doe Mill Road to where it intersects the skyway in NW1/4 Sec 2, T23N, R3E; thence NE on Skyway to Lovelock and intersection with Coutolenc Road (Diamond Road 70N) in SW1/4 Sec 31, T24N, R4E; thence S on Coutolenc Road to its intersection with Ponderosa Way in SE1/4 Sec 25, T23N, R3E; thence SE on Ponderosa Way to the intersection with Diamond V Line Road in SE1/4 Sec 29, T23N, R4E; thence S on V Line to intersection with Diamond Road 130V at Griffin Gulch Creek in SE1/4 Sec 5, T22N, R4E; thence SE along Diamond Road 130V to the intersection with Rag Dump/Concow Road (Diamond Road 40V) in SE 1/4 Sec 3, T22N, R4E; thence NE on Rag Dump/Concow Road to intersection with Rim Road (Diamond Road 40V1) in NW1/4 Sec 36, T23N, R4E; thence SE along Rim Road to its intersection with Pacific Gas and Electric Butt Valley—Table Mountain 230 KV Powerline in SE 1/4 Sec 36, T23N, R4E; thence NE along PG&E Powerline to where it crosses the E Sec Line of Sec 36, T24N, R5E; thence N along E Section line of Secs 36, 25, 24, and 13 to the point where Rock Creek crosses the E Sec Line of Sec 13, T24N, R5E; thence NW along Rock Creek to intersection with North Valley Trail in NW 1/4 Sec 34, T25N, R5E; thence W on North Valley Trail to intersection with Concow—Philbrook County Rd. at Jones Meadow in SE1/4 Sec 30, T25N, R5E; thence SW on Concow—Philbrook Road to intersection with Diamond Road 40T in SE1/4 Sec 30, T25N, R5E; thence NW on Diamond 40T Road to intersection with Diamond S Line Road in SW1/4 Sec 30, T25N, R5E; thence W on Diamond S Line to intersection with the West Branch of Feather River Bridge in NE1/4 Sec 28, T25N, R4E; thence N along West Branch to Hawkins Camp in Sec 15, T25N, R4E; thence N along Hawkins Camp Road to intersection with Humbug Summit Road in NE1/4 Sec 10, T25N, R4E; thence NE on Humbug Summit Road to where it crosses E Section Line of Sec 36, T26N, R4E; thence N along E Section Line of Secs 36, 25, and 24 to the NE Corner Sec 24, T26N, R4E; thence W along N Section Line of Sec 24 and 23 to Cherry Hill Bridge on Humboldt Road near NW corner Sec 23, T26N, R4E; thence NE along Humboldt Road to intersection with Colby Creek Road (Diamond Road 20E) in NE 1/4 Sec 14, T26N, R4E; thence NW along Colby Creek Road to intersection with North Fork of Calf Creek in NW 1/4 Sec 34, T27N, R4E; thence NW along North Fork of Calf Creek to point of beginning.

NOTE: Authority cited: Section 4252, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82,No. 28).

§ 1203.2. Collins Almanor Forest–Diamond International Hazardous Fire Area.

Collins Almanor Forest—Diamond International Hazardous Fire Area is composed of approximately 127,232 acres (515.1 km^2) of forest land in Tehama and Plumas Counties. The exterior boundary of the area is described as follows: Beginning from the point of intersection of Hwys 36 & 89, approx. 3 mi. SW of Town of Chester, Plumas County; thence SE along Hwy. 89 to E line of Sec. 9, T27N, R7E, MDB&M; thence S along E line of Sec. 9 approx. 2 chains to intersection of E line and an old logging road; thence SE along said road through Secs. 10, 15 & 14 to Butt Lake Rd.; thence SW along Butt Lake Rd. to S line of Sec. 22; thence W along S line of Sec. 22 to Butt Creek; thence S downstream to Butt Lake; thence S along W shore of lake to S line of Sec. 3, T26N, R7E; thence W along S lines of Secs. 3, 4 & 5 to S 1/4 cnr. of Sec. 5; thence S along E bdry. of NW 1/4 of Sec. 8, to interior 1/4 cnr. of Sec. 8; thence W along S bdry. of NW 1/4 Sec. 8 and along the S bdry. of NE 1/4 of Sec. 7 to interior 1/4 cnr. of Sec. 7; thence N along W bdry. of NW 1/4 of Sec. 7 to N 1/4 cnr. of Sec. 7; thence W along N line of Sec. 7 to Longville–Belden Rd.; thence NE along said road to Humbug Rd. at old settlement of Longville; thence NW along the road which commences from Humbug Rd. at old settlement of Longville and traverses N edge of Humbug Valley, connecting with Humboldt Rd. in Sec. 15T27N, R6E; thence SW along Humboldt Rd. to W line of Sec. 15; thence N along W line of Sec. 15 to SE cnr. of Sec. 9; thence S along E line of Sec. 17 to N1/4 cnr. of Sec. 17; thence W along bdry. that is the S bdry. of the N1/2, N1/2 of Sec. 17 to the N 1/16 cnr. on the W line of Sec. 17; thence N along the W lines of Secs. 17, 8 & 5, T27N, R6E, and the W line of Sec. 32, T28N, R6E, to the W 1/4 cnr. of Sec. 32; thence W along S bdry. of N 1/2 of Sec. 32 along S bdry. of the NE 1/4 of Sec. 36, T28N, R5E, to the interior 1/4 cnr. of Sec. 36; thence N along W bdry. of NE 1/4 of Sec. 36 to N 1/4 cnr. of Sec. 36; thence W along N line of Secs. 36, 35, 34 & 33, to W 1/16 cnr. on N line of Sec. 33; thence W along S township line of T28N, R5E, to Hwy. 32; thence SW along Hwy. 32 to bridge across Deer Creek in Sec. 20, T27N, R4E; thence SW downstream along Deer Creek to the N township line of T26N, R3E; thence W along N township line of T26N, R3E, to the NE cnr. of Sec. 1, T26N, R2E; thence S along E line of Sec. 1 to SE cnr.; thence W on S line of Sec. 1 to SW cnr.; thence N along W line of Sec. 1 to NW cnr.; thence E on the N line of Sec. 1 to SW cnr. of Sec. 36, T27N, R2E; thence N along W line of Sec. 36 to NW cnr.; thence E on N line of Sec. 36 to S 1/4 cnr. of Sec. 25; thence N along W bdry. of SE 1/4 of Sec. 25 to interior 1/4 cnr. of Sec. 25; thence E along N bdry. of SW 1/4 of Sec. 25 to E 1/4 cnr. of Sec. 25; thence N along W township line of T27N, R3E, to Mill Creek; thence NE upstream along Mill Creek to a point approx. .25 mi. W of W 1/4 cnr. of Sec. 26, T29N, R4E; thence E to W 1/4 cnr. of Sec. 26; thence E along N bdry. of S 1/2 of Sec. 26 to E 1/4 cnr. of Sec. 26; thence E approx. .5 mi. to Gurnsey Creek, Sec. 25, T29N, R4E; thence SE downstream along Gurnsey Creek to S line of Sec. 4, T28N, R5E; thence E along S line of Sec. 4 to SE cnr.; thence N along E line of Sec. 4 to E 1/4 cnr.; thence W along S bdry. of SE 1/4, NE 1/4 of Sec. 4; thence N along W bdry. of SE 1/4 NE 1/4 of Sec. 4; thence N along W bdry. of NW 1/4, NE 1/4 of Sec. 4 to N 1/4 cnr. of Sec. 4; thence W along S township line of T29N, R5E to E 1/16 cnr. of S line of Sec. 32; thence N along W bdry. of SE 1/4, SE 1/4 of Sec. 32; thence W along S bdry. of NW 1/4, SE 1/4 and N 1/2, SW 1/4 of Sec. 32 to S 1/16 cr. on W line of Sec. 32; thence N along W line of Sec. 32 to W 1/4 cnr. of Sec. 32; thence W along S bdry. of NE 1/4 of Sec. 31, T29N, R5E, to interior 1/4 cnr. of Sec. 31; thence N along W bdry. of NE 1/4 of Sec. 31 to N 1/4 cnr. of Sec. 31; thence N to old Red Bluff Rd. in Sec. 30; thence W along old Red Bluff Rd. to W bdry. of SE 1/4, SW 1/4 of Sec. 30; thence N along W bdry. of SE 1/4 and NE 1/4 of SW 1/4, SE 1/4, NW 1/4 of Sec. 30; thence E along N boundaries of SE 1/4, NW 1/4 and S 1/2 of NE 1/4, Sec. 30, to N 1/16 cnr. on E line of Sec. 30; thence E along N bdry. of S 1/2 of NW 1/4 and SW 1/4 of NE 1/4, Sec. 29, T29N, R5E; thence S to old Red Bluff Rd., Sec. 29; thence NE along road to bridge across the North Fork of the Feather River (sometimes referred to as Rice Creek) in Sec. 22; thence SE downstream along North Fork of the Feather River to E township line of T28N, R6E; thence S along E township line of T28N, R6E, to Hwy. 36 Secs. (actually on line between) 13 & 18, T28N, R6E, and T28N, R7E; thence SW along Hwy. 36 to the point of beginning.

NOTE: Authority cited: Section 4252, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1203.3. Anderson Woodlands Hazardous Fire Area.

Anderson Woodlands Hazardous Fire Area is composed of 82,441 acres of forest lands owned by the Roseburg Resources Co. and NOCA Timber Co. in Shasta County, described in documents identified as:

Property Ownership Records, Roseburg Resources Co. and NOCA Timber Co, for Anderson Woodland Hazardous Fire Area, pages 1–23, inclusive, delineated fully on a planimetric map identified as Anderson Woodlands, H.F.A. Map No.2106–A, on file in the office of the Director, 1416 Ninth Street, Room 1505, Sacramento, CA. 95814.

This area is established in response to a request by Roseburg Resources Co and NOCA Timber Co. No privately–owned campgrounds established and maintained for public use have been identified and ex-

empted from use restrictions set forth in Section 4255, Public Resources Code. Consent has been filed with the Board for the Director to close these lands to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited Sections 4252 and 4256, Public Resources Code. Reference: Sections4251, 4252, 4255 and 4257, Public Resources Code.

HISTORY

1. Amendment filed 4–14–88; operative 5–14–88 (Register 88, No.17).

§ 1203.4. Pondosa Hazardous Fire Area.

Pondosa Hazardous Fire Area is composed of approximately 43,811 acres of forest lands owned by Roseburg Resources Co. and NOCA Timber Co. in Siskiyou County, described in documents identified as: Property Ownership records for Pondosa Hazardous Fire Area, pages 1–31, inclusive, delineated fully on a plaimetric map identified as Pondosa–Big Valley H.F.A., Map No. 2106–B, on file in the office of the Director, 1416 Ninth Street, Room 1505, Sacramento, CA. 95814.

This area is established in response to a request by Roseburg Resources Co and NOCA Timber Co. No privately–owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Property owner's consent has been filed with the Board for the Director to close these lands to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited: Sections 4252 and 4256, Public Resources Code. Reference: Sections 4251, 4252, 4255 and 4257, Public Resources Code.

HISTORY

1. Amendment filed 4–14–88; operative 5–14–88 (Register 88, No. 17).

§ 1203.5. Big Valley Hazardous Fire Area.

Big Valley Hazardous Fire Area is composed of approximately 12,955 acres of forest lands owned by Roseburg Resources Co. and NOCA Timber Co: Approximately 564 acres (2.4 km^2) in Shasta County, 2,031 acres in Modoc County, and 10,360 acres in Lassen County, described in the documents identified as:

Property Ownership Records for Big Valley Hazardous Fire Area, pages 1–31, inclusive, delineated fully on a planimetric map identified as Pondosa Big Valley H.F.A, Map No. 2106–B, on file in the office of the Director, 1416 Ninth Street, Room 1505, Sacramento CA. 95814.

This area is established in response to a request by Roseburg Resources Co and NOCA Timber Co. No privately–owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Property owner's consent has been filed with the Board for the Director to close lands to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited: Sections 4252 and 4256, Public Resources Code. Reference: Sections 4251, 4252, 4255 and 4257, Public Resources Code.

HISTORY

1. Amendment filed 4–14–88; operative 5–14–88 (Register 88, No.17).

§ 1203.6. Lake Almanor Hazardous Fire Area.

Lake Almanor Hazardous Fire Area is composed of approximately 44,799 acres of forest lands owned by Roseburg Resources Co. and NOCA Timber Co. in Plumas County, described in documents identified as:

Property Ownership Records for Lake Almanor Hazardous Fire Area, pages 1–24, inclusive, delineated fully on a planimetric map identified as Lake Almanor, Map No. 2106–D, on file in the office of the Director, 1416 Ninth Street, Room 1505, Sacramento, CA. 95814.

This area is established in response to a request by Roseburg Resources Co. and NOCA Timber Co. No privately–owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Property owner's consent has been filed with the Board for the Director to close these lands to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited: Sections 4252 and 4256, Public Resources Code. Reference: Sections 4251, 4252, 4255 and 4257, Public Resources Code.

HISTORY

1. Amendment filed 4–14–88; operative 5–14–88 (Register 88, No. 17).

§ 1203.7. Harvey Hazardous Fire Area.

Harvey Hazardous Fire Area is composed of approximately 24,960 acres of forest lands owned by Roseburg Resources Co. and NOCA Timber Co. in Lassen County, described in documents identified as:

Property Ownership Records for Harvey Hazardous Fire Area, pages 1–6, inclusive, delineated fully on a planimetric map identified as Harvey Tract, Map No. 2106–E, on file in the office of the Director, Room 1505, 1416 Ninth Street, Sacramento, CA. 95814.

This area is established in response to a request by Roseburg Resources Co. and NOCA Timber Co. No privately–owned campgrounds established and maintained for public use have been identified and exempted from the use restrictions set forth in Section 4255, Public Resources Code. Property owner's consent has been filed with the Board for the Director to close these lands to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited: Sections 4252 and 4256, Public Resources Code. Reference: Sections 4251, 4252, 4255, and 4257, Public Resources Code.

HISTORY

1. Amendment filed 4–14–88; operative 5–14–88 (Register 88, No. 17).

§ 1203.8. Quincy Watershed Hazardous Fire Area.

Quincy Watershed Hazardous Fire Area is composed of approximately 10,153 acres (41.1 km^2)of forest land in Plumas County. The exterior boundaries of the area are described as follows:

Beginning at the SE cnr. of Sec. 31, T24N, R10E, MDB&M; thence N along section line to NE cnr. of S 1/2, SE 1/4 of Sec. 19; thence W to NW cnr. S 1/2, SE 1/4, Sec. 19; thence N to interior 1/4 cnr. of Sec. 19; thence W to SE cnr. SW 1/4, NW 1/4, Sec. 19; thence N to NE cnr. of SW 1/4, NW 1/4, Sec. 19, T24N, R10E; thence W to NW cnr. of SE 1/4, NE 1/4, Sec. 23, T24N, R9E; thence S to SW cnr. of SE 1/4, NE 1/4, Sec. 23; thence W to SE cnr. of SW 1/4, NW 1/4, Sec. 23; thence N to NE cnr. SW 1/4, NW 1/4, Sec. 23; thence W to NW cnr. SW 1/4, NW 1/4, Sec. 23; thence N to NE cnr., Sec. 22; thence W to NW cnr. NE 1/4, NW 1/4, Sec. 22; thence N to NE cnr. of SW 1/4, SW 1/4, Sec. 15; thence W to NW cnr. of S 1/4, Sec. 16; thence S to SW cnr. of Sec. 33; thence E to SE cnr. of Sec. 33; thence S to SW cnr. of N 1/2, Sec. 3, T23N, R9E; thence E to interior 1/4 cnr. of Sec. 6, T23N, R10E; thence N to NE cnr. of NW 1/4, Sec. 6; thence E approx. .5 mi. to point of beginning.

The hazardous fire area designation is effective from May 20 to December 1, 1977 and from June 1 to December 1 of each year thereafter.

NOTE: Authority cited: Section 4252, Public Resources Code. Reference: Sections 4251 and 4252, Public Resources Code.

§ 1203.9. Viola Hazardous Fire Area.

Viola Hazardous Fire Area is composed of 38,265 acres of forest lands owned by the NOCA Timber Co. Approximately 34,173 acres in Shasta County, 4,092 acres in Tehama County described in the documents identified as: Property Ownership Records, for Viola Hazardous Fire Area, pages 1–12, inclusive, delineated fully on a planimetric map identified as Viola Hazardous Fire Ares, Map No. 2106–F, on file in the office of the Director, 1416 Ninth Street, Room 1505, Sacramento, Ca. 95814.

This area is established in response to a request by NOCA Timber Co.. No privately–owned campgrounds established and maintained for public use have been identified and exempted from the use restrictions set forth in 4255, Public Resources Code. Property owner's consent has been filed with the Board for the Director to close these lands to entry pursuant to provisions of Sections 4256, Public Resources Code.

NOTE: Authority cited: Sections 4252 and 4256 Public Resources Code. Reference: Sections 4251, 4252 and 4257, Public Resources Code.

HISTORY

1. New section filed 4–14–88; operative 5–14–88 (Register 88, No. 17).

Article 4. South Sierra Region

§ 1204. Bear Mountain Hazardous Fire Area.

Bear Mountain Hazardous Fire Area is composed of approximately 146,640 acres (593.7 km^2)of watershed land in Fresno County. The exterior boundary of the area is described as follows:

Beginning at a point in the E 1/2 of Sec. 35, T13S, R23E, MDB&M, at intersection of Tivy Valley County Rd. and Friant–Kern Canal; thence SE along canal to intersection of Hwy. 180 in N 1/2 of Sec. 13, T14S, R23E; thence W along Hwy. 180 to intersection of Frankwood Ave. in NW cnr. of Sec. 14; thence S along Frankwood Ave. to intersection of Central Ave. in SE cnr. of Sec. 27; thence E along Central Ave. to intersection of Friant–Kern Canal to NE cnr. of Sec. 33, T14S, R24E; thence S SE along canal to common bdry. betw. Fresno & Tulare Counties and intersecting Adams Ave. in SE cnr. of Sec. 12, T15S, R24E; thence N along line which is the common bdry. betw. Fresno & Tulare Counties to SE cnr. of Sec. 36, T14S, R24E; thence E along common bdry. betw. Fresno & Tulare Counties to SE cnr. of Sec. 36, T14S, R27E; thence N along this bdry. which is also the USFS bdry. line to the NE cnr. of SE 1/4 of Sec. 25, T14S, R27E; thence W along USFS bdry. line to SW cnr. of NE 1/4 of Sec. 26; thence N along USFS bdry. line to NE cnr. of NW 1/4, Sec. 26; thence W along USFS bdry. to SW cnr. of Sec. 23; thence N along this bdry. to NE cnr. SE 1/4 of Sec. 10, T14S, R27E; thence N along USFS bdry. line to NE cnr. to SE 1/4 Sec. 4; thence W along USFS bdry. line to NW cnr. of Sec. 10; thence N along USFS bdry. line to NE cnr. of SE 1/4, Sec. 4; thence W along USFS bdry. line to NW cnr. of SW 1/4, Sec. 4; thence N along USFS bdry. line to NE cnr. of Sec. 5; thence W along this line to NW cnr.Sec. 6; thence N along bdry. line to NE cnr., Sec. 36, T13S, R26E; thence W along USFS bdry. line to NW cnr. of Sec. 35; thence N along USFS bdry. line to NE cnr., Sec. 27; thence W along USFS bdry. line to NW cnr., Sec. 27; thence N along USFS bdry. line to NE cnr. of SW 1/4, Sec. 33, T12S, R26E; thence W along USFS bdry. line to NW cnr. of SW 1/4, Sec. 31; thence S along USFS bdry. line to SW cnr., Sec. 31; thence W along USFS bdry. line to Sec. 36, T12S, R24E, where the high water line of Pine Flat Reservoir intersects the USFS bdry. line; thence SW along the high water line to Pine Flat Dam in NE 1/4 of Sec. 2, T13S, R24E; thence downstream along natural water course of Kings River to intersection of Tivy Valley County Rd. in N 1/2, Sec. 2; thence SW along Tivy Valley County Rd. in Sec. 35, T13S, R23E, to the point of beginning.

NOTE: Authority cited for Sections 1204–1204.1: Section 4252, Public Resources Code. Reference: Sections 4251 and 4252, Public Resources Code.

§ 1204.1. Copper Peak Hazardous Fire Area.

Copper Peak Hazardous Fire Area is composed of approximately 216,480 acres (876.4 km^2)of watershed land in Fresno County. The exterior boundary of the area is described as follows:

Beginning at the Pine Flat Dam in Sec. 2, T13S, R24E, MDB&M, at a point where the dam intersects the natural water course of the Kings River; thence along water course in a NE direction to a point in Sec. 35, T12S, R24E, where water course intersects USFS bdry., excluding such regularly authorized camping areas immediately adjacent to Pine Flat Reservoir on lands under control of the U.S. Corps of Engineers; thence N and NW along USFS bdry. line to a point in Sec. 24, T9S, R22E, where bdry. line intersects natural water course of San Joaquin River and/or to a point on the Madera and Fresno County line; thence in a SW direction along the natural water course of river and/or county line to a point in Sec. 35, T11S, R20E, where river course and county line intersects a line that is common to *T11S* and *T12S*, excluding those regularly designated camping areas within the Millerton Lake State Park area lying along the SE shores of Millerton Lake and E of Friant Dam; thence E along this line to a point in Sec. 36, T11S, R20E, where said line intersects Friant–Clovis County Rd.; thence S along this road to a point in Sec. 7, T12S, R21E, where the road intersects Copper Ave.; thence E to a point in Sec. 15 where Copper Ave. intersects Dry Creek Levee; thence SE along levee to a point in Sec. 23 where levee intersects Shepherd Ave.; thence E along Shepherd Ave. to SE cnr. of Sec. 24 where Shepherd Ave. intersects Thompson Ave.; thence S along Thompson Ave. to the SE cnr. of Sec. 36 where Thompson Ave. intersects Herndon Ave.; thence E along Herndon Ave. to a point in Sec. 35, T12S, R22E where Herndon Ave. intersects Friant–Kern Canal; thence SE along canal to a point in the E 1/2 of Sec. 35, T13S, R23E where canal intersects Tivy Valley County Rd.; thence NE along county road (in Sec. 25, T13S, R23E, where the bdry. will be the western sec. of county rd.; in Sec. 8, the east fork of the county rd. will be the bdry.) to a point in the N 1/2 of Sec. 2, T12S, R24E, where said county rd. intersects the natural water course of Kings River; thence E along river water course where natural water course intersects Pine Flat Dam at the point of beginning.

§ 1204.2. Madera–Millerton Hazardous Fire Area.

NOTE: Authority cited: Section 4252, Public Resources Code. Reference: Sections 4251, 4252 and 4255, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1204.3. Western Fresno and Kings Hazardous Fire Area.

Western Fresno and Kings Hazardous Fire Area is composed of approximately 632,920 acres (2562.4 km^2)of watershed land in Fresno, Kings and Kern Counties. The exterior boundary of the area is described as follows:

Beginning at the county line intersection of Fresno, Merced, and San Benito Counties in Sec. 6, T14S, R10E, MDB&M; thence NE along Fresno–Merced County line to jct. with center line of the Pipe Line Rd. in Sec. 28, T12S, R11E; thence SE along road center line to jct. with center line of Hwy. 33 nr. E 1/4 cn. of Sec. 13, T17S, R14E; thence along center line of Hwy. 33, S to center line of Gale Ave. at SE cnr. of Sec. 17, T20S, R15E; thence W 2 mi. along center line of Gale Ave. to intersection with center line of Derrick Ave. at SW cnr. of Sec. 18, T20S, R15E; thence S 3 mi. along center line of Derrick Ave. to intersection with center line of Polk St. at SW cnr. of Sec. 31; thence S .5 mi. along prolongation of center line of Derrick Ave. to point on S line of N 1/2 of Sec. 6, T21S, R15E; thence E through centers of Secs. 6, 5 & 4 to intersection with center line of Hwy. 33 at E 1/4cnr. of Sec. 4; thence along center line of Hwy. 33 SE to intersection with center line of Hwy. 41 in Sec. 32, T23S, R18E; thence along center line of Hwy. 41 SW to intersection with Kern–San Luis Obispo County line on E line of Sec. 1, T25S, R16E; thence N along county line to intersection with Kings County line at NE cnr. of Sec. 1; thence W along Kings–San Luis Obispo County line to county line intersection of Kings–San Luis Obispo–Monterey Counties on the S line of Sec. 25, T24S, R16E; thence NW along Kings–Monterey County line to intersection of Kings–Monterey–Fresno Counties nr. SW cnr. of Sec. 24, T23S, R15E; thence NW along Fresno–Monterey County line to intersection of Fresno–Monterey–San Benito Counties, Sec. 21, T19S, R12E; thence along this line N & NW to the point of beginning, excluding therefrom the whole of the SE 1/4 of Sec. 29, T18S, R13E (Spanish Lake area located in Fresno Co.).

NOTE: Authority cited for Sections 1204.3–1204.4: Section 4252, Public Resources Code. Reference: Sections 4251 and 4252, Public Resources Code.

§ 1204.4. Eastern Tulare Hazardous Fire Area.

Eastern Tulare Hazardous Fire Area is composed of approximately 622,240 acres (2519.2 km^2) of watershed land in Tulare County. The exterior boundary of this area is described as follows:

Beginning at the NW cnr. of T15S, R25E, MDB&M, said cnr. being on boundary line betw. Tulare and Fresno Counties; thence S along W line of said township and county line 2 mi. to SW cnr. of Sec. 7; thence E 1.5 mi. to N 1/4 cnr. of Sec. 17; thence S .5 mi. to center of Sec. 17; thence E 1.5 mi. to E 1/4 cnr. of Sec. 16; thence S 3.5 mi. to SW cnr. of Sec. 34; thence E 1 mi. to SE cnr. of Sec. 34; thence S along W line of Secs. 2 & 11, T16S, R25E, to NE bank of Friant–Kern Canal; thence meandering along canal to Dodge Ave. on N line of Sec. 4, T17S, R26E; thence along Dodge Ave. SE to SE cnr. of Sec. 4; thence E 3 mi. to SW cnr. of Sec. 6, T17S, R27E; thence S along W line of township 3 mi. to SW cnr. of Sec. 19; thence E 1 mi. to SE cnr. of Sec. 19; thence S 1 mi.

to Lomitas Dr. nr. SW cnr. of Sec. 29; thence SE along said road to Hwy. 198 in NW 1/4 of Sec. 2, T18S, R27E; thence SW along highway to W line of T18S, R27E, nr. NW cnr. of Sec. 31; thence S 2 mi. to NE cnr. of Sec. 12, T19S, R26E; thence W along N line of Sec. 12 to E bank of Friant–Kern Canal; thence SE along canal bank to Round Valley Rd. nr. center of Sec. 9, T20S, R27E; thence SE along Round Valley Rd. to Peach St. in SE 1/4 of Sec. 10; thence S along Peach St. .25 mi. to First Ave. .25 mi. to D Ave. at NW cnr. of Sec. 14; thence S along D Ave. .5 mi. to Second Ave.; thence E along Second Ave. 1.5 mi. to A Ave. nr. center of Sec. 13; thence S along A Ave. 7.5 mi. to Henderson Rd. at SW cnr. of Sec. 19, T21S, R28E; thence E along Henderson Rd. .5 mi. to S 1/4 cnr. of Sec. 19; thence S 1 mi. to S 1/4 cnr. of Sec. 30 on old Springville Rd.; thence E along said road 1.5 mi. to SE cnr. of Sec. 29; thence S 4 mi. to SE cnr. of Sec. 17, T22S, R28E; thence W 1 mi. to SW cnr. of Sec. 17; thence S 9 mi., more or less, to NW cnr. of Sec. 5, T24S, R28E; thence W 3.75 mi., more or less, to Ducor–Bakersfield Rd. on N line of Sec. 3, T24S, R27E; thence Salong said road to Tulare–Kern County line at SW cnr. of Sec. 34; thence E along county line 23 mi., more or less, to W bdry. line of Sequoia National Forest; thence N along bdry. line to S bdry. of Tule River Indian Reservation; thence along S & W bdry. lines of the reservation to W bdry. line of Sequoia National Forest; thence N along bdry. line to W bdry. line of the Sequoia National Park; thence N along said bdry. line to the W bdry. line of Kings Canyon National Park; thence NW along bdry. line to Fresno–Tulare County line at NE cnr. of T15S, R27E; thence W along county line 18 mi., more or less, to the point of beginning.

§ 1204.5. Whitmore–Panther Creek Hazardous Fire Area.

Whitmore–Panther Creek Hazardous Fire Area is composed of approximately 22,440 acres (90.9 km^2) of forested land in El Dorado and Amador Counties. The exterior boundary of the area is described as follows:

Beginning at the section corner to Secs. 10, 11, 14 & 15, T7N, R13E, MDB&M; thence N .25 mi.; thence E to Antelope Creek; thence NE along creek to 1/4 cnr. between Secs. 2 & 11, T7N, R13E; thence N to Whitmore Rd.; thence NE along the road approx. .5 mi. to point where fence line takes off up the hill NW from Whitmore Rd., said fence line being property line betw. American Forest Products Corporation and Amador Pines subdivision; thence NW along fence line approx. 25 mi. to a point where fence line turns NE; thence NE approx. 2.5 mi. along fence line to SW cnr. Sec. 30, T8N, R14E; thence N 1 mi. and E 1 mi. to SW cnr. of Sec. 20; thence N .5 mi. & E 2 mi. to 1/4 cnr. betw. Secs. 21 & 22; thence N .5 mi. and E 2.25 mi. to Hwy. 88 nr. SW cnr. of SE 1/4 SW 1/4 of Sec. 13; thence along Hwy. 88 E to intersection of E line of NW 1/4, SE 1/4 of Sec. 13 nr. Ham Station; thence S to SE cnr. of SW 1/4, SE 1/4 of Sec. 13; thence W .25 mi. and S 1 mi. to 1/4 cnr. betw. Secs. 24 & 25; thence E .5 mi., S .5 mi., E .5 mi. to center of Sec. 20, T8N, R15E; thence S .5 mi., W .5 mi., S 1 mi. to SE cnr. Sec. 36, T8N, R14E; thence E .25 mi., S .25 mi., W .25 mi. and S 2 mi. to the Mokelumne River nr. Bruces Crossing on E sec. line of Sec. 13, T7N, R14E; thence following Mokelumne River W to intersection with S sec. line of Sec. 17, T7N, R14E; thence W approx. 3 mi. along S sec. lines of Secs. 17 & 18, T7N, R14E & Sec. 13, T7N, R13E to SE sec. cnr. of Sec. 14, T7N, R13E; thence S .5 mi., W .25 mi., N .5 mi. and W .25 mi. to 1/4 cnr. betw. Secs. 14 & 23, T7N, R13E; thence N 1 mi. and W .5 mi. to SW cnr. Sec. 11, T7N, R13E, the point of beginning.

AFPC—17,302 acres (70.0 km^2)
Other private—2,782 (11.3 km^2)
USFS—2,356 acres (9.6 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976, as the property owner of 17,302 acres (70.0 km^2) or 77% of the area with the above described boundaries. No privately–owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and use of campfires shall be allowed within public campgrounds established and maintained by the U.S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U.S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close the lands within the hazardous fire area to entry pursuant to the provisions of Section 4256, Public Resources Code.

NOTE: Authority cited for Sections 1204.5–1204.10: Sections 4252 and 4256, Public Resources Code. Reference: Sections 4251, 4252, 4255 and 4257, Public Resources Code.

§ 1204.6. Beaver Ridge–Bear River Hazardous Fire Area.

Beaver Ridge–Bear River Hazardous Fire Area is composed of approximately 13,440 acres (54.4 km^2) of forested land in Amador and El Dorado Counties. The exterior boundary of the area is described as follows:

Beginning at the section corner common to Secs. 7, 8, 17 & 18, T8N, R15E, MDB&M; thence W 1 mi.; N. 1 mi. and E 1 mi. to NE cnr. of Sec. 7; thence N .25 mi., E .5 mi., S .25 mi., E 1 mi. to 1/4 cnr. betw. Secs. 4 & 9; thence S 1.5 mi. & E .5 mi. to 1/4 cnr. betw. Secs. 15 & 16; thence S 1.5 mi., E 1 mi. & N 2 mi. to NW cnr., Sec. 14; thence E 1.5 mi., N 2 mi. & W .5 mi. to SW cnr., Sec. 36, T9N, R15E; thence N 1 mi., E 1 mi. & S 5 mi. along E sec. lines of Secs. 1, 12, 13, 24 & 36 to SE cnr., Sec. 24, T8N, R15E; thence E 1 mi., S .5 mi., E .5 mi. to center of Sec. 29, T8N, R16E; thence S .5 mi., W .5 mi. & N .5 mi. to 1/4 cnr. betw. Secs. 31 & 32, T8N, R16E; thence W through Secs. 31 & 36 into Sec. 35 to Bear River; thence SW along Bear River approx. .75 mi. to intersection with S sec. line of Sec. 35, T8N, R15E; thence W .5 mi. & S .5 mi. to 1/4 cnr. betw. Secs. 2 & 3, T7N, R15E; thence E 3 mi. through center of Secs. 3, 4 & 5 to 1/4 cnr. betw. Secs. 5 & 6, T7N, R15E; thence N .5 mi., E .25 mi., N .25 mi., E .5 mi., N .75 mi. & E .25 mi. to SW sec. cnr., Sec. 28, T8N, R15E; thence N .5 mi., E .5 mi., N .25 mi., E .25 mi. & N 1.25 mi. to SE cnr. to SW 1/4 SE 1/4 of Sec. 16; thence W .75 mi. & N across Hwy. 88, .5 mi. to 1/4 cnr. betw. Secs. 16 & 17; thence W 1 mi. & N .5 mi. to NW cnr. Sec. 17, T8N, R15E, the point of beginning.

AFPC—7,543 acres (30.6 km^2)
Other private—70 acres (28.3 km^2)
USFS —5,727 acres (23.2 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976, as the property owner of 7,543 acres (30.5 km^2) of 57% of the area with the above described boundaries. No privately–owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and use of campfires shall be allowed within public campgrounds established and maintained by the U.S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U.S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close the land within the hazardous fire area to entry pursuant to provisions of Section 4256, Public Resources Code.

§ 1204.7. Lily Gap–White Pines Hazardous Fire Area.

Lily Gap–White Pines Hazardous Fire Area is composed of approximately 63,488 acres (257.0 km^2)of forested land in Calaveras and Tuolumne Counties. The exterior boundary of the area is described as follows: Beginning at the 1/4 corner common to Secs. 28 & 29, T7N, R15E, MDB&M, being the NW cnr. of the Guilliani parcel; thence S to Forest Creek; thence along creek to road crossing at point known as Folsom Campground; thence SE on Bailey Ridge Fire Station Rd. from creek crossing through Secs. 33 & 34, T7N, R15E, & Secs. 3 & 10, T6N, R15E, to crossing of Middle Fork of Mokelumne River known as Solinsky Crossing; thence S & W through Secs. 10, 9 & 16, T6N, R15E, to road jct. with Buck Ranch Motor Way in SE 1/4, NW 1/4 of Sec. 16; thence E along Buck Ranch Motor Way through Secs. 16, 15, 14, 23, 24 & 13, T6N, R15E, and through Secs. 18, 7, 8, 9 & 10, T6N, R16E, to jct. with Black Springs Road; thence NE on Black Spring Rd. to jct. with E line of NW 1/4 of Sec. 10, T6N, R16E; thence N to 1/4 cnr. betw. Secs. 3 & 10; thence E 1.5 mi., S 1 mi. & W 1 mi. to Hwy. 4; thence S along highway

to intersection with line running NS through Sec. 15, T6N, R16E; thence S along said line to 1/4 cnr. betw. Scs. 15 & 22; thence S 1.5 mi., W .5 mi., S 1 mi. & W 1 mi. to 1/4 cnr. betw. Secs. 32 & 33; thence S .5 mi. to SE cnr. Sec. 32; thence W to NE cnr. of NW 1/4, NE 1/4 of Sec. 5, T5N, R16E; thence S 1 mi., E .25 mi., S .5 mile, W .5 mi. to Boards Crossing Rd.; thence N along the road across bridge to intersection with S line of NE 1/4, NW 1/4 of Sec. 8; thence W on said line to SW cnr. of NW 1/4, NW 1/4 of Sec. 8; thence S .75 mi., W 1 mi., S 1 mi., W .5 mi., S .5 mi. & W approx. .75 mi. to Calaveras Big Trees State Park bdry.; thence N along park bdry. approx. .5 mi. to intersection with N sec. line of Sec. 23; thence E approx. .5 mi. to SW cnr. of SE 1/4, SW 1/4 of Sec. 13; thence N along E bdry. of Big Trees Village subdivision units 2 & 3; thence E & NE along bdry. of Snow Shoe Springs and Big Trees Village subdivision units 9, 4, 6, 7 & 8 to intersection with N sec. line of Sec. 6; thence W on sec. line to NW cnr., Sec. 6; thence continue west to access road on west side of Hwy. 4; thence S SW on access road to jct. with E line of NW 1/4, SW 1/4 of Sec. 1, T5N, R15E; thence N to NE 1/4 cnr. of NW 1/4, SW 1/4 of Sec. 1; thence W .25 mi. & S .5 mi. to SE cnr., Sec. 2; thence SW along Camp Connell to White Pines Rd. approx. .25 mi. to NW cnr. of Dorrington Girl Scout Camp property; thence S along W bdry. of this property to SW cnr. of said property; thence E along S bdry. of this property extended to intersect Hwy. 4; thence SW along Hwy. 4 through Secs. 11, 14 & 15 to N bdry. of Big Trees State Park; thence along park bdry. W, SW & S to SE cnr., Sec. 16; thence continue S along park bdry. .25 mi.; thence SW to SE cnr. of SW 1/4, NE 1/4 of Sec. 21; thence W .25 mi., S .125 mi., W .5 mi., S .125 mi. and then W .25 mi. to SW cnr. of NW 1/4, SW 1/4 of Sec. 21; thence W .5 mi. and N 1.75 mi. to 1/4cnr. betw. Secs. 8 & 17, T5N, R15E; thence W to Summit Level Rd. and continue W along said road to intersection with E sec. line of Sec. 13, T5N, R14E; thence S along sec. line 1.5 mi., W 1.25 mi., N .5 mi., E .25 mi. & N to NW cnr. Sec. 24; thence E .5 mi., N 1 mi. through Sec. 13; W .5 mi., N 1 mi.; thence E 2 mi. to SW cnr., Sec. 5, T5N, R15E; thence N 1 mi. & E to SE cnr. Sec. 32, T8N, R15E; thence N .5 mi., W .5 mi., N .5 mi., W .75 mi., S .25 mi., W .75 mi. & S .75 mi. to SE cnr., Sec. 36, T6N, R14E; thence W 1.5 mi., N .5 mi., W .5 mi., N .5 mi. & W 1 mi. to SW cnr., Sec. 27, T6N, R14E; thence N .25 mi., W .25 mi., N .25 mi., E .75mi., N .25 mi., E .25 mi., S .25 mi. & E .25 mi. to 1/4 cnr. betw. Secs. 27 & 28, T6N, R14E; thence N 2 mi., W 1 mi., S .5 mi. & W .5 mi. to 1/4 cnr. betw. Secs. 16 & 21; thence S .75 mi., W .25 mi., N .25 mi., W .75 mi., N .5 mi., E .25 mi., N .25 mi. & E .25 mi. to SW cnr. of NW 1/4, SW 1/4 of Sec. 16, T6N, R14E; thence N 2.75 mi., W 1.25 mi., S .25 mi., W .25 mi., N .25 mi. & W .5 mi. to SW cnr. Sec. 31, T6N, R14E; thence W .25 mi., N .75 mi., E .25 mi., N .5 mi., W .25 mi., N .25 mi. & E .25 mi. to 1/4 cnr. betw. Sec. 30, T6N, R14E & Sec. 25, T6N, R13E; thence N .75 mi., E 1 mi., N .25 mi., E 1 mi., N to Mokelumne River on W sec. line of NW 1/4, SW 1/4 of Sec. 16, T7N, R14E; thence NE along Mokelumne River to intersection with N sec. line of Sec. 16; thence E along sec. line to NE cnr., Sec. 16; thence S .25 mi., E 2 mi., S .25 mi., E 1 mi. to 1/4 cnr. betw. Sec. 13, T7N, R14E & Sec. 18, T7N, R15E; thence S 1 mi., E .25 mi., S to Winton Rd.; thence E along Winton Road to intersection with W sec. line of Sec. 28, T7N, R15E; thence N to 1/4 cnr. betw. Secs. 28 & 29, T7N, R15E, the point of beginning.

AFPC—47,020 acres (190.4 km^2)
Other private—4,519 acres (18.3 km^2)
USFS—11,949 acres (48.4 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976, as the property owner of 47,020 acres (190.4 km^2) or 74% of the area with the above described boundary. No privately-owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and use of campfires shall be allowed within public campgrounds established and maintained by the U.S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U.S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close the land within the hazardous fire area to entry pursuant to provisions of Section 4256, Public Resources Code.

§ 1204.8. Mokelumne Hazardous Fire Area.

Mokelumne Hazardous Fire Area is composed of approximately 27,972 acres (113.2 km^2)of forested land in Calaveras County. The exterior boundary of the area is described as follows:

Beginning at the 1/4 cnr. between Secs. 28 & 29, T7N, R15E, MDB&M, being the NW cnr. of the Guilliani parcel, then S to Forest Creek; thence E along Forest Creek to the road crossing at Folsom Campground; thence SE on Bailey Ridge Fire Station Rd. through Secs. 32 & 34 and through Secs. 3 & 10, T6N, R15E, to the crossing of Middle Fork of Mokelumne River known as Solinsky Crossing; thence S & W through Secs. 10, 9 & 16 to the road jct. with Buck Ranch Motor Way in SE 1/4, NW 1/4 of Sec. 16; thence E along Buck Ranch Motor Way through Secs. 16, 15, 14, 23, 24 & 13 and through Secs. 18, 7, 8, 9 & 10, T6N, R16E, to the jct. with Black Spring Rd.; thence NE on Black Spring Rd. to jct. with E line of NW 1/4 of Sec. 10, T6N, R16E; thence N to 1/4 cnr. betw. Secs. 3 & 10; thence E .5 mi., N 2 mi. & E 1 mi. to SE cnr., Sec. 26, T7N, R16E; thence N .75 mi., E .25 mi., N .5 mi., W .25 mi. & N 1.25 mi. to 1/4 cnr. betw. Secs. 13 & 14, T7N, R16E; thence E 1 mi. through Sec. 13, N .25 mi., E .25 mi., N .25 mi. & W .25 mi. to NE cnr. Sec. 13; thence N .25 mi., W .5 mi., S .25 mi. & W 3.5 mi. to NW cnr. Sec. 16; thence S 1 mi., E 1 mi. & S .5 mi. to 1/4 cnr. betw. Secs. 21 & 22; thence W 1 mi., S 1.25 mi., W 1 mi. & N 1.75 mi. to NE cnr., Sec. 19, T7N, R16E; thence W 2 mi., N .75 mi., E .25 mi., N .25 mi. & W .25 mi. to NW cnr. Sec. 14, T7N, R15E; thence W .25 mi., S .25 mi., W 1.75 mi. & N .25 mi. to NE cnr. Sec. 15; thence W .5 mi., S .25 mi., W 1.5 mi., S .5 mi., E 1 mi. & S .25 mi. to SW cnr. Sec. 15; thence S 1 mi., W .5 mi., S to Winton Rd. and SE along this road approx. .5 mi. to W sec. line of Sec. 28; thence N to 1/4 cnr. betw. Secs. 28 & 29, T7N, R15E, to the point of beginning.

AFPC—17,521 acres (70.9 km^2)
Other Private—751 acres (3.0 km^2)
USFS—9,700 acres (39.3 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976, as the property owner of 17,521 acres (70.9 km^2) or 63% of the area with the above described boundary. No privately-owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and the use of campfires shall be allowed within public campgrounds established and maintained by the U.S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U.S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close the land within the hazardous fire area to entry pursuant to provisions of Section 4256, Public Resources Code.

§ 1204.9. Silver Fork Hazardous Fire Area.

Silver Fork Hazardous Fire Area is composed of approximately 13,331 acres (54.0 km^2) of forested land in El Dorado County. The exterior boundary of the area is described as follows:

Beginning at the section corner common to Secs. 1, 2, 11 & 12, T9N, R15E, then E 1 mi., N .5 mi., E 2.25 mi., N .5 mi. & E .25 mi. to the 1/4 cnr. betw. Sec. 33, T10N, R16E & Sec. 4, T9N, R16E; thence N 1 mi., W .5 mi., N 2 mi. & E 2 mi. to SE cnr. Sec. 15; thence N 2 mi., W 1.75 mi., N .25 mi., W .75 mi., N .75 mi. & W .5 mi. to NW cnr. of Lot 13, Sec. 5, T10N, R16E; thence S .25 mi., W 1.5 mi. & S .75 mi. to 1/4 cnr. betw. Secs. 1 & 12, T10N, R15E; thence W 2 mi., S 1 mi., E 1.75 mi., S 1 mi. & E .25 mi. to 1/4 cnr. betw. Secs. 13 & 24; thence S 1 mi., E 1.25 mi., S .25 mi. & E approx. .75 mi. to Hells Delight Rd.; thence S along said road through Secs. 29 & 32 to a point on S sec. line of Sec. 32 nr. SW cnr. of SE 1/4, SE 1/4; thence W .75 mi. along sec. line, N .5 mi., W 1 mi., N .5 mi. & W 1 mi. to NW cnr., Sec. 36; thence S 2 mi. to SW cnr., Sec. 1, T9N, R15E, the point of beginning.

AFPC—7,274 acres (29.4 km^2)
Other Private—97 acres (39.3 ha)

USFS—5,960 acres (24.1 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976 as the property owner of 7,274 acres (29.4 km^2) or 55% of the area with the above described boundary. No privately-owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and use of campfires shall be allowed within public campgrounds established and maintained by the U. S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U. S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close those lands within the hazardous fire area to entry pursuant to provisions of Section 4256, Public Resources Code.

§ 1204.10. Sly Park–Alder Creek Hazardous Fire Area.

Sly Park–Alder Creek Hazardous Fire Area is composed of approximately 39,436 acres (159.7 km^2) of forested land in El Dorado and Amador Counties. The exterior boundary of the area is described as follows:

Beginning at the section corner common to Secs. 16, 17, 20 & 21, T10N, R13E, MDB&M; thence E 1 mi. to the SE sec. cnr. to Sec. 16, T10N, R13E; thence S 2.5 mi., W .5 mi. to center of Sec. 33; thence S 1.5 mi. to 1/4 cnr. betw. Secs. 4 & 9, T9N, R13E; thence E 1.25 mi., S .25 mi., E .25 mi., S .25 mi. & E .5 mi. to center of Sec. 11, T9N, R13E; thence N .5 mi., E .5 mi. & N 2 mi. to SW cnr., Sec. 25, T10N, R13E; thence E 1 mi., N .5 mi., W .25 mi., S .5 mi. & W .25 mi. to the 1/4 cnr. betw. Secs. 26 & 35; thence S 1 mi.; W 1 mi. & N 3.5 mi. through center of Secs. 34, 27 & 15 to center of Sec. 15, T10N, R13E; thence E .25 mi., N .5 mi. & E .75 mi. to 1/4 cnr. betw. Secs. 11 & 14; thence S 1 mi. & E .75 mi. to 1/4 cnr. betw. Secs. 17 & 20, T10N, R14E; thence S .25 mi., E .25 mi., S .25 mi. & E 1.25 mi. to 1/4 cnr. betw. Secs. 21 & 22; thence S 1 mi., E 1 mi. & N .5 mi. to SE cnr., Sec. 22; thence E 2 mi., S 1.5 mi. & E 1.5 mi. to center of Sec. 32, T10N, R15E; thence N .5 mi. & E approx. 1 mi. to Mormon Trail (Iron Mt. Road); thence E along Mormon Trail Rd. to a point on E sec. line of Sec. 34 where Mormon Trail crosses line; thence N 3.25 mi., W 1 mi., N .75 mi. and W 1 mi. to SE cnr. Sec. 8; thence N .5 mi., E .5 mi., N .5 mi. & E approx. 1.25 mi. to Beanville Creek; thence N along Beanville Creek 1 mi., more or less, to creek's intersection with N sec. line of Sec. 3, T10N, R15E; thence W along sec. line to SE cnr. SW 1/4, SW 1/4 of Sec. 33, T11N, R15E; thence N 1 mi. & W along sec. line approx. .75 mi. to PG&E flume; thence W along flume through Secs. 32 & 31, T11N, R15E & Sec. 36, T11N, R14E, to flume's intersection with the W sec. line of Sec. 36; thence S approx. 1 mi. to SW cnr. Sec. 36; thence W .5 mi., N 1 mi., W 1.5 mi. & S 1 mi. to SW cnr., Sec. 34, T11N, R14E; thence W 2.25 mi., N 1 mi., W 1.75 mi. & S 1 mi. to SW cnr., Sec. 35, T11N, R13E; thence W 1.75 mi., N .25 mi., W approx. 2 mi. to county road from Pollock Pines to Jenkinson Lake; S on county road approx. .125 mi. to intersection with Rupley Tree (private) road; thence E & S on this road approx. 1.25 mi. to intersection with S sec. line of Sec. 5, T10N, R13E; thence W along sec. line approx. 500 feet to NW cnr. of NE 1/4, NE 1/4, Sec. 8; thence S .5 mi., E .25 mi., N .25 mi., E .75 mi., N .25 mi. & E .25 mi. to NW cnr., Sec. 10; thence S 1.5 mi. to 1/4 cnr. betw. Secs. 15 & 16; thence W 1 mi. & S to Mormon Trail; thence W on trail approx. .5 mi. to Jenkinson Lake East Dam in NE 1/4, SW 1/4 of Sec. 17; thence W & S along Sly Park Creek approx. 2 mi. to intersection with W sec. line of Sec. 19; thence S along sec. line approx. 1500 feet to SW cnr., Sec. 19; thence E 2 mi. & N 1 mi. to SW cnr. Sec. 16, T10N, R13E, the point of beginning.

AFPC—22,049 acres (893 km^2)

Other Private—1,510 acres (6.1 km^2)

USFS—15,877 acres (64.3 km^2)

This area is established in response to a letter of petition from the American Forest Products Corporation dated October 25, 1976 as the property owner of 22,049 acres (89.3 km^2) or 56% of the area with the above described boundary. No privately-owned campgrounds established and maintained for public use have been identified and exempted from use restrictions set forth in Section 4255, Public Resources Code. Smoking and use of campfires shall be allowed within public campgrounds established and maintained by the U. S. Forest Service for public use unless restrictions on such uses are specifically posted within each campground by the U. S. Forest Service. American Forest Products Corporation has filed with the Board consent for the Director to close the land within the hazardous fire area to entry pursuant to provisions of Section 4256, Public Resources Code.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

Article 5. Central Coast Region

§ 1205. Quien Sabe–Los Muertos Hazardous Fire Area.

Quien Sabe–Los Muertos Hazardous Fire Area is composed of approximately 130,000 acres (526.3 km^2) of watershed land in San Benito County. The exterior boundary of the area is described as follows:

Beginning at the junction of the Lone Tree Rd. and the San Benito–Merced County line in the SE 1/4 of Sec. 5, T12S, R7E, MDB&M; thence W along Lone Tree Rd. approx. 11 mi. to the intersection of Lone Tree and Fairview Rds.; thence S along Fairview Rd. approx. 1 mi. to intersection of Fairview and Santa Anna Valley Rds.; thence following along Santa Anna Valley Rd. SE for approx. 12 mi. to jct. of Santa Anna Valley Rd. and sec. line dividing Secs. 28 & 29, T13S, R7E; thence S along sec. line dividing Secs. 32 & 33, T13S, R7E, to SW cnr. of Sec. 33, T13S, R7E; thence due E approx. 3.25 mi. to Canada Verde Creek; thence S along creek to NE cnr. of Sec. 12, T14S, R7E; thence S 3.25 mi. to Hollister–Panoche Rd. following along road E approx. 9 mi. to Antelope Fire Control Station (so. bdry. of Sec. 6, T15S, R9E); thence NE along Fancher–Wilkinson private road to NW cnr. of Sec. 3 T15S, R9E; thence E 3 mi. following along township line dividing Townships 14S & 15S to SE cnr. of Sec. 36, T14S, R9E; thence N 1.5 mi. following along E bdry. of Secs. 25 & 36, T14S, R9E; thence E 1 mi. following along S line of Sec. 19, T14S, R10E, to SE cnr. of Sec. 19; thence due north following along sec. lines dividing Secs. 19 & 20, 17 & 18, and 7 & 8, T14S, R10E, to San Benito–Fresno County line; thence following along said line to jct. of San Benito–Merced County lines; thence along said line to the point of beginning.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.1. Jamesburg Hazardous Fire Area.

Jamesburg Hazardous Fire Area is composed of approximately 67,000 acres (271.3 km^2) of watershed lands in Monterey County. The exterior boundary of the area is described as follows:

Beginning at Mt. Toro Triangulation Station (USC&GS) thence SE, following divide between watersheds of the Salinas River and Carmel River to Palo Escrito Peak; thence S along Paloma Creek to county rd. betw. Carmel Valley and Arroyo Seco; thence W along county rd. to NW cnr. of Sec. 28, T18S, R4E, MDB&M; thence following N bdry. of Los Padres National Forest W & N to NE cnr. of Sec. 1, T18S, R2E; thence NE in a straight line to point of intersection of N line of Sec. 31, T17S, R3E, with the county rd. betw. Carmel Valley & Princess Camp; thence following county rd. N & W to Klondike Canyon; thence up said canyon to a point which lies due west of jct. of main forks of Chupines Creek; thence due E to jct. of main forks of Chupines Creek, being a point at which an old rd. running betw. Chupines Creek and Calera Canyon leaves Chupines Creek to the north; thence N about 1.5 mi. along said old rd. to S fork of Calera Canyon at approx. E 1/4 cnr. of Sec. 29, T16S, R3E; thence NE up S fork of Calera Canyon to Mt. Toro Triangulation Station, the point of beginning.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.2. LaGloria Hazardous Fire Area.

LaGloria Hazardous Fire Area is composed of approximately 131,900 acres (534.0 km^2) of watershed land in Monterey County. The exterior boundary of the area is described as follows:

Beginning at the point where Topo Creek intersects the Monterey–San Benito County line, then N along said line to point where San Juan Rd. intersects county line; thence SW along road to intersection of Crazy Horse Canyon Rd.; thence SE along said rd. to intersection of Old Stage Rd.; thence S along Old Stage Rd. to intersection of Iverson Rd.; thence SE along road to intersection of Gloria Rd.; thence E along Gloria Rd. to intersection of Gloria–Camphora Rd.; thence S along said road to a point where Mantes Vineyard intersects said road; thence S along San Vicente Grant line to a point where Bryant Canyon Rd. intersects said Grant line; thence S along Bryant Canyon Rd. to intersection of Metz Rd.; thence S along road to a point where Topo Creek intersects said road; thence E along creek to the point of beginning.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.3. Pacheco Hazardous Fire Area.

Pacheco Hazardous Fire Area is composed of approximately 95,720 acres (387.5 km^2) of watershed land in Merced and Santa Clara Counties. The exterior boundary of the area is described as follows:

Commencing at the Gustine Forest Fire Station in Sec. 15, T8S, R8E; thence S along Mendota Canal to its jct. with Hwy. 33 at a point midway on the E sec. line of Sec. 7, T10S, R9E; thence S on Hwy. 33 to its jct. with Hwy. 152 at the SE cnr. of Sec. 18, T10S, R9E; thence W along Hwy. 152 to a point midway on S bdry. of Sec. 17, T10S, R8E; thence S along Harper Lane to its jct. with French Pass Rd.; thence SW along said road to Merced County line in French Pass on N sec. line of Sec. 32, T11S, R7E; thence N along county line to its jct. with Whisky Flat Rd., Sec. 6, T11S, R7E; thence N along Whisky Flat Rd., to bdry. of Rancho San Luis Gonzaga (a grant) in approx. the center of Sec. 31, T10S, R7E; thence W along bdry. of Rancho San Luis Gonzaga to its jct. with Hwy. 152, Sec. 32, T10S, R6E; thence NE along Hwy. 152 to its jct. with county line road in Sec. 16, T10S, R7E; thence in a general northerly direction along county line road to a point in Sec. 20, T9S, R7E, which forms jct. of Santa Clara, Stanislaus and Merced County lines; thence NE along Merced County line to its jct. with Sullivan Rd. in Sec. 16, T8S, R8E; thence E along said road to the point of beginning. (Refer to Department of Forestry map of Santa Clara County, Mt. Hamilton Unit, 1950 (Rev. 1954)).

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.4. San Francisco Peninsula Watershed Hazardous Fire Area.

San Francisco Peninsula Watershed Hazardous Fire Area is composed of approximately 23,000 acres (93.1 km^2) of watershed lands in San Mateo County, described as follows:

Beginning at a point on the westerly line of Hwy. 35, said point being on the SW San Bruno city limit; thence S along W line of Hwy. 35 approx. 8,000 feet (2.4 km) to its intersection with the W property line of Interstate Hwy. 280; thence SE along said W property line of Hwy. 280 approx. 74,000 feet (22.6 km) to its intersection with the N limit of Town of Woodside; thence SW along town limit approx. 2,500 feet (76.2 metres) to a point on the crest of the ridge overlooking West Union Creek; thence along the firebreak situated thereon NW and W approx. 16,000 feet (4.9 km) to the crest of Kings Mountain at the termination of the firebreak with the E line of State Hwy. 35; thence N along E line of highway approx. 23,000 feet (7.0 km) to its intersection with Hwy. 92 at the crest of Cahill Ridge; thence N along E side of Cahill Ridge Rd. approx. 3,300 feet (1.0 km) to the SE cnr. of Sec. 11, T5S, R5W, MDB&M; thence N & W along the grant bdry. of Los Feliz Rancho to the SE cnr. of SW 1/4, SW 1/4 of Sec. 2, T5S; thence W along S sec. line of Secs. 2, 3 & 4, T5S, R5W, to the point of intersection with Corinda Los Trancos dirt road; thence along E side of said road in a NW direction along ridge of Montera Mountain to jct. of road with Whiting Ridge dirt road in the W 1/2 of Sec. 25, T4N, R6W; thnce NE along E side of said road to its intersection with Portola Road in the SE 1/4, SE 1/4 of Sec. 7, T4N, R5W; thence in a NW direction along E side of Portola Rd. over Sweeney Ridge approx. 5,100 feet (1.6 km) to its jct. with the spur road to the military reservation; thence continuing along Portola Rd. in a northerly direction to its intersection with the W San Bruno City limits; thence SE along city limit line approx. 2,000 feet (610 metres); thence NE approx. 2,000 feet (610 metres), to the point of beginning.

The land within the posted boundaries of the recreational use areas listed and described below are excluded from the San Francisco Peninsula Watershed Hazardous Fire Area:

Pilarcitos Picnic Grounds:

These grounds are located in the NW 1/4, NW 1/4 of Sec. 33, T5S, R5W, MDB&M, approximately 500 feet (152.4 metres) in a southerly direction from the Pilarcitos Dam.

Vista Point, Interstate Highway 280:

This area is located on a ridge at an elevation of approximately 640 feet (175 metres), approx. 800 feet (243.8 metres) S SW of Hwy. 280 and approx. .5 mi. (804.7 metres) SE on Hwy. 280 from highway intersection at the jct. of Hwys. 280 and 92 in San Mateo County.

Crystal Springs Golf Course:

This area of approximately 204 acres (82.6 ha) is delineated on San Francisco Water Department Drawing No. X–1847, dated October 14, 1971, attached to and filed with the Official Boundary Maps—San Francisco Peninsula Watershed Hazardous Fire Area as a public record on file in the Department of Forestry.

Pulgas Water Temple:

The temple and grounds occupy an area of approximately 5 acres (2.0 ha) enclosed by a fence located west of Canada Road approximately 8,000 feet (2.4 km) NW of intersection of Canada and Edgewood Roads and approximately 1,400 feet (427 metres) easterly from extreme southeast shoreline of the Upper Crystal Springs Reservoir in San Mateo County.

The above described lands and listed exclusions therefrom are fully delineated on the following U.S. Geological Survey, 7.5 minute, Topographic Quadrangle Maps, published at a scale of 1:24000 and identified as:

Montara Mountain, California, printed 1961, revised 1968
San Mateo, California, printed 1956, revised 1968, 1973
Woodside, California, printed 1961, revised 1968, 1973

and further designated as Sheets A, B and C, respectively, of Official Boundary Maps—San Francisco Peninsula Watershed Hazardous Fire Area, retained as a public record on file in the Department of Forestry. This hazardous fire area designation is effective from May 20 to November 1, 1977 and from June 1 to November 1 of each year thereafter.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.5. San Mateo, Santa Cruz and Santa Clara Counties Hazardous Fire Area.

San Mateo, Santa Cruz and Santa Clara Counties Hazardous Fire Area is composed of approximately 220,940 acres (894.5 km^2) of forest and

watershed land in the above counties. The exterior boundary of this area is described as follows:

Beginning at the U.S. Coast & Geodetic Survey bench mark 2063, located in NW 1/4 of Sec. 9, T6S, R4W, MDB&M, San Mateo County; thence S on Star Hill Rd. to Ranch Rd.; thence E on Ranch Rd. to Bear Gulch Rd.; S on Bear Gulch Rd. to San Gregorio Rd.; thence SE on San Gregorio Rd. to Pescadero Creek Rd.; SW on Pescadero Creek Rd. to Cloverdale Rd. located in the SE 1/4 of Sec. 11, T8S, R5W; thence S on Cloverdale Rd. to Hwy. 1, S on Hwy. 1 to Liddell Creek, E on Smith Grade to Hwy. 9, N on Hwy. 9 to Quail Hollow Rd.; E on Quail Hollow Rd. through Zayante Park, continuing E to Hwy. 17 at Fontenay Villa, S from Fontenay Villa to Blackburn Gulch, then SE to the Soquel Rd. continuing SE to Hames Rd., S to Browns Valley Rd., N on Browns Valley Rd. to Hazel Dell Rd., SE on Hazel Dell Rd. to the Mt. Madonna Rd.; N on Mt. Madonna Rd. to the intersection of Mt. Madonna Rd. and Loma Ridge Rd. located in the NE 1/4 of Sec. 3, T10S, R1E; thence N on Loma Ridge Rd., Santa Clara County, to Almaden Air Force Rd. to Hicks Rd., NW on Hicks Rd. and Kennedy Rd. to Hwy. 17 (Los Gatos) from Hwy. 17, NW on the Saratoga–LosGatos Rd. to the town of Saratoga; thence W from Saratoga on Big Basin Way to Congress Springs, N from Congress Springs via Stevens Canyon Rd. to the Stevens Creek County Park; thence from the Park NW on Monte Bello Ridge Rd. to Skyline Boulevard, NW on Skyline Blvd. to the Sky Londa Forest Fire Station, then N on Woodside Rd. to Kings Mountain Rd. to bench mark 2063 in NW 1/4, Sec. 9, T6S, R4W, the point of beginning.

The campgrounds or campsites listed below are designated as locations where smoking and the building of campfires may be allowed within posted campground limits and within cleared firebreaks surrounding said campgrounds or campsites:

San Mateo County:

Camp Cutter; Sunnyside Lodge; Camp Chesbora; Skylark Girl Scouts; Loma Mar YMCA; Day Break Camp; The Willows; San Francisco YMCA; Log Cabin Ranch; Kings Grove Association; La Honda Park; all San Mateo County Parks except Pescadero Park; Mountain Camp; Villa Don Bosco; Wycliffe Bible Translator, Inc.; and Bahi School Camp.

Santa Cruz County:

Hewlett Packard (Little Basin); Camp Lidblad (BSA); Camp Harmon; Camp Campbell YMCA; Mt. Cross Lutheran Bible Camp; Camping Unlimited for Retarded Children; Camp Hammer; Redwood Christian Park; Satori Conference Center, Inc.; 4–H Camp, located on Highland Avenue; Hidden Falls for Girl Scouts; Boulder Creek Scout Training Reservation; Glenwood Baptist; Camp Wastahi (GSA); Quaker Center; Bridge Mountain Foundation; Ben Lomond Volunteer Fire Recreation Area; Boulder Creek Volunteer Fire Recreation Area; Range 3 West; Forest Pool; UCSC Campground; Bear Creek Recreation Area; and Bear Creek Estates.

Santa Clara County:

Easter Seal Camp; Camp Stuart; Saratoga Springs; all Santa Clara County Parks; Stevens Creek Lodge; C. Grigg; Paul Masson Camp; Echo Mountain Camp; Camp Ren Wickiup; and Sunnyvale Mountain Park. This designation as a hazardous fire area shall be in effect from May 20 to December 1, 1977 and from May 15 to December 1 each year thereafter.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

§ 1205.6. Los Padres Boundary Hazardous Fire Area.

Los Padres Boundary Hazardous Fire Area is composed of approximately 170,835 acres (691.6 km^2)of forest and watershed lands located along the north and east boundaries of the Monterey District of the Los Padres National Forest. The exterior boundary of the area is described as follows:

Beginning at Mt. Toro (U.S. Coast & Geodetic Survey Station); thence SE following the divide between the watershed of the Salinas River and the Carmel River to Palo Escrito Peak; continuing SE along the divide betw. Salinas and Arroyo Seco Rivers beyond Paloma Mt. to high point 3660 nr. E 1/4 cnr. of Sec. 22, T18S, R5E, MDB&M; thence S down a ridge to county road betw. Arroyo Seco and Greenfield nr. N 1/4 cnr. of Sec. 24, T19S, R5E; thence E along said county road to its intersection with a private road nr. SW cnr. of Sec. 11, T19S, R7E; thence SE along dirt road at base of hill that coincides with zone line designating local responsibility and state responsibility lands to intersection of county road known as Thompson Canyon; thence SW along Thompson Canyon Rd. to its jct. with dirt road in SE 1/4 of Sec. 17, T20S, R7E; thence SE along said dirt road to its intersection with Pine Canyon Rd. in the NE 1/4 of Sec. 34, T20S, R7E; thence generally S along a private road over the ridge into Cherry Canyon; thence E along Cherry Canyon Rd. to its intersection with the county road between King City and Jolon; thence SW approx. 3 mi. to a private road in the SW 1/4 of Sec. 18, T21S, R8E; thence SE up Mansfield Canyon to Merritt Peak (U.S. Coast & Geodetic Triangulation Station) bench mark 2310, continuing S along a private dirt road into Robinson Canyon; thence W along Robinson Canyon Rd. to the Hunter Liggett Military bdry. at the NE cnr. Sec. 24, T22S, R7E; thence NW along said military bdry. to its intersection with Los Padres National Forest bdry. in Sec. 17, T21S, R6E; thence N and W along National Forest bdry. to NE cnr. of Sec. 1, T18S, R2E; thence NE in a straight line to point of intersection of N line of Sec. 31, T17S, R3E, with county road between Carmel Valley and Princess Camp; thence following said road N and W to Klondike Canyon; thence up Klondike Canyon to a point which lies due W of the jct. of the main forks of Chupines Creek; thence due E to jct. of main forks of Chupines Creek, being a point at which an old road running between Chupines Creek and Calera Canyon leaves Chupines Ceek to the N; thence N about 1.5 mi. along said old road to S fork of Calera Canyon at approx. E 1/4 cnr. Sec. 29, T16S, R3E; thence NE up S fork of Calera Canyon to Mt. Toro, the point of beginning. The private campgrounds or campsites located within the boundaries of the hazardous fire area listed below are designated as locations where smoking and the building of campfires may be allowed within posted campground limits and within cleared firebreaks surrounding said campgrounds or campsites.

Princess Camp Campground:

This campground is about 11 acres (4.45 ha) in size and is located about one mile north of the Forest Service Carmel River Guard Station in Sec. 4, T18S, R3E.

Millers Lodge Campground:

This campground contains approximately 40 acres (16.2 ha) and is located in the Arroyo Seco Canyon about 6 miles NE of the Forest Service Arroyo Seco Guard Station in Sec. 27, T19S, R5E.

The descriptions above, for purposes of convenience, include portions of the areas described in Section 1205.1, Title 14, California Administrative Code. The designation as a hazardous fire area shall be in effect from May 20 to December 1, 1977 and from May 15 to December 1 each year thereafter.

NOTE: Authority cited: Section 4253, Public Resources Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. Amendment filed 6–20–79 as procedural and organizational; effective upon filing (Register 79, No. 25).

Article 6. Southern California Region

§ 1206. DeLuz–Tenaja Hazardous Fire Area.

DeLuz–Tenaja Hazardous Fire Area is composed of approximately 17,800 acres (72.04 km^2) of watershed land in San Diego and Riverside Counties. Where roads constitute the exterior boundary of said hazardous fire area, the boundary along such road shall be located as follows: If the road right–of–way is fenced, the boundary shall be at outermost fence line so that the entire road right–of–way lies within the hazardous area; if the road right–of–way is unfenced, then the exterior boundary of the hazardous area shall be the outer edge of the graded road surface so

that the entire road lies within the hazardous area. The exterior boundary of the area is described as follows:

Beginning at the NW corner of Section 13, T8S, R5W, SBB&M, on the San Diego–Riverside County boundary line, thence S approx. 3 miles (4.83km) on the section bdry. lines common to Secs. 13 and 14, 23 and 24, and 25 and 26, to the SW cnr. of Sec. 25, T8S, R5W; thence W approx. 1.96 miles (3.15km), on the sec. bdry. lines common to Secs. 26 and 35, and 27 and 34, to the jct. with the E bdry. of Camp Pendleton Marine Corps Base Naval Reservation at the SW cnr. of Sec. 27, T8S, R5W; thence S and E, following the Camp Pendleton Marine Corps Base Naval Reservation and Grant Boundary to its jct. with the DeLuz County Road nr. the 1/4 cnr. on the S bdry. line of Sec. 12, T9S, R4W, SBB&M, near Bench Mark 304, said portion of the Naval Reservation and Grant Boundary being described as follows:

Beginning at the NW cnr. of Sec. 34, T8S, R5W, SBB&M, SE approx. 1.25 mi, (2 km) to the SW cnr. of Sec. 34, T8S, R5W; thence E approx. 2.8 miles (4.51 km) to the N 1/4 cnr. of Sec. 6, T9S, R4W; thence S approx. 1.95 mi. (3.14 km) to the S1/4 cnr. of Sec. 7, T9S, R4W; thence E approx. 0.5 mi. (0.8 km) to the SE cnr. of Sec. 7, T9S, R4W; thence N approx. 1500 ft. (0.46 km) to the NE cnr. of SW 1/4 SW 1/4 of Sec. 8, T9S, R4W; thence E approx. 2800 ft. (0.85 km) to the NE cnr. of the SE 1/4 SW 1/4 of Sec. 8, T9S, R4W; thence N approx. 3900 ft (1.19 km) to the NW cnr. of the NW 1/4 NE 1/4 of Sec. 8, T9N. R4W; thence E approx. 0.25 mi. (0.4 km) to the NE cnr. of the NW 1/4 NE 1/4 of Sec. 8, T9S, R4W; thence S approx. 0.5 mi. (0.8 km) to the NE cnr. of the NW 1/4 SE 1/4 of Sec. 8, T9S, R4W; thence E approx. 0.25 mi. (0.4 km) to the NE cnr. of NE 1/4 SE 1/4 of Sec. 8, T9N, R4W; thence S approx. 500 ft. (0.15 km); thence NE approx. 1.25 mi. (2.01 km) to a point near elevation 1146 ft. in the SW 1/4 SW 1/4 of Sec. 3, T9S, R4W; thence SE approx. 1.43 mi. (2.3 km) to a point near elevation 1028 ft. in the NW 1/4 SW 1/4 of Sec. 11, T9S, R4W; thence E approx. 3800 ft. (1.16 km) to the NE cnr. of the NE 1/4 SE 1/4 of Sec. 11, T9S, R4W; thence E approx. 2,000 ft. (0.61 km) in the NE 1/4 SW 1/4 of Sec. 12, T9, R4W; thence S approx. 1,500 ft (0.46 km) to the intersection with the DeLuz County Road near Bench Mark 304.

Thence E on the DeLuz County Road approx. 1,500 ft (0.46 km) to its intersection with Sandia Creek Dr. in the NW 1/4 NE 1/4 of Sec. 13, T9S, R4W, near Bench Mark 331; thence N on Sandia Creek Dr. approx. 1.1 mi. (1.77 km) to its jct with the Rock Mtn. Rd. in the NE 1/4 NE 1/4 of Sec. 12, T9S, R3W; thence NE on said rd. approx. 1.2 mi (1.93 km) to its jct. with the Margarita Truck Trail in the SW 1/4 SE 1/4 of Sec. 6, T9S, R3W; thence N through Sec. 6, T9S, R3W, and Sec. 31, T8S, R3W; approx. 2.2 miles (3.54 km) to its intersection with the San Diego–Riverside County bdry. line at a pt. approx. .125 mi. (0.2 km) S of NW cnr. of Sec. 31, T8S, R3W; thence N approx. .37 mi. (0.6 km) and NW approx. 7.6 mi. (12.23 km) along the San Diego–Riverside County bdry. line to the point of beginning. The private campgrounds or campsites located within the exterior boundary of the DeLuz–Tenaja Hazardous Fire Area listed below are designated as locations where smoking and the building of campfires may be allowed within posted campground limits:

Fallbrook Kamp Retreat:

This campground contains approximately 60 acres (24.3 ha) and is located in DeLuz Canyon one mile (1.6 km) SW of the San Diego–Riverside County line in the E 1/2, SW 1/4 and SE 1/4, SW 1/4 of Sec. 20, T8S, R4W, in San Diego County.

This designation as a hazardous fire area shall be in effect from the date of filing with the Secretary of State through December 31, 1977 and from May 1 through December 31 each year thereafter.

NOTE: Authority cited: Section 4253, Public Resource Code. Reference: Sections 4251 and 4253, Public Resources Code.

HISTORY

1. New Article 6 (Section 1206) filed 6–3–77 as an emergency; effective upon filing (Register 77, No. 23). Issuing agency: Department of Forestry.
2. Certificate of Compliance filed 9–16–77 (Register 77, No. 38).
3. Amendment filed 9–27–77; effective thirtieth day thereafter (Register 77, No. 40). Issuing agency: Department of Forestry.

§ 1207. Closure to Entry—San Francisco Peninsula Hazardous Fire Area.

NOTE: Authority cited: Section 4256, Public Resources Code. Reference: Sections 4254, 4256 and 4257, Public Resources Code.

HISTORY

1. New Article 7 (Section 1207) filed 6–3–77 as an emergency; effective upon filing (Register 77, No. 23). Issuing agency: Director of Forestry.
2. Certificate of Compliance filed 9–16–77 (Register 77, No. 38).
3. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

Chapter 7. Fire Protection*

* Formerly Subchapter 7 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

Article 1. Classification of Private Lands for Fire Protection

§ 1220. Presently Classified and Recorded Boundaries.

The boundaries of state responsibility areas for fire protection as defined in Section 4102 of the Public Resources Code, are delineated upon a series of maps of the State of California on file in the Sacramento office of the Department of Forestry. The maps are titled "Maps of State Responsibility Areas for Fire Protection." These maps are periodically amended and adopted by the Board of Forestry pursuant to Sections 4125–4128 of the Public Resources Code consistent with procedures contained in the publication entitled "State Responsibility Area Classification System" as updated March, 8, 2006.

NOTE: Authority cited: Sections 4111 and 4125, Public Resources Code. Reference: Sections 4102, 4125, 4126, 4127 and 4128, Public Resources Code.

HISTORY

1. Redesignation from Subchapter 7 of Chapter 2, Division 2 (Sections 1220–1258, not consecutive) to Chapter 5 of Division 2 (Sections 1220–1258, not consecutive) filed 4–1–77 as procedural and organizational; effective upon filing (Register 77, No. 14). For former history, see Registers 58, No. 21; 64, Nos. 7 and 20; 67, Nos. 2 and 32; 69, No. 17; 70, No. 18 and 71, No. 51.
2. Designation of Sections 1220–1220.4 as Article 1 filed 3–17–78; effective thirtieth day thereafter (Register 78, No. 11).
3. Redesignation from Chapter 5 (Sections 1220–1258, not consecutive) to Chapter 7 (Sections 1200–1258, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
4. Repealer of Article 1 (Sections 1220–1220.4) and new Article 1 (Sections 1220–1220.5) filed 10–13–78; effective thirtieth day thereafter (Register 78, No. 41).
5. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).
6. Amendment of section and NOTE filed 6–23–2006; operative 7–23–2006 (Register 2006, No. 25).

§ 1220.1. Procedure for Classification.

NOTE: Authority cited: Sections 4125–4128, Public Resources Code. Reference: Sections 4102 and 4125–4128, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1220.2. Environmental Documentation.

NOTE: Authority cited: Sections 4125–4128, Public Resources Code. Reference: Sections 4102 and 4125–4128, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1220.3. Recording of Boundary Changes.

NOTE: Authority cited: Sections 4125–4128, Public Resources Code. Reference: Sections 4102 and 4125–4128, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1220.4. Public Access and Review.

NOTE: Authority cited: Sections 4125–4128, Public Resources Code. Reference: Sections 4102 and 4125–4128, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1220.5. Suppression of Fires on Lands Adjacent to State Responsibility Areas.

NOTE: Authority cited: Sections 4125–4128, Public Resources Code. Reference: Sections 4102 and 4125–4128, Public Resources Code.

HISTORY

1. Repealer filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

Article 2. Fire Extinguisher Test Standards and Procedures

§ 1230. Purpose.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Repealer of Article 2 (Sections 1230–1235) and new Article 2 (Sections 1230–1235) filed 11–2–78; effective thirtieth day thereafter (Register 78, No. 44). For former history of Article 2, see Register 78, No. 11.
2. Amendment of NOTE filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
3. Repealer of article 2 (sections 1230 through 1235) and section filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1231. Test Standards.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Amendment of subsection (a) filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1232. Procedures and Conditions.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Amendment filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1233. Effectiveness Evaluation.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Amendment filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1234. Approved Extinguishers.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Amendment filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1235. Submission for Testing.

NOTE: Authority cited: Section 4431, Public Resources Code. Reference: Section 4431, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 12–21–81; effective thirtieth day thereafter (Register 81, No. 52).
2. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

Article 3. Fire Prevention Standards for Multiposition Small Engines

§ 1240. Multiposition Small Engine, Defined.

Multiposition small engine (Mse.) means—any internal combustion engine operated on hydrocarbon fuels that normally is hand–held when operated by one or more persons, which can and may be operated in any position, including but not limited to inverted and includes all of the engines to which the provisions of PRC 4443 are applicable.

NOTE: Authority cited: Section 4443, Public Resources Code. Reference: Section 4443, Public Resources Code.

HISTORY

1. New Article 3 (Sections 1240–1242.1) filed 3–17–78; effective thirtieth day thereafter (Register 78, No. 11).

§ 1241. Minimum Performance Standards for Multiposition Small Engine Exhaust System Fire Ignition Suppression for Engines Manufactured After June 30, 1978.

The following minimum performance standards for Mse. exhaust systems are established to prevent the ignition of fire in organic fuels consisting of, or developed from forest, brush or grass vegetation.

(a) Carbon Particle Retention or Destruction. Each Mse. exhaust system or a spark arrester used in or with such exhaust system shall be designed to retain or destroy 90% or more of the carbon particles having a major diameter greater than 0.023 in. (0.584 mm) as determined when tested in accordance with the provisions of part 3 of the Society of Automotive Engineers (SAE) Recommended Practice J335(b).

(b) Exposed Surface Temperature. The Mse. exhaust system shall be designed so that the exposed surface temperature shall not exceed 550 F (288 C) as determined when tested in accordance with the provisions of part 4 of SAE Recommended Practice J335(b).

(c) Exhaust Gas Temperature. The Mse. exhaust system shall be designed so that the exhaust gas temperature shall not exceed 475 F (246 C) as determined when tested in accordance with the provisions of part 5 of SAE Recommended Practice J335(b).

(d) Debris Accumulation. The Mse. exhaust system shall be designed in such a manner that there are no pockets or corners where flammable material might accumulate. Pockets are permissible only if it can be substantiated by suitable test that material can be prevented from accumulating in the pockets.

(e) Durability. The Mse. exhaust system must be constructed of durable material and so designed that it will, with normal use and maintenance, provide a reasonable service life. Parts designed for easy replacement as a part of routine maintenance shall have a service life of no less than 50 hours. Cleaning of parts shall not be required more frequently than once for each 8 hours of operation.

(f) Serviceability. A spark arrester shall be so designed that it may be readily inspected and cleaned.

§ 1241.1. Test Procedures for Multiposition Small Engine Exhaust System Fire Ignition Suppression for Engines Manufactured After June 30, 1978.

The exhaust system of Mse. shall be tested and evaluated (qualified and rated) for compliance with the minimum performance standards established therefore, by 14 CAC 1241 by using SAE Recommended Practice J335(b) as adopted December 15, 1976. Practice J335(b) is adopted by reference as though set forth at length herein.

§ 1241.2. Compliance Requirement for Multiposition Small Engines Manufactured After June 30, 1978.

Exhaust systems of Mse. operated or caused to be operated at any location in California on lands covered wholly or in part, by forest, brush, grass or any combination of such vegetation, will be only deemed to comply with the provisions of PRC 4443 if they are:

(a) certified by an Equipment Development Center of the United States Forest Service as having met the performance standards set forth in 14 CAC 1241 when tested using the procedures contained in SAE Recommended Practice J335(b) as required by 14 CAC 1241.1; and

(b) the operator of said Mse. maintains the exhaust system thereof so that it will at all times meet or exceed the minimum performance standards set forth in 14 CAC 1241.

NOTE: Authority cited: Sections 4111 and 4443, Public Resources Code. Reference: Section 4443, Public Resources Code.

HISTORY

1. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

§ 1242. Minimum Performance Standards and Test Procedures for Multiposition Small Engine Exhaust System Fire Ignition Suppression for Engines Manufactured Prior to July 1, 1978.

Mse. manufactured prior to July 1, 1978, which do not meet the minimum performance standards in 14 CAC 1241–1241.2 shall be equipped with a spark arresting device, installed in, attached to, or constructed as an integral part of the exhaust system, equipped with a woven screen with a maximum opening size of 0.0232 inches (0.584 mm) and is constructed of 0.013 inches (0.330 mm) or larger diameter, heat and corrosion resistant wire or has a usable life of 50 hours or more. The spark arrester will be considered in compliance with the requirement provided the total effective exhaust area (total area of openings) of the screen is not less than the 125% of the engine exhaust port area. The exhaust system shall be constructed to permit easy removal and replacement of the spark arrester screen for field inspection, replacement and cleaning.

§ 1242.1. Compliance Requirements for Multiposition Small Engines Manufactured Prior to July 1, 1978.

Spark arresters installed in, attached to, or constructed as an integral part of the exhaust system of Mse. manufactured prior to July 1, 1978 will be deemed to be in compliance with the provisions of PRC 4443 only if they meet at least one of the criteria set forth in subsections (a) and (b).

(a) Meet the minimum performance standards in 14 CAC 1241–1241.2.

(b) Is equipped with a woven screen with a maximum opening size of 0.032 inches (0.584 mm) as defined in 14 CAC 1242.

The person operating the Mse. will maintain the exhaust system so that it continuously meets such standards.

NOTE: Authority cited: Sections 4111 and 4443, Public Resources Code. Reference: Section 4443, Public Resources Code.

HISTORY

1. Amendment filed 7–7–82; effective thirtieth day thereafter (Register 82, No. 28).

Article 4. Fire Prevention Standards for Electric Utilities

§ 1250. Purpose.

The purpose of Article 4 is to provide specific exemptions from: electric pole and tower firebreak clearance standards, electric conductor clearance standards and to specify when and where the standards apply.

NOTE: Authority cited: Sections 4292 and 4293, Public Resources Code. Reference: Sections 4292–4296, Public Resources Code.

HISTORY

1. Repealer of Article 4 (Sections 1250–1258) and new Article 4 (Sections 1250–1258) filed 11–2–78; effective thirtieth day thereafter (Register 78, No. 44). For former history, see Registers 64, No. 7; 65, No. 6; 67, No. 32; 68, No. 42; 70, No. 18; 78, No. 11.
2. Repealer of Article 4 (Sections 1250–1258) and new Article 4 (Sections 1250–1258) filed 5–22–80; effective thirtieth day thereafter (Register 80, No. 23).
3. Repealer of Article 4 (Sections 1250–1258) and new Article 4 (Sections 1250–1258) refiled 6–6–80 correcting typographical errors contained in 5–22–80 order; effective thirtieth day thereafter (Register 80, No. 23).

§ 1251. Definitions.

The following definitions apply to this Article unless the context requires otherwise.

Defined word or phrase

"Conductor" means connector, a wire, or a combination of wires, and/or any other appliance designed and manufactured for use in the transmission and distribution of electrical current.

"Connector" means a device approved for energized electrical connections.

"Duff" means partially decayed leaves, needles, grass or other organic material accumulated on the ground.

"Firebreak" means a natural or artificial barrier usually created by the removal or modification of vegetation and other flammable materials for the purpose of preventing spread of fire.

"Hot line tap or clamp connector" means a connector designed to be used with a Grip–All Clamp stick (Shotgun) for connecting equipment jumper or tap conductors to an energized main line or running connector.

"Outer Circumference" means the exterior surface of a pole or tree at ground level or a series of straight lines tangent to the exterior of the legs of a tower at ground level. (See Figure 1, this Article.)

"Self–supporting aerial cable" means an assembly of abrasion resistant insulated conductors supported by a messenger cable which is normally grounded, designed and manufactured to carry electrical current for installation on overhead pole lines or other similar overhead structures.

"Tree wire" means an insulated conductor covered with a high abrasion resistant, usually non–metallic, outer covering, designed and manufactured to carry electrical current for installation on overhead pole lines or other similar overhead structures.

NOTE: Authority cited: Sections 4292–4293, Public Resources Code. Reference: Sections 4292–4296, Public Resources Code.

HISTORY

1. Amendment filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20).
2. Amendment filed 4–7–89; operative 5–7–89 (Register 89, No. 51).
3. Repealer of definition of "Agency" and amendment of definitions of "Conductor," "Connector" and "Firebreak" filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1252. Areas Where PRC 4292–4296 Apply in State Responsibility Areas.

The Director will apply PRC 4292–4296 in any mountainous land, forest covered land, brush covered land or grass covered land within State Responsibility Areas unless specifically exempted by 14 CCR 1255 and 1257.

NOTE: Authority cited: Sections 4292, 4293, Public Resources Code. Reference: Sections 4125–4128, 4292, 4293, Public Resources Code.

HISTORY

1. Amendment of section heading and section filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1252.1. Official Area Maps.

The official maps of State Responsibility Areas defined in 14 CCR § 1220 are available for viewing and copying during normal business hours at the California Department of Forestry and Fire Protection, 1416 Ninth Street, Sacramento, California, 95814, in the Fire Protection Section.

When, pursuant to PRC 4125–4128, the Board revises State Responsibility Area boundaries, the Director will forward a legal description of a boundary change(s) to the respective electric utility(s) serving the area(s).

NOTE: Authority cited: Sections 4292, 4293, Public Resources Code. Reference: Sections 4125–4128, 4292, 4293, Public Resources Code.

HISTORY

1. Amendment filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1252.2. Boundary Location—Roads, Etc.

Where the boundaries of areas described in 14 CAC 1252 are along roads, highways, streets, railroads, streams, canals or rivers, the actual boundary shall be the center–line of the course of such roads, highways, streets, railroads, streams, canals, and rivers.

NOTE: Authority cited: Sections 4292, 4293, Public Resources Code. Reference: Sections 4125–4128, 4292, 4293, Public Resources Code.

§ 1252.3. Boundary Location—Section Lines, Etc.

Where the boundaries of the area described in 14 CAC 1252 are on section, township or range lines, or on powerline rights–of–way, the poles, towers and conductors located thereon are within the area described.

NOTE: Authority cited: Sections 4292 and 4293, Public Resources Code. Reference: Sections 4125–4128, 4292 and 4293, Public Resources Code.

§ 1253. Time When PRC 4292–4296 Apply.

The minimum firebreak and clearance provisions of PRC 4292–4296 are applicable during the declared California Department of Forestry and Fire Protection fire season for a respective county. The Director shall post the declaration on the official Department web site.

NOTE: Authority cited: Sections 4292 and 4293, Public Resources Code. Reference: Sections 4125–4128, 4292 and 4293, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1254. Minimum Clearance Provisions—PRC 4292.

The firebreak clearances required by PRC 4292 are applicable within an imaginary cylindroidal space surrounding each pole or tower on which a switch, fuse, transformer or lightning arrester is attached and surrounding each dead end or corner pole unless such pole or tower is exempt from minimum clearance requirements by provisions of 14 CCR 1255 or PRC 4296. The radius of the cylindroid is 3.1 m (10 feet) measured horizontally from the outer circumference of the specified pole or tower with height equal to the distance from the intersection of the imaginary vertical exterior surface of the cylindroid with the ground to an intersection with a horizontal plane passing through the highest point at which a conductor is attached to such pole or tower. (See Figure 2 this Article.) Flammable vegetation and materials located wholly or partially within the firebreak space shall be treated as follows:

(a) At ground level—remove flammable materials, including but not limited to, ground litter, duff and dead or desiccated vegetation that will allow fire to spread, and;

(b) From 0–2.4 m (0–8 feet) above ground level—remove flammable trash, debris or other materials, grass, herbacious and brush vegetation. All limbs and foliage of living trees shall be removed up to a height of 2.4 m (8 feet).

(c) From 2.4 m (8 feet) to horizontal plane of highest point of conductor attachment—remove dead, diseased or dying limbs and foliage from living sound trees and any dead, diseased or dying trees in their entirety.

NOTE: Authority cited: Section 4292, Public Resources Code. Reference: Section 4292, Public Resources Code.

HISTORY

1. Repealer of subsection (d) filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20).
2. Amendment of first paragraph and subsection (a) filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1255. Exemptions to Minimum Clearance Provisions—PRC 4292.

The minimum clearance provisions of PRC 4292 are not required around poles and towers, including line junction, corner and dead end poles and towers:

(a) Where all conductors are continuous over or through a pole or tower; or

(b) Where all conductors are not continuous over or through a pole or tower, provided, all conductors and subordinate equipment are of the types listed below and are properly installed and used for the purpose for which they were designed and manufactured;

(1) compression connectors,

(2) automatic connectors,

(3) parallel groove connectors,

(4) hot line tap or clamp connectors that were designed to absorb any expansion or contraction by applying spring tension on the main line or running conductor and tap connector,

(5) Fargo GA 300 series piercing connectors designed and manufactured for use with tree wire,

(6) flat plate connectors installed with not less than two bolts,

(7) tapered C–shaped member and wedge connectors,

(8) solid blade single phase bypass switches and solid blade single phase disconnect switches associated with circuit reclosers, sectionalizers and line regulators,

(9) equipment that is completely sealed and liquid–filled;

(10) current limiting non–expulsion fuses or

(c) On the following areas if fire will not propagate thereon;

(1) fields planted to row crops,

(2) plowed or cultivated fields,

(3) producing vineyards that are plowed or cultivated;

(4) fields in nonflammable summer fallow;

(5) irrigated pasture land;

(6) orchards of fruit, nut or citrus trees that are plowed or cultivated,

(7) Christmas tree farms that are plowed or cultivated; and

(8) swamp, marsh or bog land; or

(d) Where vegetation is maintained less than 30.48 cm (12 inches) in height, is fire resistant, and is planted and maintained for the specific purpose of preventing soil erosion and fire ignition.

NOTE: Authority cited: Section 4292, Public Resources Code. Reference: Section 4292, Public Resources Code.

HISTORY

1. Amendment filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20).
2. New subsection (b)(10) filed 4–7–89; operative 5–7–89 (Register 89, No. 15).

§ 1256. Minimum Clearance Provisions—PRC 4293.

Minimum clearance required by PRC 4293 shall be maintained with the specified distances measured at a right angle to the conductor axis at any location outward throughout an arc of 360 degrees. (See Figure 3 this Article.)

Minimum clearance shall include:

(1) any position through which the conductor may move, considering, among other things, the size and material of the conductor and its span length;

(2) any position through which the vegetation may sway, considering, among other things, the climatic conditions, including such things as foreseeable wind velocities and temperature, and location, height and species of the vegetation.

NOTE: Authority cited: Section 4293, Public Resources Code. Reference: Sections 4293 and 4296, Public Resources Code.

HISTORY

1. Amendment filed 5–11–83; effective thirtieth day thereafter (Register 83, No. 20).
2. Amendment filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

§ 1257. Exempt Minimum Clearance Provisions—PRC 4293.

(a) The minimum clearance provisions of PRC 4293 applicable in State Responsibility Areas are exempted:

(1) Where conductors are:

(A) insulated tree wire, maintained with the high density, abrasion resistant outer covering intact, or

(B) insulated self–supporting aerial cable, maintained with the insulation intact, or

(C) supported by sound and living tree trunks from which all dead or decadent branches have been removed.

(2) On areas described in 14 CCR 1255(c).

(3) For major woody stems that have been established in their current location for a minimum of ten years; are vigorous and healthy; whose trunks and major limbs are at least six inches from primary distribution conductors (those generally less than 22,500 volts); and of sufficient strength and rigidity to prevent the trunk or limb from encroaching within six inches of primary distribution conductors under reasonably foreseeable local wind and weather conditions. This (a)(3) exemption shall expire December 31, 2008.

(b) These exemptions do not apply to dead and decadent or rotten trees, trees weakened by decay or disease, leaning trees and portions thereof that are leaning toward conductor(s) and any other growth which may fall across the conductor and break it.

NOTE: Authority cited: Sections 4111 and 4293, Public Resources Code. Reference: Sections 4293 and 4296, Public Resources Code.

HISTORY

1. Amendment filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).
2. New subsection (a)(3) and amendment of NOTE filed 4–30–2007; operative 5–30–2007 (Register 2007, No. 18).

§ 1258. Tree Lines.

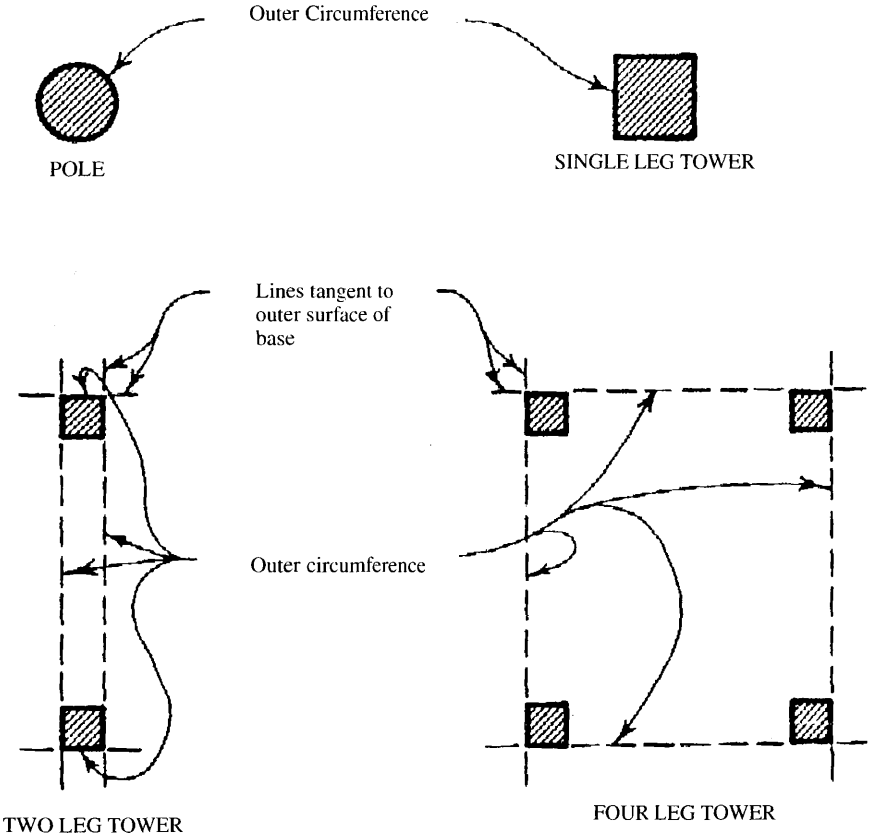
When electric conductors and subordinate elements are fastened to living, sound trees, commonly referred to as tree lines, the requirements of PRC 4292 and 4293 shall apply the same as to a pole or tower line.

NOTE: Authority cited: Sections 4292 and 4293, Public Resources Code. Reference: Sections 4292, 4293, and 4296, Public Resources Code.

HISTORY

1. Editorial correction of printing error removing Figure 2 heading (Register 91, No. 32).
2. Repealer of Figure 2 and renumbering of figures filed 10–24–2005; operative 11–23–2005 (Register 2005, No. 43).

Figure 1

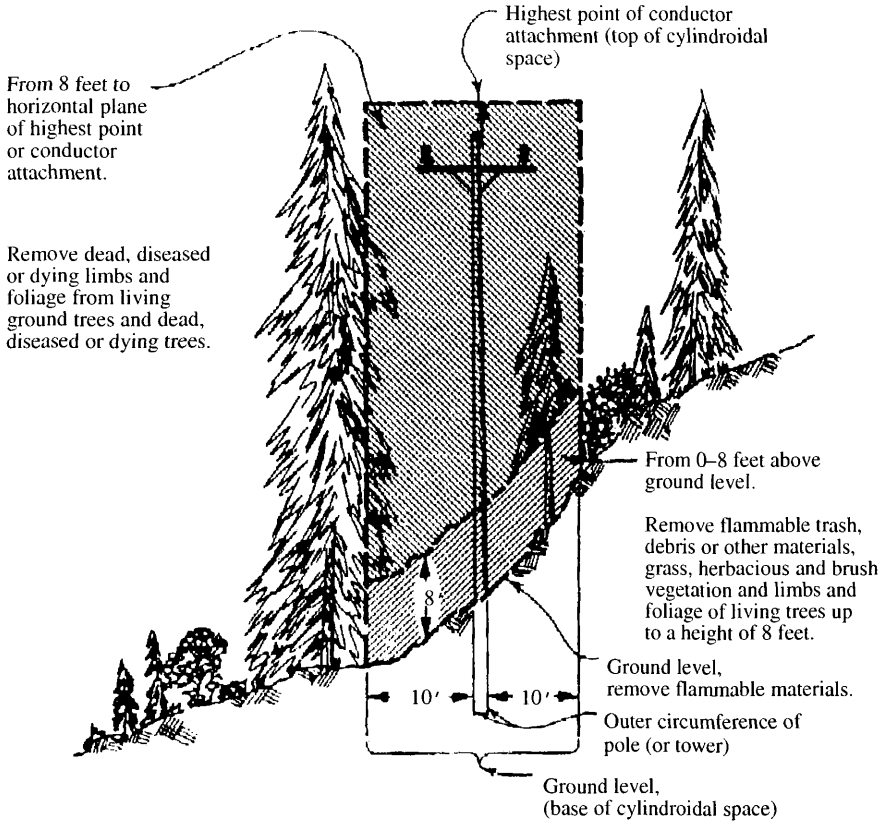


PRC 4292
14 CAC 1251

DEFINITION OF OUTER CIRCUMFERENCE
EXAMPLES
Plan views at ground level

APRIL 1980

Figure 2



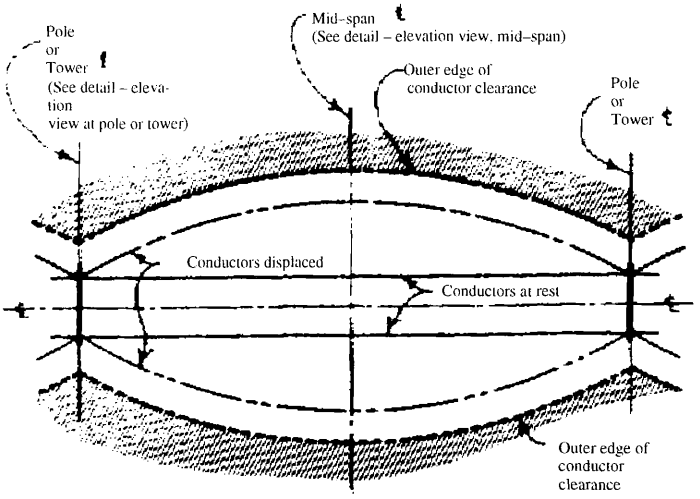
ELEVATION VIEW

PRC 4292
14 CAC 1254

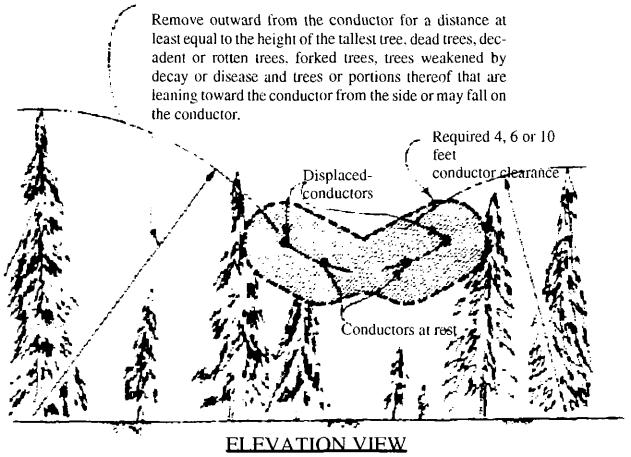
FIRE BREAK CLEARANCE
REQUIREMENTS
AROUND POLES AND TOWERS

APRIL 1980

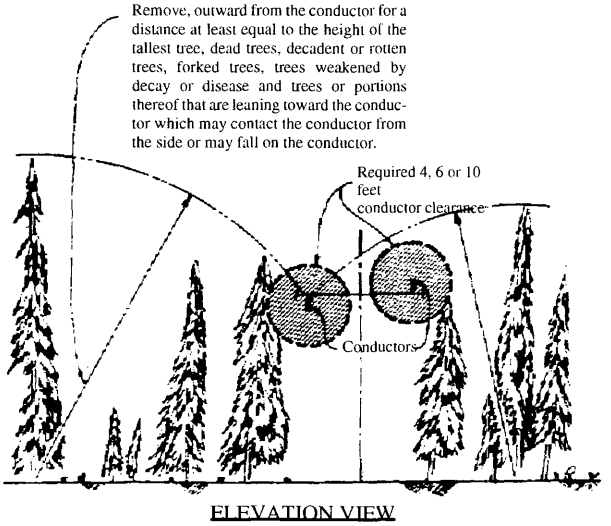
Figure 3



PLAN VIEW



ELEVATION VIEW
(Mid-Span)



ELEVATION VIEW
(At pole or tower)

PRC
14 CAC 1256

CONDUCTOR CLEARANCE

April 1980

Article 5. Standards for Cooperative Fire Protection Contracts During the Nonfire Season

§ 1260. General Standards.

When considering potential cooperative fire protection contracts under Sections 4143–4144, PRC, the Director will be guided by the policy and procedure set forth below.

(a) The Board of Supervisors of each applicant county must submit a statement of fire protection need to the local Ranger–in–Charge that will include at least a map that delineates the area to be protected.

(b) All contracts that include engine company response will make provisions for 24–hour emergency command center operations.

NOTE: Authority cited: Section 4143, Public Resources Code. Reference: Sections 740, 4143 and 4144, Public Resources Code.

HISTORY

1. New Article 5 (Sections 1260–1262) filed6–14–82; effective thirtieth day thereafter (Register 82, No. 25).

§ 1261. Standards for Personnel Assignment and Cost Apportionment.

(a) The assignment of personnel within the Unit for participation in cooperative fire protection programs pursuant to PRC 4143/4144 (Amador Program) will be determined after first assessing the needs of the Department's non–fire season work program. This assessment will include, but not be limited to, fire prevention inspections, facilities maintenance, vehicle maintenance, training programs and other Unit, Region or State mission assignments. Following this assessment, the Unit Chief will ensure sufficient staff, consistent with State–wide program policy, exists to carry out the department's non–fire season work program and that the striking force and efficiency of the Department in its primary mission of wildland fire protection, as well as response to major fires or other natural disasters, will not be reduced or impaired.

(b) Staffing for cooperative fire protection program engines pursuant to PRC 4143/4144 will be at levels that are mutually agreeable to all parties of the fire protection agreement. The minimum engine staffing for the non–fire season period is two persons for local agency mission responses and three persons for State mission responses. Local agency mission response means a response to the needs of the local cooperating agency which includes, but is not limited to, responses to structure, vehicle and vegetation fires; medical aids; public assistance; and traffic collisions. State mission response means a response to a State jurisdiction emergency incident.

(c) At the request of the contracting city, county, special district, other political subdivision of the state, or contracting person, firm, association, corporation (contracting entity), the Director may provide personnel for participation in cooperative fire protection programs pursuant to PRC 4143/4144. The contracting entity shall be apportioned the actual additional cost for assigned personnel, facilities, equipment, and operating expenses. These costs will be determined by the Director no later than April 15 of each year. For the purposes of this section, the Amador Period is defined as the period from the closure of declared fire season until the opening of declared fire season the following year.

(d) The Director shall apportion actual additional costs as follows:

(1) Minimum Engine Staffing: For two person engine company staffing, the contracting entity will provide funding for one person per engine per day and the Department will assign sufficient employees to meet the minimum two person staffing requirement. The contracting entity will provide funding for all unplanned overtime required to ensure 24–hour emergency response availability.

(2) Additional Engine Company Staffing: Where it is mutually agreeable to have engine company staffing in excess of the minimum two person engine company, the contracting entity will provide funds for additional positions to meet the engine company staffing requirements.

(3) Additional Operational Support Staff: Costs for Battalion Chiefs, Emergency Communications Center staff, fire prevention officers, and other non–engine staffing positions with significant commitment to the contracting entity as determined by the Unit Chief, shall be apportioned based on the following method. Significant commitment to the contracting entity means generally 8 hours or more per week in support of the local response mission:

(A) For the non–fire season period, determine the average hours per month that State resources are committed to local agency mission responses using computer aided dispatch data using the following criteria: The analysis shall include responses of Department Amador Program resources on a Statewide basis, to establish a Statewide average hours of commitment. The analysis shall include responses made between December 1st through May 1st of the prior year's non–fire season period. For purposes of this analysis, local agency mission responses shall include all responses to all medical aid, traffic collision, rescue, public assistance, and all fires. For fires, local agency mission responses shall include all responses during the period beginning two weeks after the end of the declared fire season and ending two weeks before the next declared fire season period.

(B) Apply (3) (A) above to applicable equipment and operational support staff base salary costs to determine the cost to apportion to the entity.

(4) The local contracting entity shall be responsible for additional costs to the State such as unplanned overtime and operating costs including utilities, associated equipment, and communications associated with the local agency mission responses. Engine rental costs shall be apportioned based on the formula in 14 CCR 1261 (3) (A) and (B) using current rates for Fire Engines (1000 gallons or less per minute pump capacity) stated in the Federal Emergency Management Agency Schedule of Equipment Rates.

NOTE: Authority cited: Section 4143, Public Resources Code. References: Sections 740, 4143 and 4144, Public Resources Code.

HISTORY

1. Amendment filed 8–11–2006; operative 9–10–2006 (Register 2006, No. 32).

§ 1262. Related Standards for Agreement Administration.

(a) For purpose of Public Resources Code Section 4143(c), "replicate" means to replace, duplicate or copy a type or level of fire protection service within a community, the result of which would shift all or a portion of the costs of local responsibility fire prevention and suppression from the county to the state.

(b) The facilities and equipment used or occupied by the county will be a charge to the county. The charge for such use will be at a rate which reflects the increased costs to the State for nonfire season operations.

(c) The county will reimburse the state for sufficient personnel to continuously operate the ranger unit emergency command center. The cost will reflect the difference between the nonfire mission and fire mission rates.

NOTE: Authority cited: Section 4143, Public Resources Code. References: Sections 740, 4143 and 4144, Public Resources Code.

Subchapter 1. Fire Protection (Reserved)

Subchapter 2. SRA Fire Safe Regulations

Article 1. Administration

§ 1270. Title.

These regulations shall be known as the "SRA" Fire Safe Regulations," and shall constitute the basic wildland fire protection standards of the California Board of Forestry.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4102, 4126, 4127 and 4290, Public Resources Code.

HISTORY

1. New subchapter 2 (sections 1270–1276.03, not consecutive) filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.01. Purpose.

These regulations have been prepared and adopted for the purpose of establishing minimum wildfire protection standards in conjunction with building, construction and development in SRA. A local jurisdiction may petition the Board for certification pursuant to section 1270.03. Where Board certification has not been granted, these regulations shall become effective September 1, 1991. The future design and construction of structures, subdivisions and developments in State Responsibility Area (SRA) shall provide for basic emergency access and perimeter wildfire protection measures as specified in the following articles. These measures shall provide for emergency access; signing and building numbering; private water supply reserves for emergency fire use; and vegetation modification. The fire protection standards which follow shall specify the minimums for such measures.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.02. Scope.

These regulations do not apply to existing structures, roads, streets and private lanes or facilities. These regulations shall apply as appropriate to all construction within SRA approved after January 1, 1991. Affected activities include but are not limited to:

(a) Permitting or approval of new parcels, excluding lot line adjustments as specified in Government Code (GC) section 66412(d),

(b) application for a building permit for new construction, not relating to an existing structure,

(c) application for a use permit,

(d) the siting of manufactured homes (manufactured homes are as defined by the National Fire Protection Association, National Fire Code, section 501A, Standard for Fire Safety Criteria for Manufactured Home Installations, Sites and Communities, chapter 1, section 1–2, Definitions, page 4, 1987 edition and Health and Safety Code sections 18007, 18008, and 19971).

(e) road construction, including construction of a road that does not currently exist, or extension of an existing road.

EXEMPTION: Roads required as a condition of tentative parcel maps prior to the effective date of these regulations; roads for agricultural or mining use solely on one ownership; and roads used solely for the management and harvesting of wood products.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.03. Local Ordinances.

Nothing contained in these regulations shall be considered as abrogating the provisions of any ordinance, rule or regulation of any state or local jurisdiction providing such ordinance, rule, regulation or general plan element is equal to or more stringent than these minimum standards. The Board may certify local ordinances as equaling or exceeding these regulations when they provide the same practical effect.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4117 and 4290, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.04. Provisions for Application of These Regulations.

This subchapter shall be applied as follows:

(a) local jurisdictions shall provide the Director with notice of applications for building permits, tentative parcel maps, tentative maps, and use permits for construction or development within SRA.

(b) the Director shall review and make fire protection recommendations on applicable construction or development permits or maps provided by the local jurisdiction.

(c) the local jurisdiction shall ensure that the applicable sections of this subchapter become a condition of approval of any applicable construction or development permit or map.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.05. Inspection Authority.

(a) Inspection shall be made pursuant to section 1270.06 by:

(1) the Director, or

(2) local jurisdictions that have assumed state fire protection responsibility on SRA lands, or

(3) local jurisdictions where these regulations have been implemented through that jurisdiction's building permit or subdivision approval process.

(b) Reports of violations shall be provided to the CDF Ranger Unit headquarters that administers SRA fire protection in that county.

NOTE: Authority cited: Sections 4119 and 4290, Public Resources Code. Reference: Section 4290, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.06. Inspections.

The inspection authority may inspect for compliance with these regulations. When inspections are conducted, they should occur prior to: the issuance of the use permit; certificate of occupancy; the recordation of the parcel map or final map; the filing of a notice of completion; or the final inspection of any project or building permit.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4119, 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.07. Exceptions to Standards.

Upon request by the applicant, exceptions to standards within this subchapter and mitigated practices may be allowed by the inspection authority, where the exception provides the same overall practical effect as these regulations towards providing defensible space.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.08. Requests for Exceptions.

Requests for an exception shall be made in writing to the inspection authority by the applicant or the applicant's authorized representative. The request shall state the specific section(s) for which an exception is requested, material facts supporting the contention of the applicant, the details of the exception or mitigating measure proposed, and a map showing the proposed location and siting of the exception or mitigation measure.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1270.09. Appeals.

Where an exception is not granted by the inspection authority, the applicant may appeal such denial to the local jurisdiction. The local jurisdiction may establish or utilize an appeal process consistent with existing local building or planning department appeal processes.

Before the local jurisdiction makes a determination on an appeal, the inspection authority shall be consulted and shall provide to that local jurisdiction documentation outlining the effects of the requested exception on wildland fire protection.

If an appeal is granted, the local jurisdiction shall make findings that the decision meets the intent of providing defensible space consistent with these regulations. Such findings shall include a statement of reasons for the decision. A written copy of these findings shall be provided to the CDF Ranger Unit headquarters that administers SRA fire protection in that county.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1271.00. Definitions.

Accessory building: Any building used as an accessory to residential, commercial, recreational, industrial, or educational purposes as defined in the California Building Code, 1989 Amendments, chapter 11, group M, division 1, Occupancy that requires a building permit.

Agriculture: Land used for agricultural purposes as defined in a local jurisdiction's zoning ordinances.

Building: Any structure used or intended for supporting or sheltering any use or occupancy that is defined in the California Building Code, 1989 Amendments, chapter 11, except group M, division 1, Occupancy. For the purposes of this subchapter, building includes mobile homes and manufactured homes, churches, and day care facilities.

CDF: California Department of Forestry and Fire Protection.

Dead–end road: A road that has only one point of vehicular ingress/egress, including cul–de–sacs and looped roads.

Defensible space: The area within the perimeter of a parcel, development, neighborhood or community where basic wildland fire protection practices and measures are implemented, providing the key point of defense from an approaching wildfire or defense against encroaching wildfires or escaping structure fires. The perimeter as used in this regulation is the area encompassing the parcel or parcels proposed for construction and/or development, excluding the physical structure itself. The area is characterized by the establishment and maintenance of emergency vehicle access, emergency water reserves, street names and building identification, and fuel modification measures.

Development: As defined in section 66418.1 of the California Government Code.

Director: Director of the Department of Forestry and Fire Protection or his/her designee.

Driveway: A vehicular access that serves no more than two buildings, with no more than 3 dwelling units on a single parcel, and any number of accessory buildings.

Dwelling unit: Any building or portion thereof which contains living facilities, including provisions for sleeping, eating, cooking and/or sanitation for not more than one family.

Exception: An alternative to the specified standard requested by the applicant that may be necessary due to health, safety, environmental conditions, physical site limitations or other limiting conditions such as recorded historical sites, that provides mitigation of the problem.

Fire valve: see hydrant.

Fuel modification area: An area where the volume of flammable vegetation has been reduced, providing reduced fire intensity and duration.

Greenbelts: A facility or land–use, designed for a use other than fire protection, which will slow or resist the spread of a wildfire. Includes parking lots, irrigated or landscaped areas, golf courses, parks, playgrounds, maintained vineyards, orchards or annual crops that do not cure in the field.

Hammerhead/T: A roadway that provides a "T" shaped, three–point turnaround space for emergency equipment, being no narrower than the road that serves it.

Hydrant: A valved connection on a water supply/storage system, having at least one 2 1/2 inch outlet, with male American National Fire Hose Screw Threads (NH) used to supply fire apparatus and hoses with water.

Local Jurisdiction: Any county, city/county agency or department, or any locally authorized district that issues or approves building permits, use permits, tentative maps or tentative parcel maps, or has authority to regulate development and construction activity.

Occupancy: The purpose for which a building, or part thereof, is used or intended to be used.

One–way road: A minimum of one traffic lane width designed for traffic flow in one direction only.

Roads, streets, private lanes: Vehicular access to more than one parcel; access to any industrial or commercial occupancy; or vehicular access to a single parcel with more than two buildings or four or more dwelling units.

Roadway: Any surface designed, improved, or ordinarily used for vehicle travel.

Roadway structures: Bridges, culverts, and other appurtenant structures which supplement the roadway bed or shoulders.

Same Practical Effect: As used in this subchapter, means an exception or alternative with the capability of applying accepted wildland fire suppression strategies and tactics, and provisions for fire fighter safety, including;

(a) access for emergency wildland fire equipment,

(b) safe civilian evacuation,

(c) signing that avoids delays in emergency equipment response,

(d) available and accessible water to effectively attack wildfire or defend a structure from wildfire, and

(e) fuel modification sufficient for civilian and fire fighter safety.

Shoulder: Roadbed or surface adjacent to the traffic lane.

State Board of Forestry (SBOF): A nine member board, appointed by the Governor, which is responsible for developing the general forest policy of the state, for determining the guidance policies of the Department of Forestry and Fire Protection, and for representing the state's interest in federal land in California.

State Responsibility Area (SRA): As defined in Public Resources Code sections 4126–4127; and the California Code of Regulations, title 14, division 1.5, chapter 7, article 1, sections 1220–1220.5.

Structure: That which is built or constructed, an edifice or building of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner.

Subdivision: As defined in section 66424 of the Government Code.

Traffic lane: The portion of a roadway that provides a single line of vehicle travel.

Turnaround: A roadway, unobstructed by parking, which allows for a safe opposite change of direction for emergency equipment. Design of such area may be a hammerhead/T or terminus bulb.

Turnouts: A widening in a roadway to allow vehicles to pass.

Vertical clearance: The minimum specified height of a bridge or overhead projection above the roadway.

Wildfire: As defined in Public Resources Code sections 4103 and 4104.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1271.05. Distance Measurements.

All specified or referenced distances are measured along the ground, unless otherwise stated.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1272.00. Maintenance of Defensible Space Measures.

To ensure continued maintenance of properties in conformance with these standards and measures and to assure continued availability, access, and utilization of the defensible space provided for in these standards during a wildfire, provisions for annual maintenance shall be included in the development plans and/or shall be provided as a condition of the permit, parcel or map approval.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Article 2. Emergency Access

§ 1273.00. Intent.

Road and street networks, whether public or private, unless exempted under section 1270.02(e), shall provide for safe access for emergency wildland fire equipment and civilian evacuation concurrently, and shall provide unobstructed traffic circulation during a wildfire emergency consistent with sections 1273.00 through 1273.11.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.01. Road Width.

All roads shall be constructed to provide a minimum of two nine–foot traffic lanes providing two–way traffic flow, unless other standards are provided in this article, or additional requirements are mandated by local jurisdictions or local subdivision requirements.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.02. Roadway Surface.

The surface shall provide unobstructed access to conventional drive vehicles, including sedans and fire engines. Surfaces should be established in conformance with local ordinances, and be capable of supporting a 40,000 pound load.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.03. Roadway Grades.

The grade for all roads, streets, private lanes and driveways shall not exceed 16 percent.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.04. Roadway Radius.

(a) No roadway shall have a horizontal inside radius of curvature of less than 50 feet and additional surface width of 4 feet shall be added to curves of 50–100 feet radius; 2 feet to those from 100–200 feet.

(b) The length of vertical curves in roadways, exclusive of gutters, ditches, and drainage structures designed to hold or divert water, shall be not less than 100 feet.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.05. Roadway Turnarounds.

Turnarounds are required on driveways and dead–end roads as specified in this article. The minimum turning radius for a turnaround shall be 40 feet from the center line of the road. If a hammerhead/T is used, the top of the "T" shall be a minimum of 60 feet in length.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.06. Roadway Turnouts.

Turnouts shall be a minimum of 10 feet wide and 30 feet long with a minimum 25 foot taper on each end.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.07. Roadway Structures.

(a) All driveway, road, street, and private lane roadway structures shall be constructed to carry at least the maximum load and provide the minimum vertical clearance as required by Vehicle Code sections 35550, 35750, and 35250.

(b) Appropriate signing, including but not limited to weight or vertical clearance limitations, one–way road or single lane conditions, shall reflect the capability of each bridge.

(c) A bridge with only one traffic lane may be authorized by the local jurisdiction; however, it shall provide for unobstructed visibility from one end to the other and turnouts at both ends.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.08. One–Way Roads.

All one–way roads shall be constructed to provide a minimum of one 10–foot traffic lane. The local jurisdiction may approve one–way roads. All one–way roads shall connect to a two–lane roadway at both ends, and shall provide access to an area currently zoned for no more than 10 dwelling units. In no case shall it exceed 2640 feet in length. A turnout shall be placed and constructed at approximately the midpoint of each one–way road.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.09. Dead–End Roads.

(a) The maximum length of a dead–end road, including all dead–end roads accessed from that dead–end road, shall not exceed the following cumulative lengths, regardless of the number of parcels served:

parcels zoned for less than one acre – 800 feet
parcels zoned for 1 acre to 4.99 acres – 1320 feet
parcels zoned for 5 acres to 19.99 acres – 2640 feet
parcels zoned for 20 acres or larger – 5280 feet

All lengths shall be measured from the edge of the roadway surface at the intersection that begins the road to the end of the road surface at its farthest point. Where a dead–end road crosses areas of differing zoned parcel sizes, requiring different length limits, the shortest allowable length shall apply.

(b) Where parcels are zoned 5 acres or larger, turnarounds shall be provided at a maximum of 1320 foot intervals.

(c) Each dead–end road shall have a turnaround constructed at its terminus.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.10. Driveways.

All driveways shall provide a minimum 10 foot traffic lane and unobstructed vertical clearance of 15 feet along its entire length.

(a) Driveways exceeding 150 feet in length, but less than 800 feet in length, shall provide a turnout near the midpoint of the driveway. Where the driveway exceeds 800 feet, turnouts shall be provided no more than 400 feet apart.

(b) A turnaround shall be provided at all building sites on driveways over 300 feet in length, and shall be within 50 feet of the building.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1273.11. Gate Entrances.

(a) Gate entrances shall be at least two feet wider than the width of the traffic lane(s) serving that gate.

(b) All gates providing access from a road to a driveway shall be located at least 30 feet from the roadway and shall open to allow a vehicle to stop without obstructing traffic on that road.

(c) Where a one–way road with a single traffic lane provides access to a gated entrance, a 40 foot turning radius shall be used.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Article 3. Signing and Building Numbering

§ 1274.00. Intent.

To facilitate locating a fire and to avoid delays in response, all newly constructed or approved roads, street, and buildings shall be designated by names or numbers, posted on signs clearly visible and legible from the roadway. This section shall not restrict the size of letters or numbers appearing on street signs for other purposes.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.01. Size of Letters, Numbers and Symbols for Street and Road Signs.

Size of letters, numbers, and symbols for street and road signs shall be a minimum 3 inch letter height, 3/8 inch stroke, reflectorized, contrasting with the background color of the sign.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.02. Visibility and Legibility of Street and Road Signs.

Street and road signs shall be visible and legible from both directions of vehicle travel for a distance of at least 100 feet.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.03. Height of Street and Road Signs.

Height of street and road signs shall be uniform county wide, and meet the visibility and legibility standards of this article.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.04. Names and Numbers on Street and Road Signs.

Newly constructed or approved public and private roads and streets must be identified by a name or number through a consistent countywide system that provides for sequenced or patterned numbering and/or non–duplicating naming within each county. All signs shall be mounted and oriented in a uniform manner. This section does not require any entity to rename or renumber existing roads or streets, nor shall a roadway providing access only to a single commercial or industrial occupancy require naming or numbering.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.05. Intersecting Roads, Streets and Private Lanes.

Signs required by this article identifying intersecting roads, streets and private lanes shall be placed at the intersection of those roads, streets, and/or private lanes.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.06. Signs Identifying Traffic Access Limitations.

A sign identifying traffic access or flow limitations, including but not limited to weight or vertical clearance limitations, dead–end road, one–way road or single lane conditions, shall be placed:

(a) at the intersection preceding the traffic access limitation, and

(b) no more than 100 feet before such traffic access limitation.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.07. Installation of Road, Street and Private Lane Signs.

Road, street and private lane signs required by this article shall be installed prior to final acceptance by the local jurisdiction of road improvements.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.08. Addresses for Buildings.

All buildings shall be issued an address by the local jurisdiction which conforms to that jurisdiction's overall address system. Accessory buildings will not be required to have a separate address; however, each dwelling unit within a building shall be separately identified.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.09. Size of Letters, Numbers and Symbols for Addresses.

Size of letters, numbers and symbols for addresses shall be a minimum 3 inch letter height, 3/8 inch stroke, reflectorized, contrasting with the background color of the sign.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1274.10. Installation, Location and Visibility of Addresses.

(a) All buildings shall have a permanently posted address, which shall be placed at each driveway entrance and visible from both directions of travel along the road. In all cases, the address shall be posted at the beginning of construction and shall be maintained thereafter, and the address shall be visible and legible from the road on which the address is located.

(b) Address signs along one–way roads shall be visible from both the intended direction of travel and the opposite direction.

(c) Where multiple addresses are required at a single driveway, they shall be mounted on a single post.

(d) Where a roadway provides access solely to a single commercial or industrial business, the address sign shall be placed at the nearest road intersection providing access to that site.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Article 4. Emergency Water Standards

§ 1275.00. Intent.

Emergency water for wildfire protection shall be available and accessible in quantities and locations specified in the statute and these regulations, in order to attack a wildfire or defend property from a wildfire.

Such emergency water may be provided in a fire agency mobile water tender, or naturally occurring or manmade containment structure, as long as the specified quantity is immediately available.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1275.01. Application.

The provisions of this article shall apply when new parcels are approved by a local jurisdiction. The emergency water system shall be

available on-site prior to the completion of road construction, where a community water system is approved, or prior to the completion of building construction, where an individual system is approved.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1275.10. General Standards.

Water systems that meet or exceed the standards specified in Public Utilities Commission of California (PUC) revised General Order #103, Adopted June 12, 1956 (Corrected September 7, 1983, Decision 83-09-001), section VIII Fire Protection Standards and other applicable sections relating to fire protection water delivery systems, static water systems equaling or exceeding the National Fire Protection Association (NFPA) Standard 1231, "Standard on Water Supplies for Suburban and Rural Fire Fighting," 1989 Edition, or mobile water systems that meet the Insurance Services Office (ISO) Rural Class 8, 2nd Edition 3-80, standard shall be accepted as meeting the requirements of this article. These documents are available at CDF Ranger Unit Headquarters.

Nothing in this article prohibits the combined storage of emergency wildfire and structural firefighting water supplies unless so prohibited by local ordinance or specified by the local fire agency.

Where freeze protection is required by local jurisdictions, such protection measures shall be provided.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1275.15. Hydrant/Fire Valve.

(a) The hydrant or fire valve shall be 18 inches above grade, 8 feet from flammable vegetation, no closer than 4 feet nor farther than 12 feet from a roadway, and in a location where fire apparatus using it will not block the roadway.

The hydrant serving any building shall:

(1) be not less than 50 feet nor more than 1/2 mile by road from the building it is to serve, and

(2) be located at a turnout or turnaround, along the driveway to that building or along the road that intersects with that driveway.

(b) The hydrant head shall be brass with 2 1/2 inch National Hose male thread with cap for pressure and gravity flow systems and 4 1/2 inch draft systems. Such hydrants shall be wet or dry barrel as required by the delivery system. They shall have suitable crash protection as required by the local jurisdiction.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1275.20. Signing of Water Sources.

Each hydrant/fire valve or access to water shall be identified as follows:

(a) if located along a driveway, a reflectorized blue marker, with a minimum dimension of 3 inches shall be located on the driveway address sign and mounted on a fire retardant post, or

(b) if located along a street or road,

(1) a reflectorized blue marker, with a minimum dimension of 3 inches, shall be mounted on a fire retardant post. The sign post shall be within 3 feet of said hydrant/fire valve, with the sign no less than 3 feet nor greater than 5 feet above ground, in a horizontal position and visible from the driveway, or

(2) as specified in the State Fire Marshal's Guidelines for Fire Hydrant Markings Along State Highways and Freeways, May 1988.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Article 5. Fuel Modification Standards

§ 1276.00. Intent.

To reduce the intensity of a wildfire by reducing the volume and density of flammable vegetation, the strategic siting of fuel modification and greenbelts shall provide

(1) increased safety for emergency fire equipment and evacuating civilians; and

(2) a point of attack or defense from a wildfire.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1276.01. Setback for Structure Defensible Space.

(a) All parcels 1 acre and larger shall provide a minimum 30 foot setback for buildings and accessory buildings from all property lines and/or the center of a road.

(b) For parcels less than 1 acre, local jurisdictions shall provide for the same practical effect.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1276.02. Disposal of Flammable Vegetation and Fuels.

Disposal, including chipping, burying, burning or removal to a landfill site approved by the local jurisdiction, of flammable vegetation and fuels caused by site development and construction, road and driveway construction, and fuel modification shall be completed prior to completion of road construction or final inspection of a building permit.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1276.03. Greenbelts.

Subdivisions and other developments, which propose greenbelts as a part of the development plan, shall locate said greenbelts strategically, as a separation between wildland fuels and structures. The locations shall be approved by the inspection authority.

NOTE: Authority cited: Section 4290, Public Resources Code. Reference: Sections 4290 and 4291, Public Resources Code.

HISTORY

1. New section filed 5-30-91; operative 5-30-91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

Subchapter 3. Fire Hazard

Article 1. Fire Hazard Severity

§ 1280. Fire Hazard Severity Zones.

The fire hazard severity zones and the rating reflecting the degree of severity of fire hazard that is expected to prevail in those zones, shall be designated by the Director and delineated on a series of maps on file in the Sacramento Office of the Department of Forestry and Fire Protection, Fire and Resources Assessment Program, 1300 U St. The official maps are also filed electronically on the Department's internet web site, www.fire.ca.gov/wildlands_zones_maps.php. The maps are entitled "Fire Hazard Severity Zones in [State Responsibility Area] SRA," dated November 7, 2007, and are incorporated by reference.

NOTE: Authority cited: Sections 4202, 4203 and 4204, Public Resources Code. Reference: Sections 4201, 4202, 4203 and 4204, Public Resources Code.

HISTORY

1. New article 6 (section 1280) filed 3–12–85; effective thirtieth day thereafter (Register 85, No. 11).
2. New subchapter 3 heading and renumbering of article 6 to article 1 filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).
3. Amendment of section and NOTE filed 12–28–2007; operative 1–1–2008 pursuant to Government Code section 11343.4 (Register 2007, No. 52).

Article 2. Fire Hazard Reduction Standard for Railroad Right–of–Way

§ 1290. Application.

The provisions of this Article shall apply within railroad rights–of–way on forest, brush, and grass covered land throughout the state, annually commencing and ending on the dates set forth in 14 California Code of Regulations 1253 by geographic areas.

NOTE: Authority cited: Sections 4201–4204, Public Resources Code. Reference: Sections 4201–4204, Public Resources Code.

HISTORY

1. New section filed 1–22–88; operative 2–21–88 (Register 88, No. 6).
2. Renumbering article 7 to article 2 filed 5–30–91; operative 5–30–91 pursuant to Government Code section 11346.2(d) (Register 91, No. 27).

§ 1291. Fire Protection Agreements.

Nothing contained in these regulations shall preempt any order or agreement in effect on the date of adoption of these regulations between an agency responsible for fire protection and an operator, so long as that order or agreement is not in conflict with the regulations contained in this article and is equivalent to or more restrictive than these regulations.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

HISTORY

1. New section filed 1–22–88; operative 2–21–88 (Register 88, No. 6).

§ 1292. Definitions.

The following definitions shall apply to this article unless the context clearly requires otherwise:

(a) "Agency Having Primary Responsibility for Fire Protection" means any public agency of the federal, state, county, city, city and county, or district government which is the primary agency responsible directly or through contract for fire prevention and suppression on lands within the jurisdiction of that agency.

(b) "Authorized Agent" means any employee of an agency having primary responsibility for fire protection who is authorized to enforce the state's Forest and Fire Laws.

(c) "Distance" shall in all cases herein mean horizontal distance and not slope distance.

(d) "Fire Hazard" means a condition resulting from a combination of factors of ease of ignition, heat yield, and rate of fire spread as influenced by particular vegetation and other flammable materials, weather and slope.

(e) "Flammable Material" shall include, but is not limited to, chips; sawdust; coal; leaves; needles; duff and other dead and desiccated vegetation; and ties which are rotten on exposed surfaces or excessively splintered to the extent they will readily ignite and propagate fire.

"Flammable Material" shall not include:

(1) wooden poles or towers and crossarms supporting switching circuits or other electrical power or communication conductors not subject to PRC 4292 or 4293;

(2) wooden ties except as provided above;

(3) wooden components of trestles, tunnels, and other structures;

(4) living trees, shrubs, and brush, provided that any dead and desiccated portions are removed so that such living trees, shrubs and brush are not easily ignited or able to propagate fire.

(f) "Forest–, Brush–, and Grass–Covered Land" means lands covered wholly or in part by timber (trees), brush (shrubs), grass (including grain) or other natural vegetation. Cultivated agricultural lands planted to crops other than grain are not included.

(g) "Operator" means the person or entity responsible for maintenance of the railroad right–of–way.

(h) "Order" means a written mandate issued by an authorized agent of a public agency having primary responsibility for fire prevention hazard reduction of the area to destroy, remove or modify any vegetation or other flammable material in order to reduce or eliminate an existing fire hazard on the railroad right–of–way, pursuant to this Article.

(i) "Railroad–Caused Fire" means those preventable fires resulting from operations upon railroad rights–of–way. May not include unpreventable fires such as caused by wrecks, bombs or natural causes (i.e. lightning).

(j) "Right–of–Way" means the strip of land, outside of yard limits, owned or controlled by the person or entity operating the railroad for a distance not exceeding 100 feet or to the property boundary measured at right angles to the axis of the rail at any given location. The distance shall be measured from the outermost rail on both sides of the mainline or mainlines, on sidings, and also includes intervening strips between sidings and mainlines.

(k) "Towpath" means a narrow strip of right–of–way adjacent to each side of ballast which is commonly referred to as the walkway and is normally kept clear for personnel safety and is not less than six feet from outside rail to outer edge.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

HISTORY

1. New section filed 1–22–88; operative 2–21–88 (Register 88, No. 6).

§ 1293. Minimum Standards.

Railroad rights–of–way shall be maintained in accordance with the following minimum fire hazard reduction standards:

(a) Area within ten (10) feet of outside rail, including ballast and towpath. The area must be kept clear of flammable material that by its physical arrangement or its accumulation is likely to contribute to the propagation of railroad–caused fires.

(b) Area within twenty–five (25) feet of outside of rail, including ballast and towpath. The minimum 10 foot standard will be extended to 25 feet if such an area has experienced one (1) or more preventable railroad–caused fire(s) in the previous five (5) years. An identified fire start area shall be maintained free of accumulation up to 25 feet as specified for 1/4 mile linear distance on either side of the fire start area and along both sides of the rail track.

(c) Culverts (Conduits) located on right–of–way. Inlet and outlet portals of culverts located within a distance of 25 feet from an outside rail must be kept clear of flammable material for a distance not less than five (5) feet.

(d) Tunnel portals. These areas must be kept clear of all flammable materials, not an integral part of such tunnel portals, for a minimum distance of 30–feet.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

HISTORY

1. New section filed 1–22–88; operative 2–21–88 (Register 88, No. 6).

§ 1294. Compliance Order.

When an inspection by an authorized agent reveals noncompliance of these minimum standards, an order shall be issued detailing abatement requirements as provided in Section 1295.

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

§ 1295. Order Format.

An order to destroy, remove or modify vegetation or other flammable material, pursuant to P.R.C. 4296.5 shall be made substantially in the following format: (Name, Address and Telephone Number of Director's Agent or Agency having Primary responsibility for Fire Protection)

ORDER TO ABATE FIRE HAZARDS
WITHIN RAILROAD RIGHT-OF-WAY

(Name and Address of Railroad Operator)
You are hereby ordered, pursuant to the provision of Section 4296.5 of the California Public Resources Code and in accordance with the provisions of Section 1290 through 1294 of Title 14, California Administrative Code, to abate (clearly describe the vegetation and/or other flammable materials to be abated.
Describe so that the area is clearly defined by width, which side of track or both and location by mile post and/or other identifiable landmark or physical feature).
Said hazard abatement is to be completed on or before_____.
Failure to comply with the provision of this order is misdemeanor as provided by Section 4021 of the California Public Resources Code.
Signature of Authorized
Agent or Representative_____
Title_____
Date_____
At_____

NOTE: Authority cited: Section 4296.5, Public Resources Code. Reference: Section 4296.5, Public Resources Code.

HISTORY

1. New section filed 1-22-88; operative 2-21-88 (Register 88, No. 6).

Article 3. Fire Hazard Reduction Around Buildings and Structures

§ 1299. Defensible Space.

The intent of this regulation is to provide guidance for implementation of Public Resources Code 4291(a) and (b), and minimize the spread of fire within a 100 foot zone around a building or structure.

(a) A person that owns, leases, controls, operates, or maintains a building or structure in, upon, or adjoining any mountainous area, forest-covered lands, brush-covered lands, grass-covered lands, or any land that is covered with flammable material, and is within State Responsibility Area, shall do the following:

(1) Within 30 feet from each building or structure maintain a firebreak by removing and clearing away all flammable vegetation and other combustible growth pursuant to PRC § 4291(a). Single specimens of trees or other vegetation may be retained provided they are well-spaced, well-pruned, and create a condition that avoids spread of fire to other vegetation or to a building or structure.

(2) Within the 30 feet to 100 feet zone (Reduced Fuel Zone) from each building or structure (or to the property line, whichever is nearer to the structure), provide a fuelbreak by disrupting the vertical and/or horizontal continuity of flammable and combustible vegetation with the goal of reducing fire intensity, inhibiting fire in the crowns of trees, reducing the rate of fire spread, and providing a safer environment for firefighters to suppress wildfire pursuant to PRC § 4291(b).

(b) Any vegetation fuels identified as a fire hazard by the fire inspection official of the authority having jurisdiction shall be removed or modified provided it is required by subsection (a)(1) & (a)(2).

(c) Within the intent of the regulations, the fire inspection official of the authority having jurisdiction may approve alternative practices which provide for the same practical effects as the stated guidelines.

(d) Guidance for implementation of this regulation is contained in the publication: "General Guidelines for Creating Defensible Space" as published by the Board of Forestry and Fire Protection by resolution adopted on February 8, 2006.

NOTE: Authority cited: Sections 4102, 4125-4128 and 4291, Public Resources Code. Reference: Section 4291, Public Resources Code.

HISTORY

1. New article 3 (section 1299) and section filed 5-8-2006; operative 6-7-2006 (Register 2006, No. 19).

Chapter 8. Forest Products, Wood Waste or Residue Disposal*

* Formerly Subchapter 7.5 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

Article 1. Scope

§ 1300. Scope.

The provisions of this chapter apply to fire safety precautions for eliminating the potential of fire resulting from spontaneous combustion, other ignition sources, or wildfire escaping the forest product waste or residue storage, use, or disposal area.

NOTE: Authority cited: Section 4437, Public Resources Code. Reference: Section 4437, Public Resources Code.

HISTORY

1. Repealer of Chapter 8 (Sections 1300-1336, not consecutive) and new Chapter 8 (Sections 1300-1336, not consecutive) filed 11-2-78; effective thirtieth day thereafter (Register 78, No. 44). For former history of Chapter 8, see Registers 77, No. 14; 78, No. 20.
2. Repealer of Chapter 8 (Sections 1300-1336, not consecutive) and renumbering and amendment of former Section 1311 to Section 1300, former Section 1318 to Section 1301, and former Section 1335 to Section 1302 filed 12-14-83; effective thirtieth day thereafter (Register 83, No. 51).

Article 2. Methods of Disposal

§ 1301. Methods of Disposal.

NOTE: Authority cited: Section 4437, Public Resources Code. Reference: Sections 4414.5, 4437, 4438, 4439 and 4440, Public Resources Code.

HISTORY

1. Repealer of article 2 (section 1301) and section filed 11-7-96; operative 1-1-97 (Register 96, No. 45).

Article 3. Fire Safety Precautions

§ 1302. Roads and Access.

Access to active fill disposal sites shall be by a road suitable for fire equipment at any time of the year.

NOTE: Authority cited: Section 4437, Public Resource Code. Reference: Sections 4437, 4438, 4439 and 4440, Public Resources Code.

Chapter 9. State Forests—Use and Sales*

* Formerly Subchapters 8, 9 and 9.1 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

Subchapter 1. Recreational Use

Article 1. Abbreviations and Definitions

§ 1400. Abbreviations.

The following abbreviations are applicable throughout this Chapter.

(a) B&M Baseline and Meridian reference lines running in true EW and NS directions used in U.S. General Land Survey

(b) CAC: California Administrative Code

(c) cm: Centimeter(s)

(d) E: true cardinal direction East

(e) ha: hectare(s)

(f) m: meter(s)

(g) MD: Mount Diablo (used in combination with B&M)

(h) N: true cardinal direction North

(i) PRC: Public Resources Code

(j) R: Range: a row of townships, six miles in width, between two successive meridian lines of the U.S. General Land Survey

(k) S: true cardinal direction South

(*l*) Sec.: Section

(m) T: Township: a tier of ranges, six miles in length between two successive standard parallels as used in the U.S. General Land Survey

(n) W: true cardinal direction West.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Section 4656.1, Public Resources Code.

HISTORY

1. Redesignation of Chapter 7 (Sections 1400–1521, not consecutive) to Chapter 9 (Sections 1400–1521, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For prior history, see Registers 77, No. 14; 70, No. 43; and 69, Nos. 15, 22 and 25.
2. Repealer of Chapter 9 (Sections 1400–1521, not consecutive) and new Chapter 9 (Sections 1400–1521, not consecutive) filed 8–3–78; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 78, No. 31).
3. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1400.5. Definitions.

The following definitions are applicable throughout Chapter 9 unless the context clearly requires otherwise.

(a) "Affiliate" means the purchaser's subsidiary, parent company, joint venture partner, entity, being a portion of the conglomerate of which the purchaser is a unit, or other entity under the purchaser's indirect control.

(b) "Board" means the California State Board of Forestry.

(c) "Campfire" means a fire used by one or more persons while camping, picnicking, recreating or working on state forest land, to provide any one or combination of the following: heat for cooking, heat for personal warmth, light and for ceremonial or aesthetic purposes. "Campfire" includes open fires and those fires contained within fireplaces and enclosed stoves with flues or chimneys, stoves using pressurized liquid or gaseous fluids, portable barbecue pits and braziers or space heating devices which are used outside any structure, trailer house or living accommodations mounted on a motor vehicle.

(d) "Camping" or camp means erecting a tent or shelter or arranging bedding or both, for the purpose of, or in such a way as will permit, remaining overnight; or occupying an established campsite with a camper vehicle or camping equipment for the purpose of reserving the use of such campsite. The term also includes parking a camper vehicle or trailer and spending the night within, or within close proximity of said camper vehicle or trailer.

(e) "Designated camping area" means a location designated by the state forest manager as a camping area and marked by authorized signs to that effect. Unless otherwise delineated by fences or signs, a "designated camping area" shall include only the area developed for camping and provided with fireplaces or tables or both, and shall not include any adjacent areas not so developed for camping.

(f) "Department" means the California Department of Forestry.

(g) "Director" means the Director of Forestry.

(h) "Person" means and includes natural persons, firms, copartnerships, corporations, clubs, and all associations or combinations of persons whenever acting for themselves, by agent, servant, or employee.

(i) "Purchaser" means that person, company or entity who was the successful bidder, buyer, transferee or successor of state timber.

(j) "State forest" or forest means any portion of the state forest system administered by the Director.

(k) "State forest licensee" means any person authorized by a state forest manager or the superiors thereof, to engage in any of the following activities within a state forest:

(1) operate concessions serving the public,

(2) plant, protect, harvest or remove timber, other forest products or minerals,

(3) conduct experiments or otherwise engage in research or educational activity,

(4) or any other activity not listed above with written permission of the Director.

(*l*) "State forest manager" means the state forest officer appointed by the Director to supervise the management and administration of a state forest or in the state forest manager's absence, the person designated by a state forest manager to act during his or her absence.

(m) "State forest officer" means employees of the Department of Forestry as designated by the Director, or such other persons as may be designated by the Director.

(n) "State timber" means any or all trees, logs or wood products from state–owned forests, which have not received primary manufacture to a size sawn on 4 sides to dimensions of 4 inches by 12 inches (10.2 cm by 30.5 cm), or less.

(o) "Substitution" means the replacing of state timber for unprocessed timber which, directly or indirectly, was exported to a foreign country from private lands owned or controlled by the purchaser within California in an area 200 miles (321.8 km) or less from the nearest boundary line of the state timber sale area from which state timber was removed. The distance will be determined via the shortest route of either public roads, railroads, or water route customarily used to transport forest products.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Section 4656.1, Public Resources Code.

HISTORY

1. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

Article 2. Camping Area Use

§ 1401. Camping Area.

Camping in state forests is restricted to designated camping areas. No person shall camp outside of a designated camping area unless that person or someone in attendance has in their possession a valid state forest campfire and special use permit. Failure to comply with the terms and conditions set forth on said permit shall render it invalid for purposes of this Section.

§ 1402. Campfire Permits.

(a) No person shall prepare, ignite, maintain or use a campfire in any place other than a designated camping area unless that person or someone in attendance has in their possession a valid state forest campfire and special use permit. Failure to comply with the terms and conditions set forth on said permit shall render it invalid for purposes of this Section.

(b) No person shall prepare or ignite a campfire which is or will be unreasonably large and/or dangerous to the surrounding land, or maintain such a fire after having been ordered by a state forest officer to reduce or extinguish it.

(c) No person shall leave a campfire ignited, maintained or used by that person unattended.

§ 1403. Occupancy Time Limits.

No person shall camp within any one state forest more than 14 days in any single visitation. Consistent with Section 4455 of Title 14, California Code of Regulation, General Occupancy by the same persons, equipment, or vehicles of any camping facility is limited to a total of 30 days in any calendar year in that State Forest. Exceptions may be granted by the state forest manger to persons engaged in official state business.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4643, 4645, 4646 and 4656.2, Public Resources Code.

HISTORY

1. Amendment filed 2–18–88; operative 3–19–88 (Register 88, No. 9).

§ 1404. Reservations.

Individual campsites may not be reserved. The term "reserved" includes, but is not limited to, calling or writing in advance to obtain a campsite, a person occupying one or more campsites temporarily until another party arrives, placing camping equipment in a campsite prior to actual occupancy by another party, or other means of obtaining a campsite for a person or persons not actually present in the state forest.

§ 1405. Conduct.

No person shall use threatening, abusive, boisterous, insulting or indecent language or make any indecent gesture in a state forest at such times and in such locations as to disturb other persons; nor shall any person conduct or participate in a disorderly assemblage. Clothing sufficient to conform to common standards of decency shall be worn at all times when the wearer is subject to public view.

§ 1406. Assembly.

No person shall conduct a public assembly or demonstration except on permission of the state forest manager upon finding that the time, place

and manner of such activity would not substantially interfere with the use of the state forest by the general public in the applicable area.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4656.1 and 4656.2, Public Resources Code.

HISTORY

1. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

Article 3. General Restrictions

§ 1410. Nuisance.

No person shall erect any structure on or allow a campsite occupied by that person to become littered with refuse.

§ 1411. Equipment.

No person shall occupy a site with camping equipment or vehicles prohibited by the state forest manager.

§ 1412. Noise.

No person shall create noise which disturbs others in sleeping quarters or in campgrounds within a state forest between the hours of 11 p.m. and 6 a.m. daily. No person shall, at any time, use electronic equipment (other than that used in forest operations) including electrical speakers, radios, phonographs, or televisions which produces a sound that can be heard at more than 100 feet from the source.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4656.1 and 4656.2, Public Resources Code.

HISTORY

1. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1413. Weapons.

(a) No person shall discharge any firearm, air or gas weapon, or bow and arrow in the vicinity of camps, residence sites, recreation grounds and areas, and over lakes or other bodies of water adjacent to or within such areas, whereby any person is exposed to injury as a result of such discharge.

(b) Without limiting the foregoing, no person shall discharge any of the above named weapons or any other weapon while within 150 yards (137.20 m) of any designated camping area.

[The next page is 364.87.]

§ 1414. Soliciting.

No person shall sell or offer for sale any goods or services within a state forest unless licensed by the state forest manager.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4656.1 and 4656.2, Public Resources Code.

HISTORY

1. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1415. Firewood.

Campers, picnickers and other recreational users may gather dead wood lying on the ground for use within the state forest. No person shall remove firewood or other forest products from any state forest without the written consent of the state forest manager.

§ 1416. Defacing Plants.

(a) No person shall cut or deface live trees, or remove shrubs, plants or portions thereof, or destroy, deface or remove forest products of any description.

(b) Annual fruits of native plants such as gooseberries, elderberries and blackberries may be picked and empty conifer cones may be taken for non–commercial use.

(c) This section shall not apply to state forest licensees when acting within the scope of their authorization.

§ 1417. Geological Features.

No person shall destroy, disturb, mutilate or remove earth, sand, gravel, oil, minerals, rocks or features of caves. This Section shall not apply to state forest licensees when acting within the scope of their authorization.

§ 1418. Horticulture.

In order to control soil erosion, conserve water and preserve the natural condition of state forests, no person shall plant, tend or harvest within a state forest any herbs, flowers, vegetables, or fruits except as permitted by Section 1416(b). This section shall not apply to state forest licensees when acting within the scope of their authorization.

§ 1419. Improvements.

No person shall mutilate, deface, damage or remove any table, bench, building, sign, marker, monument, fence, barrier, fountain, faucet, gate, lock, water storage tank or other structure, facility, equipment or property within a state forest.

§ 1420. Unauthorized Signs.

No person shall cut, carve, paint, mark, post or otherwise affix in a state forest any bill, advertisement or inscription on any tree, natural geologic formation, fence, wall, building, monument or other property whether improved or unimproved. This section shall not apply to state forest licensees when acting within the scope of their authorization.

§ 1421. Rubbish.

(a) No person shall leave, deposit, drop or scatter bottles, broken glass, ashes, waste paper, cans or other rubbish in a state forest except in a receptacle designated for that purpose.

(b) Without limiting the foregoing, no person shall vacate a camp–site without removing all of the above mentioned refuse thereon and depositing it in a receptacle designated for that purpose.

§ 1422. Polluting Waters.

No person shall deposit, permit to pass into, or willingly allow any substance in any spring, stream, lake or other waters within a state forest which will tend to cause said waters to become unfit for human consumption, deleterious to fish and plant life, or which will destroy the aesthetic qualities of the waters. This section includes, but is not limited to, the washing of clothing or other materials, and the disposal of body or other wastes.

§ 1423. Animal Waste.

Persons keeping dogs, cats or other animals within designated camping areas are responsible for removing and burying any and all droppings of said animal, and failure to do so within a reasonable time, or upon order of a state forest officer, shall constitute a violation of this Section.

§ 1424. Pets.

(a) No person shall bring a dog, cat or other animal into a designated camping area unless it is confined, or in a vehicle, or upon a leash not longer than 6 feet (1.83 m), or otherwise under physical restrictive control at all times.

(b) No person shall keep within a state forest a dog or other animal which is noisy, vicious, dangerous or disturbing to other persons after having been ordered by a state forest officer to remove said animal from the state forest.

§ 1425. Horses.

(a) No person shall bring saddle, pack or draft animals into a designated camping area unless it has been developed to accommodate them and is posted accordingly.

(b) No horse or other animal shall be hitched to any tree, shrub or structure in such a way that it may cause damage thereto.

(c) Persons bringing animals into a state forest are responsible for providing them with feed, and no person shall allow any saddle, pack or draft animal to graze on any portion of the state forest not specifically designated by the state forest manager as suitable for grazing purposes.

§ 1426. Smoking.

Smoking on state forest land covered with flammable vegetation or ground litter while traveling on foot, cycle or domestic animal is prohibited between April 1 and December 1 of any year, and in areas posted against smoking. Smoking is permitted in the following locations: Within improved campground, inside vehicles on improved roads, in places of habitation, and while stopped in an area of at least 3 feet (0.91 m) in diameter cleared of flammable vegetation and ground litter, provided however when smoking within a 3 foot (0.91 m) clearing that all glowing substances are extinguished and discarded within the cleared area.

§ 1427. Archeological Features.

No person shall collect or remove any object or thing of archeological or historical interest or value, nor shall any person injure, disfigure, deface or destroy the physical site, location or context in which the object or thing of archeological or historical interest or value is found.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4656.1, 4656.2 and 4656.3, Public Resources Code.

HISTORY

1. New section filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

Article 4. Vehicles

§ 1430. Parking Time Limits.

The state forest manager may by order establish limits of time for the parking, storage, or leaving of vehicles, including trailers, in a state forest and in units or portions thereof. No person shall so park, store or leave a vehicle or trailer in contravention of such orders when such time limits have been posted in the area affected. Nothing herein shall be construed in derogation of other state forest regulations.

§ 1431. Cross–Country Travel Prohibited.

Motor vehicles shall be operated only on roads and in parking areas constructed for motor vehicle use. Trail bikes, motorcycles, jeeps, pickups and other passenger carrying motor vehicles shall not be operated on any road or trail posted as closed to the public or to such use.

§ 1432. Speed Limits.

HISTORY

1. Repealer filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1433. Vehicles in Camping Areas.

No person shall drive any motorbike, motorcycle or other motor vehicle on any roads within designated camping areas for any purpose other than access to, or egress from the area.

Article 5. Restricted Use Areas

§ 1435. Areas Closed to Hunting, Trapping, and the Use of Firearms.

The following areas are closed to hunting, trapping, and the use of firearms:

(a) Area in Tulare County.

The area approximately 440 acres (178.068 ha), more or less, located in Tulare County and described as follows: lying north, south, east and west of Balch Park being those parts of Sec. 36, T19S, R 30E., Sec. 31, T19S, R 31E, Sec. 6T 20S, R 31E, and Sec. 1 and 2, T20S, R30E, that are bounded as follows: from the intersection of the north line of said Sec. 1 with the Balch Park road northerly along this road to its junction with the Lace Meadow road; thence easterly along said Lace Meadow road to its intersection with the north line of the SE 1/4 of Sec. 36, T19S, R30E; thence east along said line to the Summit Road; thence southerly along the Summit road to its junction with the Balch Park road; thence southwesterly along the Balch Park road to its junction with the Bear Creek road; thence southwesterly along the Bear Creek road to its intersection with the south line of Sec. 2; thence along the south and west lines of the SE 1/4 of Sec. 2 to the old Coburn Mill road; thence along the Coburn Mill road to its intersection with the north line of the SE 1/4 of Sec. 2; thence east along the north line of the SE 1/4 of Sec. 2 to the quarter corner between Sec. 1 and 2; thence along the wst and north lines of the SE 1/4 of the NW 1/4 of Sec. 1 to the SW corner of the Balch Park property; and thence easterly and northeasterly, thence easterly, thence northerly, thence westerly, thence southerly, and finally westerly along the boundaries between Balch Park and the Mountain Home State Forest to the point of beginning. All townships are described from the MDB&M.

(b) Area in Mendocino County.

The areas located in Mendocino County and described as follows:

(1) Mendocino Woodlands area, approximately 3,000 acres (1214.100 ha), more or less. That portion of the Mendocino Woodlands area lying south and east of the Little Lake Mendocino (city) road, and south of Jackson State Forest road 740, being all of Sec. 13 and portions of Secs. 1, 11, 12, 14, 15, 22, 23, and 24 of T17N, R17W, and portions of Secs. 7, 18, 19 and 30 of T17N, R16W, all MDB&M.

(2) Parlin Fork Conservation Camp area, approximately 1,500 acres (607.500 ha), more or less. The E 1/2 of Sec. 32, T18N, R16W, MDB&M. All of Sec. 33, T18N, R16W, MDB&M. That portion of Sec. 4, T17N, R16W, MDB&M, lying north of state highway 20.

(3) Chamberlain Creek Conservation Camp area, approximately 1,020 acres (412.794 ha), more or less. All of Sec. 5, T17N, R15W, MDB&M; N 1/2 of Sec. 8, T17N, R15W, MDB&M; N 1/2 of Sec. 9, T17N, R15W, MDB&M.

§ 1436. Areas Closed to Hunting and the Use of Firearms.

The following area is closed to hunting and the use of firearms:

(a) Area in Shasta County.

The area of approximately 320 acres (129.504 ha), being a portion of the Latour State Forest immediately surrounding the Latour Forest Headquarters and Forest Fire Station. Said lands being located in Shasta County and being described as follows: lying north and east of McMullen Mountain being the SE 1/4 of Sec. 1 and the NE 1/4 of Sec. 12, T32–N, R2–E, MDB&M.

§ 1437. Fire Hazard.

HISTORY

1. Repealer filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1438. Temporary Restricted Use.

To insure the safety and health of persons, to avoid interference in development, construction, research and timber management, or to provide for the security, safeguarding and preservation of property within a state forest and portions thereof, a state forest manager or the superiors thereof may order an area closed to a particular activity for a period of time not to exceed 1 year.

(a) Notices prescribing the prohibited activity shall be posted in such locations as will reasonably bring them to the attention of the public.

(b) No person shall, while in the restricted area, engage in the activity so prohibited.

§ 1439. Temporary Prohibited Area.

To insure the safety and health of persons, to avoid interference in development, construction, research and timber management, or to provide for the security, safeguarding and preservation of property within a state forest and portions thereof, a state forest manager or the superiors thereof may order any portions of a state forest closed to public use or entry for a period of time not to exceed 1 year.

(a) A copy of the order shall be posted at the state forest headquarters and may specify such reasonable classes of persons who may enter the closed area in the conduct of such proper activities or official duties as the forest manager or the superiors thereof may prescribe.

(b) Notices designating the area closed to entry shall be posted in such locations as will reasonably bring them to the attention of the public. Such notice may specify the period or periods of closure.

(c) During the period when an area is closed to public entry, only persons specifically authorized by the order of closure may enter or remain within the area so closed.

This section shall not be construed in derogation of any other state forest regulation.

Subchapter 3. Geothermal Development

Article 1. Purpose

§ 1500. Purpose.

HISTORY

1. Repealer of subchapter 3, article 1 (section 1500) and section filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

Article 2. Specific Provisions

§ 1501. General Requirements.

HISTORY

1. Repealer of subchapter 3, article 2 (sections 1501 through 1503) and section filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1502. Special Requirements.

HISTORY

1. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

§ 1503. Consent of Permits or Leases.

HISTORY

1. Repealer filed 11–7–96; operative 1–1–97 (Register 96, No. 45).

Subchapter 4. Timber Sales

§ 1510. Harvesting and Management.

The harvesting of forest products from state forests and management of state forests shall follow management plans developed for each forest by the Director, and approved by the Board.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4645, 4651 and 4656.1, Public Resources Code.

HISTORY

1. Deletion of Subchapter 4, Articles 1–3 (headings only) and amendment of Section 1510 filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1511. Timber Sales.

When selling timber from state forests as authorized by PRC 4650–4651, the Director shall comply with the requirements of the Department of General Services and Department of Finance pertaining to the sale of state property. Such timber sales shall be conducted and administered by the Director following procedures promulgated in the State Administrative Manual (SAM) for contracting and sale of state property.

NOTE: Authority cited: Section 4656.1, Public Resources Code. Reference: Sections 4651 and 4656.1, Public Resources Code.

HISTORY

1. Amendment filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1515. Bids Solicitation.

The Director, when selling or soliciting bids for sale of timber from state forests, shall condition the sale upon agreement of the purchaser that said timber will not be substituted for timber exported from private lands under control of the bidder, or affiliate.

§ 1516. Non–Substitution Agreement.

Every purchaser of timber from state forests shall execute an agreement with the Director that said timber will not be substituted for timber exported from the purchaser's private lands.

§ 1517. Notice of Removal.

The purchaser, before removal of timber from state forests, shall give written notice to the Director of any or all locations where said timber will be processed. Said notice shall be required for all of said timber until such time as the timber has been sawn to dimensions of 4 inches by 12 inches (10.2 cm by 30.5 cm) or less.

§ 1518. Transfer Requirement.

Upon transfer of state timber not receiving primary manufacture, the purchaser shall require the transferee to agree to the same substitution restrictions as are imposed on purchaser. Within 5 days of said transfer, a copy of the agreement, together with location of intended processing of said timber, shall be delivered by purchaser to the Director.

§ 1519. Preservation of Records.

Purchaser shall preserve for a period of 3 years, after conclusion of removal of timber from the state forest, all records pertaining to the use and disposition of the state timber and, upon request of the Director, make said records available for inspection by the Director.

§ 1520. Violation.

HISTORY

1. Repealer filed 2–1–83; effective thirtieth day thereafter (Register 83, No. 6).

§ 1521. Notice of Violation and Review.

If the Director determines that a purchaser has violated any provision of these regulations, a Notice of Violation shall be sent be certified mail to purchaser with the further statement that purchaser shall be prohibited from purchasing state timber for a period of 5 years from the date of violation and said notice will designate the period of suspension of the timber operator permit, if any, not exceeding a period of 6 months from the date of notice. Within 30 days of said notice, purchaser may make written appeal to the Director for review. The Director, upon his or her option, may act on the appeal either by open hearing or submission of written documents and proof. A decision if the Director is final.

Chapter 9.5. Forest Improvement Program

Article 1. Introduction

§ 1525. General.

(a) The purpose of these procedures is to implement the California Forest Improvement Act of 1978 (Public Resources Code Sections 4790 through 4799.05, cited herein as "PRC _____"). Articles 1 through 8 of these procedures guide landowners participating in cost sharing agreements, RPFs employed by those landowners, and the Director when selecting projects and administering cost sharing agreements, and inform interested members of the public about the program.

(b) Due to the variety of forest conditions and diverse needs of forest landowners throughout the state, these procedures provide flexible standards which can apply in many situations. These standards are designed to give the Director the flexibility to select highly promising and badly needed forest resource improvement projects consistent with the provisions of the Act.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4790 and 4791, Public Resources Code.

HISTORY

1. New Chapter 9.5 (Articles 1–8, Sections 1525–1545.9, not consecutive) filed 7–5–79; effective thirtieth day thereafter (Register 79, No. 27).

§ 1525.1. Statement of Intent.

The legislative intent for the California Forest Improvement Act of 1978 is contained in PRC Section 4791.

PRC 4799.02 requires the Director to adopt guidelines and procedures for landowners and Registered Professional Foresters (RPFs) participating in the program and for the Director when administering the program consistent with the findings and policies stated in the Act.

These procedures inform landowners, RPFs and the interested public regarding the qualifications necessary to participate in cost sharing agreements, the practices eligible for assistance through cost sharing agreements, the application procedures, and the responsibilities assumed when entering into such agreements, and guide the Director while selecting projects and implementing the program.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4790 and 4791, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Registered 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).

§ 1526. Abbreviations.

The following abbreviations apply throughout this chapter:

CAC: California Administrative Code.

CEQA: The California Environmental Quality Act of 1970, as amended, and administrative regulations pertaining thereto.

cm: centimeter (a metric unit of measure).

ha: hectare (a metric unit of measure).

m: meter (a metric unit of measure).

PRC: Public Resources Code.

RPF: Registered Professional Forester.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4793, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).

§ 1526.1. Definitions.

The definitions contained in the California Forest Improvement Act of 1978 (commencing with PRC 4790) shall apply to this chapter as well as the definitions set forth below:

	PRC Sec. Containing Ref. Def.
"Act" means the California Forest Improvement Act of 1978. (Reference: Sections 4790–4799.05, Public Resources Code.)	
"Applicant" means a landowner who has submitted an application for a cost sharing agreement. (Reference: Section 4797, Public Resources Code.)	
"Board"	730
"Clean and Release" means weeding of unwanted competing vegetation to provide more growing space and nutrients for young trees. See the definition of "Precommercial Thinning" in this section and "Youth Growth Stand Improvement" in PRC 4793(t). (Reference: Sections 4793 and 4794.)	
"Commercial species" means any tree species which can be planted, raised and harvested for wood products at a profit. (Reference: Section 4791, Public Resources Code.)	

	PRC Sec. Containing Ref. Def.
"Cost sharing agreement" means the writing wherein the participant agrees to complete a project and in return the Director agrees to provide a percentage of the total cost of the project. (Reference: Section 4795, Public Resources Code.)	
"Cost sharing payment" means funds advanced by the Director to a participant pursuant to a cost sharing agreement. (Reference: Section 4798, Public Resources Code.)	
"County with high unemployment"	4793(a)
"Department" (Reference: Sections 4792 and 4794, Public Resources Code.)	
700(a)	
700(b),	
"Director" means the Director of Forestry or his/her duly authorized representative. (Reference: Sections 4790–4799.05, Public Resources Code.)	709
"Eligible landowner" means a landowner meeting the requirements of PRC 4793(b) and these procedures. (Reference: Section 4793, Public Resources Code.)	701,
"Fiscal Year" means the twelve month period beginning July 1 of one calendar year and ending June 30 of the following calendar year. (Reference: Section 4799.02(k), Public Resources Code.)	
"Fish and wildlife habitat improvements"	4793(b)
"Followup work"	4793(d)
"Forest land" means land of the type historically used as commercial forest land and meeting the requirements of PRC 4793(e).	
4793(e)	
"Forest land conservation measures"	4793(f)
"Forest land with demonstrated potential for improved forest resource management"	
4793(g)	
"Forest Resources"	4793(h)
"Guidelines" means the resource protection guidelines set forth in Article 8 of this subchapter. (Reference: Section 4799.02, Public Resources Code.)	
"Intermittent stream" see "stream" this section.	
"Lake" means a permanent natural body of water of any size or an artificially impounded body of water having a surface area of at least one acre (.405 ha), isolated from the sea, and having an area of open water of sufficient depth and permanency to prevent complete coverage by rooted aquatic plants. (Reference: Section 4551.5, Public Resources Code.)	
"Management plan" means a long–term forest and land management plan satisfying PRC 4799. (Reference: Section 4799(1), Public Resources Code.)	
"Parcel" means a unit of land delineated by a County Assessor for tax purposes in the county where the project is or will take place. (Reference: Section 4797(e)(1)–(2), Public Resources Code.)	
"Participant" means a landowner who has entered into a cost sharing agreement with the Director. (Reference: Section 4795, Public Resources Code.)	
"Perennial stream;" see "stream" this section.	
"Person"	4793(m)

	PRC Sec. Containing Ref. Def.
"Practices" means those categories of forest resource improvement work listed in PRC 4794 and 14 CAC 1527 as eligible for assistance through cost sharing agreements. (Reference: Section 4794, Public Resources Code.)	
"Precommercial thinning" means the reduction of the number of stems in an overcrowded young stand of commercial trees to a pre–determined number, spacing, or basal area to achieve a reasonably optimum rate of growth to meet management objectives. This concept also may include the incidental removal of non–commercial trees or other unwanted competing woody vegetation. (Reference: Section 4794, Public Resources Code.)	
"Prevailing cost" means the maximum compensation allowed for activities addressed in 14 CAC 1527(a) (2), (3), (4), (5) and (7) as adopted by the Board pursuant to 14 CAC 1530.1.	
"Procedures" means Chapter 9.5 of Division 1.5, Title 14, California Administrative Code, 14 CAC 1525–1545.8. (Reference: Section 4799.02, Public Resources Code.)	
"Program" means all the Director's activities relating to the selection and administration of projects. (Reference: Sections 4790.5 and 4792, Public Resources Code.)	
"Project" means a forest resource improvement project. (Reference: Section 4799.02, Public Resources Code.)	
"Project area" means the lands included for treatment by any eligible practice except writing a management plan. (Reference: Section 4799.02, Public Resources Code.)	
"Reforestation"	4793(o)
"Registered Professional Forester" means a person who holds a valid license as a professional forester. (Reference: Sections 750–783, Public Resources Code.)	
"Restocked"	4793(p)
"Slash" means branches, limbs or stems less than 4 inches (10.2 cm) in diameter left on the ground as a result of the project.	
4525.7	
"Small business entity"	4793(q)
"Snag" means a standing dead tree or a standing section thereof, regardless of species. (Reference: Title 14, California Administrative Code, Section 895.1.)	
"Special Treatment Areas" mean specific areas that have been legally designated and described by the appropriate public agency or commission as: Wild and scenic rivers, scenic highways, historical and archaeological sites (excepting old logging sites, abandoned railroad grades, mills or towns), ecological reserves, key habitat areas of endangered species of plants and animals; national, state, regional, county and municipal parks; and those areas within 200 feet (60.96 m), as measured along the surface of the ground from the established bound–	

aries of such areas or the edge of the traveled surface of such highways. It is not the intent of these provisions to include within the meaning of "special treatment areas" any riding, hiking or other recreational trails including, but not limited to, the Pacific Crest Trail. (Reference: Title 14, California Administrative Code Section 895.1.)

PRC Sec. Containing Ref. Def.

"Stream" means a natural perennial or intermittent water course as designated by a solid line or dash and three dots symbol on the largest scale United States Geological Survey map most recently published or as corrected on the management plan map to reflect conditions as they actually exist on the ground. (Reference: Section 4799, Public Resources Code.)

"Stream and lake protection zone" means the strip of land around lakes and on each side of streams 50 feet (15.24 m), slope distance, from the stream or lake transition line. (Reference: Section 4799, Public Resources Code.)

"Stream and lake transition line" means that line closest to the stream or lake where riparian vegetation is permanently established. (Reference: Section 4562.7, Public Resources Code.)

"Substantially damaged" means areas of forest land of 3 contiguous acres (1.214 contiguous ha) or more whereon wildfire, insects, disease, wind, flood or other substantial damage caused by an act of God reduces stocking below the requirements of PRC 4561 and applicable administrative regulations. (Reference: Title 14, California Administrative Code Section 895.1.)

"Substantial deviation" means an important or fundamental change in the proposed project including changes in:

(a) the area to be treated by any practice;

(b) practices proposed for the project;

(c) measures designed to mitigate impacts of a proposed project. (Reference: Section 4799.02, Public Resources Code.)

"Timberland protection zone" means the land use zone established pursuant to the provisions of Chapter 6.7 (commencing with Section 51100) of Part I of Division I of Title V of the Government Code. (Reference: Section 4795.5(a), Public Resources Code.)

"Uses incompatible with forest resource management"
4793(s)

"Wet meadows, marshes and other wet areas" means those natural areas except cutover lands as defined in PRC 4522.5 that are moist on the surface throughout most of the year and support exotic vegetation, grasses and forbs. (Reference: Section 4799, Public Resources Code.)

"Zone" means a land use zone designated by the county where the project is or will take place. (Reference: Section 4799.02, Public Resources Code.)

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 700, 701, 709, 730, 750–783, 4523, 4525.7, 4531, 4551.5, 4562.7 and 4790–4799.05, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).
3. Amendment filed 8–31–84; effective thirtieth day thereafter (Register 84, No. 35).

Article 2. Eligibility

§ 1527. Eligible and Ineligible Practices.

(a) The following practices and combinations thereof as set forth in PRC 4794 are eligible for assistance through cost sharing agreements if they are completed in accordance with these procedures and the conditions of a cost sharing agreement:

(1) Preparation of management plans and addendums to management plans satisfying 14 CAC 1529.1.

(2) Site preparation as necessary to establish desirable tree species. Mechanical, chemical, and manual methods will be permitted to control and/or remove competing brush and hardwood species. Other methods include but are not limited to prescribed burning of brush and slash, and soil preparation such as plowing, discing, and fertilizing.

(3) Provision and planting of seed and seedlings of commercial tree species. Costs of said seed and seedlings from public and private nurseries are eligible for cost sharing. Planting includes manual and mechanical planting of seed and seedlings and subsequent protection of those seed and seedlings.

(4) Stand improvement within young growth stands of commercial tree species including clean and release or precommercial thinning of overstocked stands to provide more growing space for healthier stems.

(5) Forest land conservation measures including but not limited to erosion control, revegetation, road closure and stabilization of abandoned roadbeds, and improvement of drainage facilities for the purpose of reducing soil erosion and sedimentation.

(6) Fish and wildlife habitat improvement work including but not limited to stream clearance, reestablishment of desirable vegetation along stream channels and elsewhere, measures to encourage habitat diversity, restoration of anadromous fisheries, and fencing to protect wet areas and other key wildlife habitat areas from livestock.

(7) Followup work includes those practices necessary to promote the survival of seed or seedlings planted or protection or enhancement of other practices undertaken as part of a prior project pursuant to the Act and these procedures.

(b) The following categories of work are not eligible for cost sharing even if one or more may be required to make a project serve its purpose:

(1) Fencing practices designed to protect the forest stand from livestock.

(2) Practices designed to protect the forest stand from fire.

(3) Costs of using land and water including but not limited to irrigation systems, spring development and water resource improvement.

(4) Road construction.

(5) Practices intended solely to produce Christmas trees or greenery.

(6) Projects designed solely for the production of fuelwood.

NOTE: Authority cited: Sections 4794 and 4799.02, Public Resources Code. Reference: Section 4794, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).
3. Amendment filed 8–31–84; effective thirtieth day thereafter (Register 84, No. 35).

§ 1527.1. Project Eligibility.

A proposed project must satisfy the following conditions to be eligible for a cost sharing agreement:

(a) The practices proposed to be financed by the cost sharing agreement are designated by 14 CAC 1527 as eligible for cost sharing.

(b) The eligibility conditions for cost sharing agreements set forth in PRC 4797 are satisfied.

(c) The application requirements of PRC 4799 and 14 CAC 1529.1 are satisfied.

(d) The application for the cost sharing agreement has been approved by the Director and signed by the participant before the participant begins

any practice to be financed by the agreement except preparing a management plan.

(e) To be eligible for a contract, of the type referenced in PRC Section 4797, the land proposed for the project must be forest land with demonstrated potential for improved forest resource management according to the following criteria:

(1) The area of land owned by the applicant within and contiguous to the project is 20 acres (8.094 ha) or more. This limitation does not apply to projects which involve only forest land conservation practices and fish and wildlife habitat improvement practices.

(2) The area proposed for a project which involves timber related practices described in paragraphs (2), (3), (4), or (7) of 14 CAC 1527(a) is 5 acres (2.034 ha) or more.

(3) There are no known factors which prohibit any of the practices proposed and, if the proposed project involves timber related practices described in paragraphs (2), (3), (4), or (7) of 14 CAC 527(a), there are no factors which foreseeably may prohibit the eventual harvest of commercial forest products from the project area.

(f) "Adversely affected" land under Section 4794(d)(1) includes, but is not limited to, timberland adjacent to (but which is not itself) burned timberland from which burned timber is not immediately removed.

NOTE: Authority cited: Sections 4799.02, 4794 and 4797, Public Resources Code. Reference: Sections 4794(d), 4795, 4797, 4799 and 4799.01, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).

Article 3. Application Procedures

§ 1529. General.

(a) PRC 4799 (b) requires that an applicant submit a management plan satisfying the requirements of the Director as expressed in 14 CAC 1529.1 before the Director may approve a cost sharing agreement with the applicant. The applicant may do either of the following to satisfy this requirement:

(1) The applicant may provide a management plan as part of an application for a project. In this case the preparation of the plan shall not be financed with cost sharing payments.

(2) The applicant may notify the Director of his/her intent to apply for a cost sharing agreement to finance a project and the applicant shall certify that a management plan has not been prepared for the area proposed for the project. Upon such notification and certification, the Director shall give to the applicant a set of guidelines specifying the contents of management plan. The applicant may then submit the management plan at his/her own expense as part of an application for a cost sharing agreement to finance the preparation of the plan and at least one other eligible practice. Only upon the Director's approval of the project may the applicant be reimbursed for the cost of providing the management plan.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83; (Register 83, No. 17).

§ 1529.1. Application and Management Plan.

A landowner applying for a cost sharing agreement to finance a project shall submit an application on a form approved by the Director to the appropriate Department office. The application form shall request the following:

(a) Information necessary to identify the applicant and the area proposed for the project.

(b) The current use and zoning of the area proposed for the project.

(c) A description of the proposed project including but not limited to the number of acres to be treated by each practice.

(d) A project budget including but not limited to whether the applicant's share of the project cost will be made through contribution of materials, services, and/or direct cost payments.

(e) General and environmental information that the Director judges necessary to evaluate proposed projects.

(f) A long term forest and land management plan satisfying PRC 4799(a) and guidelines approved by the Director. These guidelines shall specify that management plans include such maps and descriptive material necessary to:

(1) Determine if the proposed project will achieve the landowner's objectives and the purposes of the Act, California Environmental Quality Act (CEQA), and other state laws.

(2) Evaluate the potential of the project area for improved management of all forest resources and the environment including, but not limited to recreation, soils, timber, water, and fish and wildlife.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).

Article 4. Guidelines for Cost Sharing

§ 1530. Cost Sharing Schedules.

When the Director enters into agreements with landowners pursuant to the provisions of PRC Section 4795, he/she may share 80% of the lesser of either:

(a) The landowner's actual cost to accomplish the project or;

(b) The prevailing cost of the practices proposed for the project as determined by the Director according to 14 CAC 1530.1, or 90% of either of the same if the applicant satisfies any one of the following four conditions:

(1) The applicant owns less than 500 acres (202.350 ha) of forest land in California.

(2) Ten percent or more of the total cost of the project will be devoted to forest land conservation measures and/or fish and wildlife habitat improvement practices.

(3) The project or other actions of the landowner will increase recreational opportunities for the public.

(4) The project will be carried out primarily by persons living in the county or in counties adjacent to where the project will take place.

NOTE: Authority cited: Sections 4799.02 and 4795, Public Resources Code. Reference: Section 4795, Public Resources Code.

HISTORY

1. Amendment filed 4–15–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4–15–83 order filed 4–22–83 (Register 83, No. 17).

§ 1530.1. Prevailing Costs.

By April 15 each fiscal year, the Director shall submit to the Board for its review a schedule of the prevailing costs of performing the practices eligible for cost sharing payments in various regions of the state. The schedule shall apply to all cost sharing agreements signed in the next fiscal year. At any time, the Director may submit amendments in the schedule to the Board for its review; such changes shall become effective upon Board approval or 75 days after submission to the Board unless the Board acts to change such amendments.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4795, Public Resources Code.

Article 5. Project Review Procedures and Evaluation Criteria

§ 1532. Application Review and Filing.

(a) The Director shall continuously accept for review applications for cost sharing agreements to finance projects as long as there is reasonable assurance that funds will be available to finance such agreements.

(b) Only when an application is complete and the proposed project is eligible for a cost sharing agreement shall the Director file the application.

(c) When the Director finds an application incomplete or that the proposed project is not eligible for a cost sharing agreement, the application shall be returned to the applicant stating what additional information is needed and the reasons that the proposed project is not eligible for a cost sharing agreement.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

§ 1532.1. Public Notice of Project Application.

The Director may provide public notice above and beyond that already required by CEQA by sending copies of filed applications to the Department of Fish and Game, the Department of Parks and Recreation, the appropriate county planning agency, and California Regional Water Quality Control Board, any other agency with responsibilities related to the project, and the interested public.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

§ 1532.2. Preliminary Project Review.

(a) The Director shall conduct a preliminary review of each project proposed in a filed application by inspecting the project area and undertaking the environmental evaluation required by CEQA to determine that the applicant, the parcel, and the specific practices proposed for the project satisfy the purposes and criteria set forth in the Act, these procedures, CEQA, and all other applicable state laws, regulations, and administrative procedures.

(b) If the Director is unable to make the determination set forth in paragraph (a) of this section, then the Director shall return the application to the applicant and state the additional conditions, if any, under which the Director would be able to make such a determination. Upon receiving the returned application, the applicant may either:

(1) Incorporate such additional conditions into the proposed project and resubmit the application for preliminary review, or;

(2) Request that the Director personally reconsider his or her decision as provided in Article 7 (14 CAC 1540 through 1542).

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

§ 1533. Ranking and Approval of Filed Applications.

The Director shall periodically rank all filed applications for cost sharing agreements according to the following priority rating table. The Director may then approve filed applications in order of priority, giving consideration to administrative constraints such as seasonal variations in applications and the availability of funds that might apply to different types of projects. The Director may give preference to proposed projects which consist only of forest land conservation practices and fish and wildlife habitat improvement practices to the extent necessary to comply with PRC 4794(c).

Priority Rating Table

Factor	*Priority Rating*
1. Site Productivity[1] to be used only for forestry practices.	
Site I	10
Site II	8
Site III	6
Site IV	4
Site V	1
2. Proposed project cost as a percentage of maximum prevailing cost for project.	
Less than 50%	5
51–60%	4
61–70%	3
71–80%	2
81–90%	1
3. Management Plan Cost as a percentage of total project cost.	
10% or less	5
11–20%	3
21 + %	1
4. Zoning of Project Area	
Timberland Production Zone	5
Open Space General (20 acre minimum)	3
Other	1
5. Project area timberland substantially damaged by fire, insects, disease, or other natural causes within 36 months.[2]	5
6. Percent of the cost of the project that will be devoted to forest land conservation practices or fish and wildlife habitat improvement practices.	
10 + %	5
5–10%	3
1–5%	1
7. The landowner owns less than 500 acres (202.350 ha) of forest land in California.	5
8. The applicant agrees to offer recreational opportunities for the public.	1
9. A small business entity will carry out the proposed project[3]	1
10. The project involves follow-up work that is necessary to protect investments of a previous project	1
11. The project is located in a county with high unemployment[4]	3
12. The project offers relatively more employment opportunities[5]	1
13. The project will be carried out by persons living in the county or in counties adjacent to the county where the project will take place.	1

[1] Timber site classification will be determined in the management plan according to 14 CAC 1060. Rating shall reflect a weighted average of all sites on the project area.

[2] Criteria for substantially damaged lands specified in 14 CAC 1085.1.

[3] See PRC 4793(q) for a definition of small business entity.

[4] See PRC 4793(a) for a definition of a county with high unemployment.

[5] A project shall offer relatively more employment opportunities if the product of the number of man-hours per dollar of project cost and the proportion of the project devoted to wages and salaries is greater than the average of the same product for all projects being considered at the same time. Man-hours and reimbursements relative to RPF services shall be excluded from the calculation.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

HISTORY

1. Amendment filed 4–11–83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of printing error deleting inapplicable former HISTORY NOTE No. 2 and restoring the text of Factors 11, 12 and 13 from 4–11–83 order (Register 87,No. 32).

Article 6. Program Administration

§ 1535. Applicant Notification.

The Director shall notify all applicants that their applications were approved or rejected. An applicant whose application was rejected may either resubmit the application according to 14 CAC 1533 if there are no substantial deviations in the proposed project or request that the Director personally reconsider the decision as set forth in Article 7 (14 CAC 1540 through 1542).

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.02, Public Resources Code.

§ 1535.1. Cost Sharing Agreements.

Cost sharing agreements financing projects shall:

(a) Comply with all state laws, regulations, and administrative procedures;

(b) State that the Director may inspect the project area at any time to assure compliance with the agreement;

(c) State that the Director may take action necessary to recover funds as specified in 14 CAC 1542 and PRC 4797.5.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4795 and 4797.5, Public Resources Code.

§ 1536. Project Completion Report.

A participant shall submit a Project Completion Report to the Director upon completion of the project or any component thereof eligible for in-progress payments as specified in the cost sharing agreement. The Project Completion Report shall include all itemized invoices for practices financed by the cost sharing agreement, including where applicable, an itemized account of all costs incurred by the participant in services, equipment, and cash expenditures while completing the practices specified in the cost-sharing agreement.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4795, Public Resources Code.

§ 1536.1. On-Site Inspection.

The Director shall inspect the project:

(a) Whenever the landowner submits a Project Completion Report;

(b) Whenever a participant requests to change the terms or conditions of a cost sharing agreement;

(c) Before disbursing any cost sharing payments or requesting any refunds upon termination or amendment of agreements, or bringing legal action for violation of any agreement.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4795, Public Resources Code.

Article 7. Request for Reconsideration of Rejected Applications

§ 1540. Return of Application.

Whenever the Director rejects a final application for a cost sharing agreement, or establishes conditions following a Preliminary Review that are unacceptable to an applicant, the Director shall return the application to the applicant and state the reasons for rejecting the application.

The applicant may request that the Director personally reconsider the decision to reject the application if the request is made within 10 days of the return of the application. The request shall identify the applicant and the proposed project and briefly state the applicant's reasons for requesting that the Director personally reconsider the decision. The Director shall consider the application and all correspondence from interested parties while reviewing the decision.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.02, Public Resources Code.

§ 1541. Final Decision by the Director.

If the Director finds that the decision to reject the application conforms to these procedures and the Act, the Director shall uphold the decision to reject the application. If the Director finds that the decision to reject the application does not conform to these procedures and the Act, the Director may approve the application.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.02, Public Resources Code.

§ 1542. Recovery of Funds.

(a) Pursuant to these procedures and the Act, a participant in a cost sharing agreement shall refund any cost sharing payments in the event of any of the following:

(1) The filing of an application to rezone the parcel(s) to which the project applied to a zone permitting a land use(s) incompatible with forest resource management, as set forth in PRC 4797.5;

(2) A violation of a contract pursuant to PRC 4797;

(3) A finding by the Director that the participant has not complied with the terms of a cost sharing agreement and a subsequent order by the Director that the participant refund any cost sharing payments advanced.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4797.5, Public Resources Code.

HISTORY

1. Amendment filed 4-15-83; effective thirtieth day thereafter (Register 83, No. 16).
2. Editorial correction of effective date of 4-15-83 order filed 4-22-83 (Register 83, No. 17).

Article 8. Resource Protection Guidelines

§ 1545. Wildlife Protection.

(a) Riparian vegetation found along stream and lakes, and within marshes, wet meadows, and other wet areas shall be retained and protected except when managed as part of a fish and wildlife habitat improvement practice and necessary mitigation measures to minimize damage from these practices have been imposed.

(b) All snags within the stream and lake protection zone and all live trees and snags with visible evidence of use as nesting and roosting sites by rare, endangered, or threatened bird species shall be left undisturbed. Participants are encouraged to leave all snags undisturbed.

(c) No practices may be performed on lands designated special treatment areas due to their importance as key habitat for rare and endangered animals or plants unless an environmental evaluation conducted according to 14 CAC 1532.2 indicates that a proposed practice(s) will improve such habitat.

(d) Participants are encouraged to retain some older acorn producing black oaks, create deer forage lanes in brushfields, and plant other vegetation to promote species diversity and improve wildlife habitat when such practices are not in conflict with program goals.

(e) If existing vegetation other than riparian is necessary to maintain stream temperatures, such vegetation shall not be removed.

(f) Domestic water supplies will receive the same review and consideration as that required for special treatment areas.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.1. Stream and Lake Protection.

(a) Throughout the course of the project, the applicant shall keep all streams and lakes below the stream and lake transition line free of slash, debris, and other material that will harm fish, wildlife, or other beneficial uses of water. Accidental deposits will be removed immediately.

(b) No tractors, trucks, cars, and other machinery shall be serviced adjacent to lakes or streams, or within wet meadows and other wet areas, or in other areas where such servicing will permit grease, oil, or fuel, or other toxic substances to enter lakes or streams or wet areas.

(c) Except when performing fish and wildlife habitat improvement practices or forest land conservation practices, heavy earth-moving equipment working on the project area shall be prohibited from working within 50 feet (15.24 m), slope distance, of the stream or lake transition line. Wider protection zones may be required following an environmental review of the project conducted according to 14 CAC 1532.2.

(d) The participant shall be responsible for complying with applicable sections of the Fish and Game Code and local ordinances.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.2. Wet Meadows, Marshes, and Other Wet Areas.

No activities shall be permitted in wet meadows, marshes, and other wet areas unless such activities are forest land conservation practices of fish and wildlife habitat improvement practices and necessary mitigation measures to minimize damage from these practices have been imposed.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.3. Erosion Control.

(a) Brush scalped with a bulldozer off slopes shall be windrowed along the contour. Windrowed brush shall be disposed of by burning prior to planting or seeding.

(b) Heavy equipment shall not be operated on the project area when soils reach field capacity.

(c) Heavy equipment shall not be operated on known potential or active slide areas.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.4. Hazard Reduction.

(a) Slash that is created by the project shall be treated by chipping, piling and burning, burying, lopping or otherwise removing as recommended by the area Fire Control Officer.

(b) Any burning shall be in compliance with applicable forest, fire, and pollution regulations.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.5. Use of Chemicals.

Chemicals used for forest improvement work shall be applied in accordance with all federal, state, and local laws and regulations.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

HISTORY

1. Amendment filed 8–31–84; effective thirtieth day thereafter (Register 84, No. 35).

§ 1545.6. Stocking Levels.

Unless the Director recommends otherwise, the minimum stocking level at completion of a planting project shall be:

(a) 400 trees per acre (988 trees per ha) (10.44 foot (3.18 m) spacing) on Site III and better lands.

(b) 200 trees per acre (494 trees per ha) (14.76 foot (4.50 m) spacing) on Site IV and V lands.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4794, Public Resources Code.

§ 1545.7. Species Selection.

Commercial tree species shall be used for reforestation projects consisting of site preparation and planting practices except that up to 10% of the area may be planted with other species in the interest of maintaining species diversity and wildlife habitat. Non–commercial species may be used in projects consisting of forest land conservation measures and fish and wildlife habitat improvement practices. In any case, the tree species used for any project financed by a cost sharing agreement pursuant to this Chapter shall be silviculturally adaptable to the specific site named in the agreement and the use of said species shall be subject to the approval of the Director.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.8. Special Treatment Areas.

No practice may be performed in special treatment areas except in such cases where the area has been substantially damaged or where the proposed practice will improve the resource values which have prompted the appropriate public agency to designate the area a special treatment area. In any case, an environmental review shall be conducted in the manner set forth in 14 CAC 1532.2 for all projects within special treatment areas.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Sections 4799 and 4799.01, Public Resources Code.

§ 1545.9. Insect Control.

Pre–commercial thinning in Ponderosa Pine and Jeffrey Pine shall be limited to between May 15 and November 1 unless adequate measures are taken to prevent the infestation of the residual stand with IPS and/or dendroctonous beetles.

NOTE: Authority cited: Section 4799.02, Public Resources Code. Reference: Section 4799.01, Public Resources Code.

Chapter 9.7. Urban Forestry Program Procedures*

* Regulations adopted by the California State Board of Forestry.

Article 1. Introduction

§ 1550. Purposes of Guidelines.

The purpose of these Urban Forestry Program Guidelines shall be:

(a) to implement the California Urban Forestry Act of 1978 (Public Resources Code Sections 4799.06 through 4799.12);

(b) to provide guidance to cities, counties, city and county of, districts and nonprofit organizations ("local agency") participating in the program regarding: eligibility to receive grants for urban forestry projects, practices eligible for assistance through such grants, application procedures and responsibilities assumed by a participant while receiving such grants;

(c) to provide guidance to the Director in reviewing and evaluating proposed urban forestry projects and the proportion of cost share assistance available as grants for approved projects and in making grants and in carrying out other procedures necessary to administer the program;

(d) to inform interested members of the public of the procedures used by the Department of Forestry in administering the program.

Due to the wide variety of urban areas and the diverse needs of urban communities throughout the state, these guidelines provide flexible standards which can apply to many situations. The standards are designed to give the Director flexibility to select highly promising, badly needed and/or innovative urban forestry projects consistent with the provisions of the Act.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.07, 4799.08, 4799.10 and 4799.12, Public Resources Code.

HISTORY

1. New Chapter 9.7 (Sections 1550–1556.1, not consecutive) filed 4–16–79; effective thirtieth day thereafter. Issuing agency: Board of Forestry (Register 79, No. 16).
2. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1550.1. Legislative Intent.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.08, Public Resources Code.

HISTORY

1. Repealer filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1550.2. Authority to Adopt Procedures.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Repealer filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 2. Definitions

§ 1551. Abbreviations.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Repealer filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1551.1. Definitions.

The following definitions are applicable throughout this chapter.

Defined word or phrase	*PRC Sec. Containing Ref. Def.*
"Act" means the California Urban Forestry Act of 1978. Reference: Sections 4799.06–4799.12, Public Resources Code.	
"Agreement" means the document in which the Director and participants state the terms and conditions un-	

der which the participant agrees to complete an urban forestry project subject to specified conditions and in return the Director agrees to provide a percentage of the total cost of the project. Reference: Section 4799.10(b), Public Resources Code.

"Applicant" means any local agency that has submitted an application for an urban forestry project grant. Reference: Section 4799.12, Public Resources Code.

"Board" 730

"Department" 730(b)

"Director" means the Director of the Department of Forestry or a duly authorized representative. Reference: Section 700(c), Public Resources Code.

"Local agency" means any city, county, district, or nonprofit organization. Reference: Section 4799.12, Public Resources Code.

"Grant(s)" means the funds given to a local agency by the Director for assistance in funding urban forestry projects. Reference: Section 4799.12, Public Resources Code.

"Participant" means any local agency that is the recipient of a grant to partially fund an urban forestry project. Reference: Sections 4799.07–4799.12, Public Resources Code.

"Practice" means any urban forestry work eligible for financial assistance through a grant authorized for such purpose. Reference: Section 4799.12, Public Resources Code.

"Program" means all of the activities of the Department of Forestry relating to the administration of grants to assist local agencies in funding urban forestry projects. Reference: Section 4799.12, Public Resources Code.

"Project" means all of the practices set forth in a single application and approved for a grant to partially fund the costs of completing the practices proposed in the application. Reference: Section 4799.12, Public Resources Code.

"Public or private entity" means any persons, local agency, or organization (public or private). Reference: Section 4799.12, Public Resources Code.

"Urban area" 4799.09(c)

"Urban forest" 4799.09(b)

"Urban forestry" 4799.09(a)

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 700(b), (c), 730 and 4799.06–4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 3. Eligibility

§ 1552. Eligible Practices.

Practices that may be financed by the Urban Forestry Grant program include but are not limited to the following:

(a) Planting of street and neighborhood trees and other vegetation.

(b) Designing and implementing vegetation maintenance programs.

(c) Establishing community forests and urban forestry education centers to restore abandoned urban land and to develop community awareness of the benefits of managing our urban forests.

(d) Preparing and implementing community–supported urban forestry management plans, inventories, and ordinances.

(e) Developing and establishing urban forestry educational material to support community urban forestry programs.

(f) Designing and implementing urban and community forest management plans for urbanized forests.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1552.1. Ineligible Costs.

Costs of completing the following activities or conditions shall not be financed by grants authorized by the Act:

(a) Purchasing mechanical equipment if similar surplus mechanical equipment can be made available and acquired by the Department.

(b) Undertaking or completing any practice designed to supplant rather than supplement existing local agency activities. Such ineligible practices shall consist of any request that the Director furnish grants to take the place of a regular or ongoing fiscal commitment to a program or project by a local government.

(c) Planting or landscaping with trees or vegetation that requires maintenance such as: watering, fertilizing, exterminating, or controlling plant pests and diseases in order to survive, if no public or private entity has agreed in writing to provide such maintenance measures for at least two years after planting is completed.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1552.2. Eligible Participants.

The following local agencies are eligible to participate in the program and receive grants authorized by the Act:

(a) Cities (city and county).

(b) Counties.

(c) Districts, including but not limited to: school, park, recreation, water, and local taxing districts.

(d) Nonprofit organizations including, but not limited to, those established for the purpose of improving urban life through citizen involvement, schools, and civic groups.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1552.3. Eligibility and Permits.

All of the following conditions must be met for a proposed urban forestry project to be eligible for a grant authorized by the Act:

(a) A project must be located in an urban area or immediately adjacent to an urban area if substantial benefits of the project are to accrue to residents of the urban area.

(b) The project has a commitment for active participation from one or more of the following: local residents, local business, or local government as described in Section 1554.1(h).

(c) The applicant has complied in all respects with all applicable local and county ordinances.

(d) The applicant has entered into an agreement with the owners of the land for access to the land for three years by using the form supplied by the Department of Forestry.

(e) The applicant has complied with all applicable state and federal laws and regulations, including CEQA.

(f) The application has been approved, project priority is high enough to qualify for available funds, and an agreement is executed before the project is begun.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.08 and 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 4. Guidelines for Awarding Grants

§ 1553. Grant Guidelines.

The Director may make grants to share the cost of eligible urban forestry projects. The proportion of the project cost financed by the Director shall be determined as follows:

(a) The Director will finance at least 25 percent of the costs of eligible planting projects if the maintenance necessary for survival is guaranteed by the applicant to be provided for two (2) years from the completion of planting.

(b) The Director will finance at least 50 percent of the costs of eligible planting projects where the required maintenance is guaranteed by the applicant to be provided for three (3) years or more from the completion of planting.

(c) The Director will finance at least 50 percent of the costs of eligible projects which do not involve planting.

(d) Additional funds are available at the rate of 15 percent of the projects cost for each criterion listed in 14 CAC 1554.3(a) except for (2) and (4) of that subsection provided that the cost–share rate for projects with a two (2) year maintenance commitment does not exceed 70 percent of the project cost, and 90 percent for all other projects.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 5. Application Procedures

§ 1554. Acceptance for Review and Filing.

The Director shall mail to persons upon request and publish in the California Administrative Notice Register a request for proposals for urban forestry projects at least once each year. The Director shall accept for review and filing applications for grants to partially finance urban forestry projects if there is reasonable assurance that funds will be available to finance such grants. Applications will not be accepted past the final filing date specified in the Director's request for proposed urban forestry projects.

NOTE: Authority cited: Section 4799.12, Public Resources Code and Section 11344, Government Code. Reference: Section 4799.10, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1554 to Section 1554.1, and renumbering and amendment of former Section 1554.1 to Section 1554 filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1554.1. Application and Content.

Local agencies requesting grants authorized by the Act shall submit an application to the Director.

Information required upon application shall include, but not necessarily be limited to:

(a) Name, address, and telephone number of the local agency and its executive officer making the application.

(b) A form supplied by the Department, signed by the landowner, allowing the applicant access to the land for three years.

(c) A statement signed by the applicant certifying that the applicant will comply with all applicable local, state and federal laws and regulations.

(d) A statement of the applicant's objectives to be achieved by the proposed project.

(e) A brief statement describing how the proposed project will achieve the objectives stated pursuant to (d) above.

(f) A detailed description of any maintenance measures necessary to ensure the survival of any vegetation planted pursuant to the grant agreement, including a statement describing the terms of any commitment(s) made by any public or private entity to provide such maintenance. Said statement shall be signed by the entity agreeing to provide such maintenance.

(g) A description of the project, including a budget, the number and job nature of the people involved in the project and the source of funds, materials, equipment or services to be provided by the applicant. If applicable, a detailed planting plan shall be attached to show the species to be planted, location of the project, and ancillary landscaping work.

(h) Documentation that there shall be active community participation such as a letter from a local service club.

(i) For nonprofit organizations submitting an application, a description of the organization including the purpose, membership and source of funding.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.10, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1554.1 to Section 1554, and renumbering and amendment of former Section 1554 to Section 1554.1 filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1554.2. Application Review and Filing.

Upon receipt of an application for an urban forestry project grant, the Director shall review it for conformance with the Act and these guidelines. Such review shall include an inspection of the project area.

(a) If the Director finds that the application is incomplete in a material way or that the proposed project is not eligible for a grant, the application will be returned and the applicant will be informed that the proposed project is ineligible for funds to be allocated during the present period to which the Director's request for proposals applies. The applicant will be informed that there will be an opportunity to apply for funds during the next period in which the Director requests proposals for urban forestry projects. The Director shall also indicate the information required to complete the application or steps necessary to qualify the proposed project for a grant. When an application is complete and the project is eligible for a grant, the Director shall file the application.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Section 4799.10, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1554.3. Priority Ranking of Filed Applications.

The Director shall develop priority lists of proposed projects by ranking all filed applications. The Director may establish separate priority lists for proposed projects that qualify for special funds available for distribution.

(a) The following criteria shall guide the Director in ranking applications to develop priority lists of proposed projects:

(1) The project provides urban forest resources to areas where such resources are absent, or replenishes such resources where they are badly depleted.

(2) The degree of active community participation provided by the project.

(3) The project demonstrates innovative techniques for developing and managing urban forest resources that can be duplicated in other urban areas.

(4) The project application includes a long–term written commitment by a public or private entity to provide maintenance necessary to ensure survival of trees or landscaping.

(5) The project uses trees or other vegetation to reduce consumption of finite energy resources, or to produce energy and other products from urban forests.

(6) The project is located in an area with an unemployment rate in the relevant census tract that exceeds the average unemployment rate for urban areas in California and provides jobs for currently unemployed persons.

(7) The project is educational in nature and develops public awareness of the need for managing urban forest resources.

(b) The Director may exercise discretion in establishing project priorities for the awarding of grants and deviate from the procedure outlined in paragraph (a) above. Such deviation may be made to accommodate seasonal variations in submission of applications, limitations in available funding, and other factors that prevent the approval and priority setting procedures from achieving the purposes of the Act.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.08, 4799.10 and 4799.12, Public Resources Code; and Section 1550, 14 CAC.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 6. Project Administration

§ 1555. Notification of Application Status.

The Director shall notify each applicant whose application has been filed pursuant to Section 1554.2 and reviewed of the status of its application within ten working days of the completion of review.

(1) For those applications which have been approved and funded, the Director shall notify the applicant that he/she has been awarded a grant for the project. The Director shall forward to the applicant a proposed grant agreement indicating that the final agreement is to be developed through negotiations to represent the interests of both parties and that the funds will be encumbered when a final agreement has been reached. The applicant may then either withdraw its application or complete the negotiations and execute a grant agreement. When the grant agreement is executed, the Director will make the grant funds available to the recipient in the manner and at the times specified in the agreement.

(2) For those applications which have been approved but for which there are no existing funds, the Director shall notify the applicant that he/she will be awarded a grant if funds become available during the fiscal year. If no funds become available during the fiscal year, the Director shall notify the applicant of this and shall encourage him/her to apply for funds during the next period in which the Director requests proposals for urban forestry projects.

(3) For those applications which have not been approved, the Director shall notify the applicant that the application is not high enough on the priority list to receive a grant during this period and shall encourage him/her to apply for funds during the next period in which the Director requests proposals for urban forestry projects.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.10 and 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1555.1. Grant Agreements.

Agreements setting forth the conditions under which an urban forestry project grant is made shall conform to applicable federal and state laws and administrative regulations adopted pursuant thereto. The agreement shall also state that the Director may inspect the project area at any time to assure compliance with the agreement. If upon inspecting the project the Director, or a representative, finds that the project is not progressing in accordance with the agreement, the Director may withhold payments provided that the Director promptly notifies the participant of the reasons for so doing.

NOTE: Authority cited: Sections 4799.10 and 4799.12, Public Resources Code. Reference: Section 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Article 7. Appeal Procedures

§ 1556. Request for Record Review.

Within ten days of the receipt of notice that the application has been denied pursuant to 14 CAC 1555, the applicant may request that the Director personally reconsider his/her decision of rejection. The request shall identify the applicant and the proposed project, and shall briefly state the applicant's reasons for requesting reconsideration. The Director shall consider the application and all of the correspondence from interested parties in reviewing the decision.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.10 and 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

§ 1556.1. Final Decision by the Director.

If the Director finds that the decision to reject the application conforms to these guidelines and the Act, the Director shall uphold the decision. If the Director finds that the decision to reject the application does not conform to these guidelines or the Act, the Director may approve the application.

NOTE: Authority cited: Section 4799.12, Public Resources Code. Reference: Sections 4799.10 and 4799.12, Public Resources Code.

HISTORY

1. Amendment filed 8–2–83; effective thirtieth day thereafter (Register 83, No. 32).

Chapter 9.8. Chaparral Management

Article 1. Introduction

§ 1560. Purpose.

The purpose of these regulations is to implement and make specific provisions of Chapter 525, Statutes of 1980 found in Sections of the Public Resources Code relating to prescribed burning and chaparral management.

NOTE: Authority cited: Sections 4475 and 4475.5(b), Public Resources Code. Reference: Sections 4464, 4475, 4475.5 and 4476, Public Resources Code.

HISTORY

1. New Chapter 9.8 (Articles 1–6, Sections 1560–1569.6) filed 9–16–81; effective thirtieth day thereafter (Register 81, No. 38).

§ 1561. Abbreviations.

The following abbreviations apply throughout the Chapter.

APCD means Air Pollution Control District

APCO means Air Pollution Control Officer

CAC California Administrative Code

CEQA California Environmental Quality Act of 1970, as amended, and administrative regulations pertaining thereto.

EIR Environmental Impact Report

m Meter (a metric unit of measure)

PRC Public Resources Code

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4462, 4467(b) and 4476, Public Resources Code.

§ 1561.1. Definitions.

PRC Section Containing Ref. Def.

The definitions set forth in this section and the definitions contained in Sections 4104 and 4464 of the Public Resources Code are applicable to this chapter.

	PRC Sec. Containing Ref. Def.
"Act" means the provisions of Chapter 525, Statutes of 1980.	
"Board" means the State Board of Forestry.	700(a), 730
"Chaparral" means brush stands that may fall into one or more of three types: "hard" chaparral, "soft" chaparral, and mountain brush.	
Hard chaparral is characterized by usually dense stands of tough, upright woody shrubs such as manzanita (*Arctostaphylos* Spp. *Ceanothus* Spp.), scrub oak (Quercus Spp.), and chamise (*Adenostoma* Spp.). These plant communities are highly flammable after 20–30 years, and may burn inadvertently every 20 to 50 years.	
Soft chaparral is characterized by shrubs such as sage (*Saliva* Spp.) buckwheat (*Eriogonum* Spp.) and sagebrush (*Artemisia* Spp.). These shrubs tend to be limber, and grow in less dense, more penetrable stands. Because grasses are a common component, this type may burn inadvertently on a more frequent cycle, as little as 2–5 years.	
Mountain brush, or forest chaparral, may occur at higher altitudes on large acreages as a secondary succession stage in coniferous forests. Most species are different from those of the "hard" chaparral and include many deciduous species.	
"Cost–share" means the proportionate amount of the resources needed for site preparation, prescribed fire operations and liability insurance that is to be provided by each party according to the cost sharing contract. The state's share of the costs shall bear the same ratio to the total costs of the operation as the public benefits bear to all public and private benefits to be derived from the operation, but will not exceed 90% of the total project cost.	
"Cost–sharing contract" means the written agreement between an eligible landowner and the Department whereby the state assumes responsibility for a percentage of the total cost of the prescribed burning that the state does for the landowner.	
"Deer forage lanes" means the narrow strips of treated vegetation through brush stands which provide deer browse and facilitate animal travel.	
"Department" means the Department of Forestry.	700(a), 700(b)
"Director" means the Director of Forestry or his/her duly authorized representative.	
"Eligible landowner" means an owner of property, or any other person meeting the requirements of PRC 4475 and 14 CAC 1562.	
"Field capacity" means the amount of water remaining in a well–drained soil when the downward movement of flow into unsaturated soil has become small or negligible.	
"Fire hazard" means the fuel complex defined by kind, arrangement, volume, condition, and location that forms a special threat of ignition and suppression difficulty.	
"Fish and wildlife habitat improvement" means the changes made to protect or enhance food, escape, resting, nesting, roost cover, and water supplies for wildlife, or to better water flows and other stream conditions for fish and other aquatic life.	
"Foreseeable damage" means the predictable undesired effects of a prescribed burn or its aftermath. These effects include, but are not limited to, damage to structures or other improvements, accelerated erosion and sedimentation, air pollution, loss of soil productivity, and other resource damages.	
"Forest land" means the land having at least 10% of the area occupied by tree crowns of any size, or formerly having had such tree cover and not currently zoned for uses incompatible with forest management.	
"Geologic hazard area" means the site of "foreseeable damage" from erosion or mass earth movement. Factors to be considered in identification of such areas are precipitation, soil characteristics, slope, vegetation cover and geology, including evidence of previous land sliding and dip of bedding planes or jointing systems.	
"Participant" means a person who has entered into a cost sharing contract with the Director.	
"Person."	4464(f)
"Prescribed burning or prescribed fire."	4464(d)
"Prevailing costs" means the values of supplies, material and the pay rental rates for services and equipment that are approved by the Board for use by the Director in estimating and computing the cost of completing a prescribed burning project.	
"Program" means all the Director's activities relating to the selection, planning, operations, and administration of vegetation management projects.	
"Project" means all work necessary to complete the planning, burning prescription development, pre–fire preparation of the site or sites, and to complete the prescribed burning of wildlands.	
"Project manager" means the designated officer of the Department responsible for working with landowners, preparing prescribed burning plans, determining cost–share ratios, preparing and administering cost sharing contracts, providing leadership of interagency planning to satisfy environmental requirements, and evaluating the results to determine project effectiveness.	
"Public benefit" means the improvement in overall welfare resulting from an intentional change in the vegetative cover. Public benefits from vegetation management include reduction of fire hazards, breaking fire/flood cycles, increasing water yields for any beneficial use, improving food and cover for wildlife, increasing forage production for domestic livestock, protection of forests, enhanced esthetics, improving of air quality and recreation potential.	
"Rangeland" means the land on which the existing vegetation, whether growing naturally or through management, is suitable for grazing and browsing. "Rangeland" includes any natural grasslands, savannas, shrublands, deserts, woodlands, and wetlands which support a vegetative cover of native grasses, grass–like plants, forbs, shrubs, or naturalized species. "Rangeland" is land that is dominated by vegetation other than trees. Many woodlands (including Eastside ponderosa pine, pinyon, juniper, chaparral, and oak woodlands) are included in "rangelands" because their response to range management principles and activities are similar to those of other shrubby ecosystems.	

	PRC Sec. Containing Ref. Def.
"Riparian vegetation" means the plant species normally found growing on the moist edges of streams and some lakes. These plants normally have high water–use requirements and usually are incapable of growing on dry hill slopes where they do not have a moisture supply other than residual soil moisture. Typical species include cottonwoods (*Populus* Spp.), sycamores (*Platanus* Spp.), willows (*Salix* Spp.) bay or pepperwood (*Umbellularia californica*), and alders (*Alnus* Spp.).	
"Site preparation" means the action taken to prepare an area to be burned under prescription. Such preparation may consist of securing control points, providing access for equipment, building temporary firelines and providing water sources.	
"Smoke management" means the process of conducting a prescribed burn under specified fuel moisture and meteorological conditions, and using firing techniques that keep the smoke's impact upon the environment within acceptable limits.	
"Smoke sensitive areas" means a populated area, an airport, a traveled road or highway, areas designated Class I for visibility standards, or any place where smoke can adversely effect the public health and welfare.	
"Snag" means a standing dead tree or a standing section thereof, regardless of species.	
"Species diversity" means the variety or number of different plant or animal species in an area.	
"State Responsibility Area."	4125–4128
"Vegetation management" means the planned manipulation of living and dead vegetation to achieve desired results and objectives.	
"Watercourse" means any well–defined channel with distinguishable bed and bank showing evidence of having contained flowing water indicated by deposit of rock, sand, gravel or soil.	
"Watercourse and lake protection zone."	14 CAC 912, 932, 952
"Watershed management" means the protection or enhancement of vegetative cover to provide optimum water yields, to protect water quality, and to minimize soil erosion, flood peaks and downstream sediment damage.	
"Wet meadows, marshes, and other wet areas" means those natural areas, except cutover lands as defined in PRC 4522.5, that are moist on the surface throughout most of the year and support aquatic vegetation, grasses, or forbs.	
"Wildland."	4464(a)
"Wildland fuel."	4464(b)
"Windrow" means plant material and/or debris that has been mechanically or hand–piled into long, continuous rows.	
"Zone" means the land use zone designated by the county where the project is taking or will take place.	

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4475, 4475.5 and 4476, Public Resources Code; and 14 CAC 895.1.

Article 2. Project Eligibility for Contract

§ 1562. General Eligibility Criteria.

The Director may contract to do prescribed burning if all of the following conditions are met:

(a) The applicant is the owner of, or has legal control of, the property on which the project is proposed.

(b) The project is located on wildlands classified as State Responsibility Area and includes any land having a plant cover consisting principally of grasses, forbs, shrubs or trees.

(c) The applicant agrees to pay for that portion of the cost, as determined by the Director, to be the private share.

(d) Before any work begins, the participant deposits in a California–licensed financial institution funds equal to the Director's estimate of the private share, or agrees in writing to provide materials, services, equipment, or some combination thereof, in an amount equal to the private share.

(e) The purpose of the contract includes one or more of the purposes described in PRC 4475 (a)–(f).

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4464, 4475 and 4476, Public Resources Code.

Article 3. Contract Application and Cost Sharing Procedures

§ 1563. Application.

A landowner applying for a cost sharing contract to finance a project should submit, with the assistance of a local CDF officer, an application on a form approved by the Director to the appropriate Department office. The completed application form shall include the following:

(a) the information necessary to identify the applicant as the owner or controller of the property;

(b) the information necessary to specifically identify the proposed project area;

(c) the zoning and intended use of the proposed project area;

(d) a description of the proposed project including, but not limited to, the number of acres to be treated by each method;

(e) a proposed project budget including, but not limited to, a description of the landowner's participation in terms of contributed materials, services, equipment by type and hours of use, and/or amount of direct cost payments;

(f) the environmental information required by the Director as part of the application;

(g) an erosion control and land management plan approved by the Director. The management plan shall include maps and descriptive material necessary to:

(1) determine if the proposed project will achieve the landowner's objectives and the purposes of the Act, CEQA, and other state laws; and

(2) evaluate the potential of the project to improve the management of the environment and natural resources including, but not limited to, recreation, esthetics, soils, timber, water, fish, and wildlife.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4461–4464, 4475–4478, Public Resources Code.

§ 1564. Cost Sharing Schedules.

Pursuant to PRC 4475.5, the Director may enter into contracts with eligible landowners whereby the Director may share the cost of eligible chaparral management practices.

(a) The State may assume a proportionate share of the cost of site preparation and prescribed burning, not to exceed 90% of the total costs. The state's share of such costs shall bear the same ratio to the total costs of the operation as the public benefits bear to all public and private benefits from the operation as estimated and determined by the Director.

(b) In estimating and determining the public and private benefits, the Director shall be guided by the following standards:

(1) use of the formula:

$$\frac{X}{T} = \frac{(B1)}{B1 + B2}$$

X = state's share of cost
T = total project cost
B1 = estimate of public benefits
B2 = estimate of private benefits

and
X is not > 0.9
T

(2) benefits shall be limited to benefits occurring within ten years of the completion of the contract;

(3) benefits shall be divided into two classes: public and private. Public and private classes shall be further subdivided into seven categories: fire hazard reduction; water yields; watershed stabilization; wildlife habitat improvement; fisheries habitat improvement; air quality improvement; and range forage improvement;

(4) benefits shall be described qualitatively under each of these classes and categories, and, where feasible, shall be quantified and valued by department employees consistent with procedures to be enumerated in the Department's administrative manual;

(5) the Director shall arrange the projects in order of their priority for funding as money is available, consistent with Section 1566;

(6) all or part of the total costs to prepare the site or to conduct the burn, and which is the participant's share, may be met by the value of necessary materials, services, or equipment time and use. The above costs shall be determined by the Department, using the prevailing costs. (14 CAC 1564.1)

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4464, 4475.5 and 4476, Public Resources Code.

§ 1564.1. Prevailing Cost.

The Director shall submit annually to the Board a schedule of the prevailing costs to perform work eligible for cost sharing payments. The schedule shall apply to all cost sharing contracts signed in the next fiscal year. Amendments to prevailing costs schedules may be submitted to the Board by the Director at any time.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4464, 4475.5 and 4476(f), Public Resources Code.

Article 4. Project Review Procedures and Evaluation Criteria

§ 1565. Application Review and Filing.

(a) The Director shall continuously accept and review, subject to available resources, applications for cost sharing contracts.

(b) Only when an application is complete and a project is eligible for cost sharing shall the Director file that application.

NOTE: Authority cited: Section 4475.5, Public Resources Code. Reference: Sections 4475 and 4475.5, Public Resources Code.

§ 1565.1. Notice of Project Application.

The Director may provide notice above and beyond that already required by CEQA by sending copies of filed applications to owners of contiguous land, the Department of Fish and Game, the Department of Parks and Recreation, the appropriate county planning agency, the California Regional Water Quality Control Board, or any other agency with responsibilities related to the project, and the interested public.

NOTE: Authority cited: Section 4475.5 and 21092, Public Resources Code. Reference: Sections 4475.5 and 21092, Public Resources Code.

§ 1565.2. Preliminary Project Review.

(a) Upon receipt of an application, the Department shall conduct a preliminary review of the project and shall:

(1) inspect such land in the presence of the applicant to determine whether a cost sharing contract shall be prepared and executed;

(2) determine the manner in which the site for each prescribed burn shall be prepared;

(3) determine the necessary precautions to prevent damage to the property of others by reason of such burning; and

(4) determine whether the plans are consistent with the Program EIR, or whether an additional environmental evaluation is required by CEQA to determine if the applicant, the parcel, and the specific practices proposed for the project satisfy the purposes and criteria set forth in the Act, these procedures, CEQA, and all other applicable state laws, regulations, and administrative procedures.

(b) If the Director is unable to make the determination set forth in Paragraph (a)(1) of this section, then the Director shall return the application to the applicant and state the additional conditions, if any, under which the Director would be able to make such a determination. Upon receiving the returned application, the applicant may either:

(1) incorporate such additional conditions into the proposed project and resubmit the application for preliminary review; or

(2) request that the Director personally reconsider his/her decision pursuant to 14 CAC 1568.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Section 4475, Public Resources Code.

§ 1566. Ranking and Approval of Filed Applications.

The Director shall periodically rank all filed applications for cost sharing contracts by considering, but not being limited to the following criteria: Projects having highest total scores, when all benefits are added, consistent with the provisions of 14 CAC 1564(b); determination that project location is of highest regional priority for fire hazard reduction. The Director shall then approve filed applications in order of priority, giving consideration to administrative constraints such as seasonal variations in applications and the availability of funds that might apply to different types of projects.

NOTE: Authority cited: Section 4475(b), Public Resources Code. Reference: Section 4475, Public Resources Code.

Article 5. Request for Reconsideration of Rejected Applications

§ 1567. Rejection of Application.

Whenever the Director rejects an application for a cost sharing project, or establishes conditions following a Preliminary Review that are unacceptable to the applicant, the Director shall return the application to the applicant and state the reasons for rejecting the application.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Section 4475, Public Resources Code.

§ 1568. Director's Decision Final.

(a) Within ten days of receipt of he returned application the applicant may request that the Director personally reconsider his/her decision of rejection. The request shall identify the applicant and the proposed project, and shall briefly state the applicant's reason for requesting reconsideration. The Director shall consider the application and all of the correspondence from interested parties in reviewing his/her decision.

(b) If the Director finds that his/her decision to reject the application conforms to these regulations, the Director shall uphold the decision. If the Director finds that his/her decision to reject the application does not conform to these regulations, the Director may approve the application.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Section 4475, Public Resources Code.

Article 6. Resource Protection

§ 1569. Resource Protection Guidelines.

Resource Protection Guidelines (14 CAC 1569.1, 1569.6) have been established for chaparral management in order to minimize damage from chaparral management practices. These guidelines shall be a part of the management plan submitted by an applicant. The management plan should demonstrate compliance with applicable sections of this article.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Section 4475, Public Resources Code.

§ 1569.1. Wildlife Protection.

(a) Riparian vegetation found along streams and lakes and within marshes, wet meadows, and other wet areas, shall be retained and protected except when managed as part of a fish and wildlife habitat improvement practice, and necessary measures to minimize damage from these practices have been implemented.

(b) All live trees and snags with visible evidence of use as nesting and roosting sites by rare, endangered, or threatened bird species, shall be left undisturbed. Participants are encouraged to leave all snags near streams, lakes and meadows undisturbed.

(c) No projects shall be performed on lands known to support populations of state–listed rare and endangered animals or plants unless an environmental review conducted according to 1565.2(a)(4) indicates that the proposed project(s) will improve such habitat.

(d) Participants are encouraged to retain some older, acorn–producing oaks, to create deer forage lanes in brushfields, and to plant other vegetation to promote species diversity and improve wildlife habitat when such practices are not in conflict with program goals.

(e) If existing vegetation, other than riparian species, is necessary to maintain stream temperatures, such vegetation shall not be removed.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4462, 4467, 4475, 21001(a), (b), (c), (f), 21002, Public Resources Code.

§ 1569.2. Watercourse and Lake Protection.

(a) Throughout the course of the project, the applicant shall keep the watercourse and lake protection zone free of slash, debris, and other material that will harm fish, wildlife, or other beneficial uses of water. Accidental deposits shall be removed immediately.

(b) No tractors, trucks, cars, or other machinery shall be serviced adjacent to lakes or watercourses, or within wet meadows and other wet areas, or in other areas where such servicing will permit grease, oil, fuel, or other toxic substances to enter lakes, watercourses, or wet areas.

(c) Except when performing fish and wildlife habitat improvement practices or forest land conservation practices, heavy earth–moving equipment working on the project area shall be prohibited from working within 15.24m (50 feet) slope distance above the watercourse or lake protection zone. Wider protection zones may be required following an environmental review of the project conducted according to 14 CAC 1565.2(a)(4).

(d) The participant shall be responsible for complying with applicable sections of the Fish and Game Code and local ordinances.

(e) The project's impact on domestic water supplies shall be considered during the project design stage.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4462, 4467, 4475, 21001(a), (b), (c), (f), 21002, Public Resources Code.

§ 1569.3. Wet Meadows, Marshes, and Other Wet Areas.

No activities shall be permitted in wet meadows, marshes, and other wet areas unless such activities are forest land conservation practices or fish and wildlife habitat improvement practices, and necessary measures to minimize damage from these practices have been implemented.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4462, 4467, 4475, 21001(a), (b), (c), (f), 21002, Public Resources Code.

§ 1569.4. Erosion Control.

(a) Activities on identified geologic hazard areas shall be avoided.

(b) Brush removed from slopes with a bulldozer shall be windrowed along the contour. Windrowed brush may be disposed of by burning or any other appropriate methods prior to planting or seeding.

(c) Heavy equipment shall not be operated on the project area when soils are approaching field capacity, or when such activity would cause excessive soil damage.

(d) Heavy equipment shall not be operated on known potential or active slide areas.

(e) Planned type conversions from shrub species to grass shall be limited to situations that will neither cause accelerated erosion, nor contribute to landslides or other mass wasting, and that are edaphically appropriate.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 4462, 4467, 4475, 21001(a), (b), (c), (f), 21002, Public Resources Code.

§ 1569.5. Use of Chemicals.

The applicant shall assure that all chemicals used for site preparation and follow–up work shall be applied in accordance with all federal, state, and local laws and regulations.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code. Reference: Sections 21001(a), (b), (c), (f), 21002, Public Resources Code; Sections 14006 and 14011, Food and Agricultural Code.

§ 1569.6. Smoke Management.

(a) Each project plan shall include a Smoke Management Plan. The Plan shall make provisions to prevent the significant deterioration of air quality through prescribed burning and to direct smoke away from smoke sensitive areas.

(b) The Plan shall follow the guideline and checklist of the Chaparral Management Environmental Impact Report.

(c) Local Air Pollution Control District rules with respect to smoke emissions will be followed.

(d) Each permit shall include the statement: "This permit is valid only on those days during which agricultural burning is not prohibited by the State Air Resources Board or by a district pursuant to Section 41855 of the Health and Safety Code."

(e) Burning shall only be allowed on Burn Days as determined by the Air Resources Board, except on areas declared to be fire hazards.

(f) A permit to burn on No–Burn days may be obtained from an Air Pollution Control District when denial to burn would threaten imminent and substantial economic loss.

(g) On burns prescribed to improve the wildlife habitat, a written statement shall first be obtained by the permittee from the Department of Fish and Game certifying that the burning is desirable and proper for the improvement of land for wildlife or game habitat. This statement shall be provided by the local Fish and Game Officer assigned to the project and will be filed with the local air pollution control officer.

(h) On completion of a burn, a report shall be submitted to the local district or APCO stating the following information:

(1) Date of the burn

(2) Type of vegetation burned

(3) Estimated acreage or tonnage of vegetation burned.

NOTE: Authority cited: Section 4475.5(b), Public Resources Code; Section 13055 and 41801, Health and Safety Code. Reference: Sections 4141, 4142, 21000, 21001(a), (b), (c), (f), and 21002, Public Resources Code.

Chapter 10. Registration of Professional Foresters*

* Formerly Subchapter 10 of Chapter 2, Division 2, Title 14, Cal. Adm. Code.

Article 1. General Provisions

§ 1600. Definitions.

For the purposes of the rules and regulations contained in this chapter, the term:

"Board" means the State Board of Forestry.

"Certified Specialist" refers to a person who holds a valid certification in a specialty created by the Board.

"Code" or "PRC" refers to the Public Resources Code, unless otherwise specified.

"Committee" or "PFEC" means the Professional Foresters Examining Committee.

"Executive Officer" refers to the Executive Officer, Foresters Licensing.

"Forest Resources" means those uses and values associated with, attainable from, or closely tied to, forested landscapes, and includes but is not limited to aesthetics, fish, forage, recreation, soil, timber, water and watersheds, wilderness, and wildlife.

"Registered Professional Forester" or "RPF" refers to a person who holds a valid license as a professional forester pursuant to the provisions of the code.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 752, 760.5, 762, 763 and 730, Public Resources Code.

HISTORY

1. Redesignation from chapter 9 (sections 1601–1650, not consecutive) to chapter 10 (sections 1601–1650, not consecutive) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20). For prior history, see Registers 77, Nos. 14 and 32; and 73, Nos. 10 and 23.
2. Renumbering and amendment of former section 1604 to section 1600 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Amendment filed 4–28–94; operative 5–30–94 (Register 94, No. 17).

§ 1601. Board of Forestry Address.

All correspondence relating to Professional Foresters Registration, including remittances and renewal fees, shall be directed to the principal offices of the State Board of Forestry located in the Resources Building, 1416 Ninth Street, Sacramento, or by mail to P.O. Box 944246, Sacramento, California 94244–2460.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 761 Public Resources Code.

HISTORY

1. Renumbering and amendment of former Sections 1601 and 1602 to Section 1601 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Registers 78, No. 32 and 78, No. 20.
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1601.1. Determination of Deadlines.

Any due dates or time frames for submission of fees, completed forms, or correspondence is determined by date of personal delivery at Board office or date of postmark by commercial carrier.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 761 and 763, Public Resources Code.

HISTORY

1. New section filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1602. Professional Forestry Practice Defined.

(a) The phrase "act in the capacity of . . . a professional forester . . ." pursuant to Public Resources Code (PRC), Section 766 refers to any person who is working in a responsible position as an individual or through the supervision of others, and performs services on forested landscapes applicable to "forestry" as defined in PRC, Section 753 and clarified herein. Forestry requires specific knowledge of forestry principles for providing advice to, or management for, employers, clients, or others, through consultation; through conduct of investigations in forestry matters which have potential environmental effects, or are for site–specific purposes; through evaluation of forest properties; and through the planning or execution of forest programs, management, operations, and/or treatment.

(b) A Registered Professional Forester (RPF) shall perform forestry services only in those subjects in which he or she is competent by training or experience. Thus, for a RPF to accomplish a site–specific forestry project where the RPF's prudent level of expertise is surpassed, that RPF may need to utilize the services of other qualified experts including but not limited to geologists, landscape architects, engineers and land surveyors, archaeologists, botanists, ecologists, fisheries biologists, stream restorationists, wildlife biologists, hydrologists, range scientists, soil scientists, and certified specialists established pursuant to PRC 772.

(c) In carrying out PRC, Section 772, a Certified Specialist shall perform only those services in his or her specialty as defined herein. Nothing in this section shall preclude certified specialists or the other environmental professionals in subsection (b) from the application of scientific knowledge in their field of expertise outside the practice of forestry.

NOTE: Authority cited: Sections 759 and 766, Public Resources Code. Reference: Sections 752, 753 and 766, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 1602 to section 1601, and renumbering and amendment of former section 1605.1 to section 1602 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.
2. Amendment filed 4–28–94; operative 5–30–94 (Register 94, No. 17).

§ 1602.1. Identity Required of Registered Professional Forester in Charge.

Any letter or document which offers to perform or implies the performance of any professional forestry work must identify by name and license number the forester (RPF) who will be in charge of such work when it is performed. An unregistered assistant acting in the capacity of a professional forester, as defined in 14 CAC 1602 other than on federally owned lands shall be supervised by a forester (RPF). Work plans and documents reporting work done by or under the supervision of a forester (RPF) shall bear the signature and license number of the forester (RPF) responsible for said plans, work and reports.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 756, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1605.2 to Section 1602.1 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 79, No. 37.

§ 1603. Seal.

A seal may be used by a registrant. It shall be of the design shown here and shall not be less than one and one–half (11/2)inches in diameter.



NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 751, Public Resources Code.

HISTORY

1. Repealer of former Section 1603, and renumbering and amendment of former Section 1613 to Section 1603 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.

§ 1604. Registration Limited to Natural Persons.

Registration shall be determined on the basis of individual personal qualifications. No firm, company, partnership, or corporation will be issued a professional foresters license or specialty certificate.

NOTE: Authority cited: Sections 755 and 759, Public Resources Code. Reference: Section 755, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1604 to Section 1600, and renumbering of former Section 1615 to Section 1604 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Registers 77, No. 32, and 73, No. 23.

§ 1605. Fees.

(a) All fees required by provisions of the Code and rules of the Board shall be transmitted by money order, bank draft, or check and shall be made payable to Professional Foresters Registration.

(b) The following schedule of fees is hereby adopted pursuant to section 782 of the Code.

(1) Application for Registration and License as a Professional Forester $200
(2) Annual Rate for License as a Professional Forester 95
(3) Application for Exam for Specialty Certificate 200
(4) Annual rate for Specialty Certificate 35
(5) Duplicate License or Specialty Certificate 5
(6) Renewal of License as a Professional Forester 190
(7) Renewal of Specialty Certificate 70
(8) Penalty fee for failure to apply for renewal as a Licensee or for a specialty certificate is $25 for each full month of delinquency not to exceed $150.00 total penalty fee 25

(9) Reinstatement Application following Withdrawal 15

(c) The renewal fee for registration and/or certification as a forestry specialist shall be waived when a license or certificate is issued less than ninety (90) days before the date on which it will expire.

(d) Application fees for registration, certification as a forestry specialist, or reinstatement following withdrawal, shall be retained by the Board regardless of the disposition of the application.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 767 and 782, Public Resources Code.

HISTORY

1. Repealer of former section 1605, and renumbering and amendment of former section 1608 to section 1605 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
2. Amendment of subsections (b)(2) and (b)(6) filed 5–23–88; operative 6–22–88 (Register 88, No. 22).
3. Amendment of subsection (b)(2) filed 3–28–90; operative 4–27–90 (Register 90, No. 14).
4. Amendment of subsections (b)(1) and (b)(2) filed 8–3–92; operative 9–2–92 (Register 92, No. 32).
5. Amendment of subsection (b)(8) filed 1–28–93; operative 3–1–93 (Register 93, No. 5).
6. Amendment of subsections (b)(2), (b)(4) and (b)(6)–(8) filed 10–21–96; operative 11–20–96 (Register 96, No. 43).

§ 1605.1. Professional Forestry Practice Defined.

NOTE: Authority cited: Sections 753, 759 and 766, Public Resources Code. Reference: Section 766, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering and amendment of Section 1605.1 to Section 1602 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1605.2. Identity Required of Registered Professional Forester in Charge.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 756, Public Resources Code.

HISTORY

1. New section filed 9–12–79; effective thirtieth day thereafter (Register 79, No. 37).
2. Renumbering and amendment of Section 1605.2 to Section 1602.1 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1606. Address Change.

Applicants for registration or holders of a certificate of registration and license, shall notify the Board in writing at its Sacramento office within ten days of any address changes, giving both the old and new address.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 761 and 767, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1606 to Section 1610, and renumbering and amendment of former Section 1614 to Section 1606 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.

§ 1607. Issuance, Expiration and Renewal of Licenses and Certificates.

(a) Professional Foresters Licenses and Specialty Certificates shall be renewed on alternating years with odd–numbered licenses and certificates expiring on July 1 of odd–numbered years and even–numbered licenses and certificates expiring on July 1 of even–numbered years.

(b) Newly issued Professional Foresters Licenses and Specialty Certificates shall be valid, on payment of the appropriate fee, from the date of issuance to July 1 of odd–numbered years for odd–numbered licenses and certificates and July 1 of even–numbered years for even–numbered licenses and certificates. The appropriate fee for a newly issued license or certificate shall be based on proration of the annual rate for the license as provided in § 1605(b)(2) or certificates as provided in § 1605(b)(4) against the term of the newly issued license or certificate. Individuals reinstating their license or certificate from withdrawal shall pay the full renewal fee regardless of the actual length of time remaining in the applicable two year renewal cycle.

(c) Licenses and specialty certificates are not valid unless fees are paid prior to the expiration date. Written notification of delinquency shall be mailed no later than September 1 to those persons whose license or specialty certificate(s) expired. Individuals have sixty (60) days from the date of mailing the delinquency notice to reinstate the license or certificate by paying renewal fees and penalties, after which the Board shall revoke the license or certificate. By paying all renewal fees and penalties within one year of the renewal date, the individual may reinstate a license or certificate(s) revoked because of delinquency.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 773 and 783, Public Resources Code.

HISTORY

1. Repealer of former Section 1607, and renumbering and amendment of former Section 1609 to Section 1607 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).
3. Amendment of section heading and section filed 10–21–96; operative 11–20–96 (Register 96, No. 43).
4. Amendment of subsections (b) and (c) filed 9–13–99; operative 10–13–99 (Register 99, No. 38).

§ 1608. Withdrawals.

(a) The Board may, upon written request of a currently paid up licensee, grant a withdrawal of a forester's license or specialty certificate for a period not to exceed five years at any one time without penalty. The request shall state the reason for withdrawal, and the length of time for which withdrawal is requested. During withdrawal, the person shall not call him or herself a "professional forester" or provide professional forester services of any kind for pay or otherwise in California, or use their registration number anywhere.

(b) Withdrawals shall be granted only for good and sufficient reasons, including, but not limited to the following:

(1) Active duty in the armed services of the United States.

(2) Professional service exclusively outside the State of California.

(3) Ill health or disability.

(4) Registration as a full time student in a college or university.

(5) Retirement may be used as a reason only one time.

(c) Registrants shall be notified in writing whether the request for withdrawal is granted or denied.

(d) Prior to expiration of withdrawal status, notification of required reinstatement will be sent during the regular renewal period. If an application for reinstatement, along with the required fees prescribed, is not presented to the executive officer within the specified withdrawal period, the Board shall revoke the license or certificate.

(e) Reinstatement of a license shall be denied if:

(1) The original withdrawal occurs as part of a stipulated agreement settling a formal disciplinary case, or

(2) An RPF requested license withdrawal after being notified by the executive officer that a disciplinary investigation was being conducted concerning the RPF's license, and that the investigation and any disciplinary proceedings associated with it have not been concluded, including any penalties being imposed.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 782, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1608 to Section 1605, and renumbering and amendment of former Section 1610 to Section 1608 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Registers 80, No. 18; 77, No. 32; and 75, No. 22.
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).
3. Amendment of subsections (a) and (d) and new subsections (e)–(e)(2) filed 9–13–99; operative 10–13–99 (Register 99, No. 38).

§ 1609. Meetings.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 736 and 763, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering and amendment of former Section 1609 to Section 1607, and renumbering of former Section 1612 to Section 1609 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

3. Repealer filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1610. Delegation of Certain Functions.

(a) The power and discretion conferred by law upon the Board to receive and file accusations; issue notices of hearings, statements to respondent and statements of issues; receive and file notices of defense; determine the time and place of hearings under Section 11508 of the Government Code, issue subpoenas and subpoenas duces tecum, set and calendar cases for hearing and perform other functions necessary to the dispatch of the business of the Board in the Government Code prior to the hearing of such proceeding; and the certification and delivery of mailing of copies of decisions under Section 11518 of said Code are hereby delegated to and conferred upon the executive officer, or, if absent from the office of the Board, another person designated by the executive officer.

(b) Nothing herein prohibits the executive officer from redelegating duties to his subordinates as provided in Section 18572 of the Government Code.

(c) Unless otherwise directed by the Board, the executive officer may work directly with the committee on those matters which are pertinent to the Professional Foresters Law, Section 750 et seq. of the Code. The executive officer may be designated by the committee to report to the Board on its behalf.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1610 to Section 1608, and renumbering and amendment of former Section 1606 to Section 1610 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1610.1. Committee Meeting and Reports.

(a) The Committee shall meet and report to the Board at least once every six months, or more frequently as necessary to fulfill its responsibilities to the Board under Section 763 of the Code, and shall refer to the Board all matters requiring Board approval.

(b) Reports and recommendations made by the Committee to the Board for approval or rejection by the Board and any action recommended or approved by the Board shall be carried out by the chairperson or a member of the Committee or by the Executive Officer in the manner approved by the Board.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 739 and 763, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1610(d) to Section 1610.1 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 87, No. 9.

§ 1611. Reciprocity.

A Professional forester who is licensed in another state which maintains requirements and qualifications which are equal to or superior to those of the State of California may, upon successfully passing a special examination prescribed by the Board and payment of the required fees be registered as a professional forester, provided that said state observes these same rules of reciprocity.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 767, 768, 769 and 770, Public Resources Code.

HISTORY

1. Repealer of former Section 1611, and renumbering of former Section 1616 to Section 1611 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1612. Discipline.

The committee may, upon its own motion, and shall upon motion of the Board or upon the verified complaint in writing of any person, cause investigation to be made of the actions of any person licensed as a professional forester. The committee shall make recommendations to the Board for any action provided by law.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 775 and 777, Public Resources Code.

HISTORY

1. Renumbering of former Section 1612 to Section 1609, and renumbering of former Section 1617 to Section 1612 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1612.1. Disciplinary Guidelines.

The Board establishes these guidelines to ensure that consequences in any disciplinary action of a Registered Professional Forester are known, and to facilitate uniformity of penalties. While recognizing that Administrative Law Judges must be free to exercise their discretion in a particular case, the Board desires that these guidelines be followed to the extent possible, and that any departures therefrom be noted and explained in the proposed decision.

The Board further desires that matters in extenuation and mitigation, as well as those in aggravation, be fully considered and noted in the proposed decision. The primary importance is the adverse effect the Registered Professional Forester's actions had, or will continue to have, on the protection of the public interest.

(a) If convicted of a felony as defined in Section 778(a) and governed by Section 778.5, Public Resources Code, the ranges of disciplinary action for conviction(s) are:

Maximum: Revocation of the license.

Minimum: Revocation stayed for 2 years on the following conditions:

(1) Actual suspension for 1 year.

(2) The respondent shall obey all laws and regulations related to the practice of forestry.

(b) If found guilty of fraud, deceit or gross negligence in his or her practice, governed by Public Resources Code, Section 778(b), the ranges of disciplinary action for violation(s) are:

Maximum: Revocation of the license.

Minimum: 6 months suspension stayed for 1 year on the following conditions:

(1) Actual suspension for 60 days.

(2) Within one year of the effective date of the Board's decision, the respondent shall successfully complete a training program, approved in advance by the Board as being specifically related to the area(s) of professional failure.

(3) Respondent must practice, for up to one year, with the review of work products by a Registered Professional Forester, or other specialist, as approved by the Board.

(4) The respondent shall obey all laws and regulations related to the practice of forestry.

(c) If found guilty of misrepresentation or material misstatement of fact in his or her practice, governed by Public Resources Code, Section 778(b), the ranges of disciplinary action for the violation(s) are:

Maximum: Revocation of the license.

Minimum: 90 days suspension stayed for 1 year with 15 days actual suspension, and one or more of the following:

(1) Within one year of the effective date of the Board's decision, the respondent shall successfully complete a training program, approved in advance by the Board as being specifically related to the area(s) of professional failure.

(2) Respondent must practice, for up to one year, with review of work products by a Registered Professional Forester, as approved by the Board.

(3) The respondent shall obey all laws and regulations related to the practice of forestry.

(d) If found guilty of incompetence governed by Section 778(b), Public Resources Code, in his or her practice, the ranges of disciplinary action for violation(s) are:

Maximum: Revocation of the license.

Minimum: Revocation stayed up to 3 years with license suspension until the completion of all of the following conditions:

(1) The respondent shall successfully complete a training program, approved in advance by the Board, specifically related to the area of incompetency, and

(2) The respondent shall take and be notified of passing the Registered Professional Foresters examination, and

(3) Respondent must work, at least six months full time equivalent, under the supervision of a Registered Professional Forester, with review of work products, as approved by the Board.

(4) The respondent shall obey all laws and regulations related to the practice of forestry.

(e) If found guilty of fraud or deceit in obtaining a license, governed by Section 778(c), Public Resources Code, the ranges of disciplinary action for violation(s) are:

Recommended Action: Revocation of the license.

(f) If found guilty of aiding or abetting a violation of, or material failure to comply with the provisions of the Professional Foresters Law, governed by Section 778(d) and (e), Public Resources Code, the ranges of disciplinary action for violation(s) are:

Maximum: Revocation of the License

Minimum: 15 days actual suspension

(g) If found guilty of failure to materially comply with any provision of the Professional Foresters Law, the Board may issue a private reprimand when the respondent commits a failure of responsibility which warrants a level of discipline lesser than suspension. If the evidence is insufficient to support a private reprimand or an accusation, the executive officer may send a confidential letter expressing the committee's concerns. If there are insufficient grounds for discipline, the executive officer shall send a letter of exoneration to the respondent.

(h) In any of the above actions, the respondent shall submit such special reports as the Board may require. Said reports shall be designed to provide information as to those facets of his/her work which resulted in the disciplinary action.

NOTE: Authority cited: Sections 751, 759, 775, 777 and 778, Public Resources Code. Reference: Sections 751, 759, 775, 776, 777 and 778, Public Resources Code.

HISTORY

1. New section filed 7–13–87; operative 7–13–87 (Register 87, No. 29).
2. Amendment filed 9–13–99; operative 10–13–99 (Register 99, No. 38).

§ 1612.2. Notification of Disciplinary Action.

(a) Conditions of staying an order which suspends or revokes a license on any of the grounds for disciplinary action specified in Section 778, Public Resources Code, shall require:

(1) Respondent to submit to the Board, not later than thirty (30) days after the decision becomes effective, a complete list of all business and/or client names, addresses, and phone numbers with whom a current contractual or employment relationship exists. Furthermore, respondent shall notify the Board within ten (10) days of any new contractual or employment relationships over the duration of the stayed order. This information may be used to aid the Board in monitoring the performance of respondent over the period of the stayed order.

(2) Board to notify each business and/or client name submitted, or at its option require respondent to notify with Board approved language and proof of notification, of the offense(s), findings and discipline imposed.

(b) The Board shall provide public notice of disciplinary actions. The Board shall comply with the following standards when providing public notice:

(1) When the RPF is exonerated, their name and the specifics of the cases will not be made public. A summary of the case will be noticed in "Licensing News", and will include the following:

(A) Case number.

(B) Allegation: citing possible cause(s) of action under 14 CCR § 1612.1.

(C) Authority: citations of applicable statutory and regulatory sections.

(D) Action: announcement of the exoneration and a general summary of the facts of the case.

(2) When disciplinary action results in the issuance of a PFEC Letter of Concern or Private Board Reprimand, the name of the RPF and specifics of the case will not be made public. A summary of the case will be noticed in "Licensing News", and will include the following:

(A) Case number.

(B) Allegation: citing possible cause(s) of action under 14 CCR § 1612.1.

(C) Authority: citations of applicable statutory and regulatory sections.

(D) Action: announcement of the disciplinary action taken and a general summary of the facts of the case.

(3) When disciplinary action results in license suspension or revocation, the name of the RPF and the specifics of the case will be made public. A summary of the case will be noticed in the "Daily Recorder", "Licensing News", the meeting minutes of the Board, and announced in open session of the Board meeting at which the discipline was approved. These notices will include the following:

(A) Case number.

(B) RPF name and license number.

(C) City of business at the time of notice.

(D) Allegation: citing possible cause(s) of action under 14 CCR § 1612.1.

(E) Authority: citations of applicable statutory and regulatory sections.

(F) Action: announcement of the disciplinary action taken and a specific summary of the facts of the case.

(4) The information summarized in "Licensing News" under (b)(1), (b)(2), and (b)(3) above shall be available upon request to the public.

(c) The Board may provide notice to the news media of disciplinary actions. The Board shall comply with the following standards when providing notice to the media.

(1) Media releases shall occur in all instances when disciplinary action results in the following:

(A) Suspension or revocation based on any of the following cause(s):

(i) conviction of a felony as defined in Section 778(a) and governed by Section 778.5 of the Public Resources Code.

(ii) fraud.

(iii) deceit.

(iv) gross negligence.

(v) incompetence.

(B) The PFEC has recommended revocation or a suspension greater than 30 days for any cause under 14 CCR § 1612.1.

(2) The media release shall be approved by the by the Board, and shall contain all information cited in subsection (b)(3).

(3) The media release shall be submitted to a newspaper of general circulation in the county(ies) where the infraction(s) occurred.

NOTE: Authority cited: Sections 708, 751, 759, 777 and 778, Public Resources Code. Reference: Sections 708, 730, 751, 759, 775, 776, 777 and 778, Public Resources Code.

HISTORY

1. New section filed 7–13–87; operative 7–13–87 (Register 87, No. 29).
2. Amendment of section and NOTE filed 7–25–2000; operative 8–24–2000 (Register 2000, No. 30).

§ 1613. Felony Substantial Relationship Criteria.

For the purposes of denial, suspension or revocation of a license pursuant to Division 1, Chapter 2.5, Article 3, Sections 774, 775, and 778 of the Public Resources Code (PRC), a felony shall be considered to be substantially related to the qualifications, functions, or duties of a registered professional forester (RPF), if, to a substantial degree, it evidences present or potential unfitness to perform the functions authorized by Article 3 of the Public Resources Code.

Such felonies may include, but not be limited to; felony convictions which demonstrate dishonesty or breach of fiduciary responsibility or which involve any of the following:

(a) violations of PRC 778, or felony sections of the Business and Professions Code, Health and Safety Code, and Public Contracts Code;

(b) damage to natural resources including, but not limited to, arson;

(c) violations related to:

(1) Division 1, Chapter 2.5, Article 3 of the Public Resources Code, or

(2) Division 4, Part 2, Public Resources Code, or

(3) Division 1.5, Title 14, California Code of Regulations.

NOTE: Authority cited: Section 778.5, Public Resources Code. Reference: Section 778.5, Public Resources Code.

HISTORY

1. New section filed 2–26–87; effective thirtieth day thereafter (Register 87, No. 9). For history of former Section 1613, see Registers 85, No. 41 and 77, No. 32.
2. Amendment of subsection (c)(3) filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1614. Criteria for Rehabilitation.

When considering the specified conditions of denial or reinstatement from suspension or revocation of a license, the board, in evaluating the rehabilitation of the applicant and present eligibility for a license will consider the following criteria:

(a) The nature and severity of the act(s) or crime(s) under consideration as grounds for denial or reinstatement.

(b) Evidence of any act(s) committed subsequent to the act(s) or crime(s) under consideration for grounds for denial or reinstatement which also could be considered as grounds for denial or reinstatement.

(c) The time that has lapsed since the commission of the act(s) or crime(s).

(d) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant.

(e) Evidence, if any, of rehabilitation submitted by the applicant.

NOTE: Authority cited: Sections 759, 774, and 777, Public Resources Code. Reference: Sections 774 and 777, Public Resources Code; and Section 11522, Government Code.

HISTORY

1. New section filed 2–26–87; effective thirtieth day thereafter (Register 87, No. 9). For history of former Section 1614, see Register 85, No. 41 and 77, No. 32.

§ 1615. Registration Limited to Natural Persons.

HISTORY

1. New section filed 6–7–73; effective thirtieth day thereafter (Register 73, No. 23).
2. Renumbering and amendment of Section 1615 to Section 1604 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1616. Reciprocity.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 767, 768 and 770, Public Resources Code.

HISTORY

1. New section filed 6–7–73; effective thirtieth day thereafter (Register 73, No. 23).
2. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
3. Renumbering of Section 1616 to Section 1611 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1617. Discipline.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 763, 775 and 777, Public Resources Code.

HISTORY

1. New section filed 12–24–75; effective thirtieth day thereafter (Register 75, No. 52).
2. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
3. Renumbering of Section 1617 to Section 1612 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

Article 2. Applications

§ 1620. Applications.

(a) Applications for registration as a professional forester or as a certified forestry specialist shall be:

(1) Filed on a form prescribed by the Board.

(2) Filed at the Sacramento office of the Board, and accompanied by the required application fee.

(3) Subscribed and certified to "under penalty of perjury" as provided by Section 2015.5, Code of Civil Procedure.

(4) Typewritten, except that applicants located without access to typewriters, may so state, and submit applications printed legibly by hand.

NOTE: Authority cited: Sections 759 and 772, Public Resources Code. Reference: Sections 767 and 772, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).

§ 1620.1. Professional and Personal References.

An applicant shall include in the application for registration the names and addresses of two qualified foresters as references, who are familiar with the professional work and three responsible members of the community who are not foresters who can attest to the character and business integrity of the applicant. Such references may be consulted by the examining committee regarding the qualifications of the applicant.

NOTE: Authority cited: Sections 759 and 772, Public Resources Code. Reference: Sections 772, Public Resources Code and 1606(c) of Title 14, California Administrative Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).

§ 1620.2. Application Processing.

(a) The applicant shall be informed in writing by the Executive Officer, within 90 days of receipt of the application, whether such application is complete and accepted for filing or is deficient and what specific information is required. The Examining Committee may, at a later time, request clarification of information contained in the application or supporting documents as provided in 1620.3.

(b) The applicant shall be informed, in writing, of the Board decision on registration within 360 days of filing. Postponement of the examination by the applicants shall extend this deadline in the same amount of time as the postponement.

(c) The actual minimum, median and maximum processing times for an application from the time of receipt of the application until the board makes a final decision on the application are:

(1) Minimum: 118 days

(2) Median: 152 days

(3) Maximum: 360 days

NOTE: Authority cited: Section 15376, Government Code; and Sections 759 and 763, Public Resources Code. Reference: Sections 759 and 763, Public Resources Code; and Section 15376, Government Code.

HISTORY

1. Repealer and new section filed 6–5–86; effective thirtieth day thereafter (Register 86, No. 23).

§ 1620.3. Evidence of Qualifying Experience.

(a) The application, and any supporting documentation, shall present evidence of qualifying experience in forestry work, and any educational degree(s) substituted therefor:

(b) The qualifying experience for registration shall be computed to the final application filing date for each examination.

(c) Applicants claiming credit under educational provisions shall document such claims with an official transcript of record or comparable document or certified copy thereof, issued by the educational institution awarding the degree. Such records or transcripts shall be sent by the institution directly to the Board.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 767, 769 and 772, Public Resources Code.

HISTORY

1. Repealer of former Section 1620.3, and renumbering and amendment of Sections 1620.4, 1623 and 1624 to Section 1620.3 filed8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Registers 87, No. 29 and 85, No. 41.

§ 1620.5. Year of Experience Defined.

HISTORY

1. Repealer filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).

§ 1621. Evaluation of Qualifications to Take the Examination.

In complying with Sections 768 and 769(b) of the Code, the standards set forth in Sections 1621.1, 1621.2, 1621.3, 1621.4, 1622, and 1622.2

of this article are used to evaluate qualifications for authorization to take the exam.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 768 and 769, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Amendment filed 9–27–85; effective thirtieth day thereafter (Register 85, No.41).
3. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1621.1. Qualifying Forestry Work Experiences.

(a) "Forestry work," within the meaning of Section 769 of the Code, includes those activities which demonstrate professional competence in the science, art, and practice of managing and using for human benefit while protecting the public interest, the natural resources that occur on and in association with, forest land.

(b) Forestry experience qualifying to take the exam shall demonstrate an increasing level of responsibility and complexity over the required time, and is more particularly classified as:

(1) Forest management, which includes that branch of forestry concerned with overall administration in forest economics, legal and social aspects; forest mensuration, forest regulation, and the development of access for protection and management of the resource.

(2) Silviculture, which includes the science and practice of controlling the composition, constitution, and growth of forests, including also stand improvement, forest nursery production, the techniques of seeding and planting, and reforestation.

(3) Forest protection, which includes the prevention and control of damage to forests, inclusive of control of forest pests; the prevention and control of wildfire; the protection of soils from erosion, and the reduction and repair of damage resulting form all of these and those related to climatic agent. Up to two years of the activities in this subsection qualify except when Section 1622(c) are met.

(4) Forest utilization which includes scaling, and logging involving felling, bucking, choker setting, and skidding/yarding. Up to two years of the activities in this subsection qualify except when Section 1622 of this article applies; additional time can qualify when conditions in 1622(c) are met.

(5) Forest and watershed management planning, initiated and carried out in:

(A) forest working plans,

(B) forest practice standards,

(C) management contracts,

(D) litigation reports and testimony,

(E) trespass,

(F) the development, maintenance and protection of wildlife habitat and forest range resources,

(G) forest recreation and environmental studies, and

(H) reconnaissance and mapping in conservation of forest and watershed lands and the yield thereof, including the investigation of wildlands soils.

(6) Other forest activities, including timber appraisals, forestry research, urban forestry, and teaching college or university courses in forestry.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 1622 to Section 1621.1 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1621.2. Non–Qualifying Forestry–Related Work Experience.

Some forestry–related activities are not considered "forestry work" experience within the meaning of Section 769 of the Code: landscape gardening; horticulture; arboriculture; tree surgery; loading and hauling of logs or other forest products, operations of wood manufacturing or re-manufacturing plants; fire lookouts, dispatchers, and fire equipment operators; and agricultural pursuits not related to tree growing.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 1622.2 to Section 1621.2 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1621.3. Work Experience Obtained While In a Degree Program.

The following criteria applies to substitutions for forestry work experience toward the seven year requirement. No combination of education and work experience may be counted as more than twelve (12) months for any consecutive twelve month period. Thus, periods worked while in a substituted educational degree program do not qualify because this time is already included in the degree. Work periods that exceed the amount of degree time substituted do qualify.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 1625 to Section 1621.3 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1621.4. Substitution of Education for Experience.

(a) For the purpose of this article and in accordance with Section 769(b) of the Code, a course of study shall be deemed a major in forestry only (1) if the awarding institution specifically designated the course of study as a major in forestry or a direct derivative thereof such as a major in forest management or a major in forest science, and (2) if it provides the significant concepts in a working knowledge of forest biology, forestry in the social context, forest resources inventory, forest ecosystem management, and forest resources administration. The forest courses presenting such concepts and working knowledge shall be at a level qualifying for transfer credit in a program leading to the Bachelor of Science degree with a major in forestry at either the University of California, Berkeley, California Polytechnic State University at San Luis Obispo, or at Humboldt State University.

In accordance with these standards, a "major in forestry" for the purposes of this act are majors in forestry offered in California, at the University of California, Berkeley, California Polytechnic State University at San Luis Obispo, and Humboldt State University and the programs in forestry offered in other states, which meet the above standards including such programs offered at universities accredited at the time of applicant graduation by the Society of American Foresters (SAF) as of their most current list. The list(s) may be obtained from Professional Foresters Registration, or SAF, 5400 Grosvenor Lane, Bethesda, Maryland, 20814–2198.

(b) The following degrees are deemed the equivalent of four years of forestry experience:

(1) A Bachelor of Science degree with a Major in Forestry, or possession of a Bachelor of Science in Forestry degree from any college or university in the United States of Canada.

(2) A degree in forestry, however designated, from a foreign college or university based on completion of a program of at least four years of university level work with a major in forestry, subject to review and favorable recommendation of the Examining Committee.

(3) A Master of Forestry degree awarded an applicant who holds either a Bachelor of Science degree or a Bachelor of Arts degree with a major in a field other than forestry may submit such evidence as a comparable degree to the Bachelor of Science in Forestry degree.

(c) the Committee shall evaluate and determine, on a case–by–case basis, which other college or university degrees may be substituted as qualifying forestry work experience. In no case can any of the following be combined for more than four years substitution.

(1) A Bachelor of Science degree in a forestry–related field is not equivalent to a Bachelor of Science degree with a major in forestry. No more than two (2) years shall be substituted for such forestry–related

fields including, but not limited to, wood science and technology, wildlife management, range management, soil science or conservation of natural resources.

(2) A Master of Science or Doctor of Philosophy degree in forestry or forestry–related fields can be substituted only when subsection 1621.4(b) of this article does not apply. No more than one (1) year for each of these degrees shall be substituted. A Master of Forestry degree is substituted for only one (1) year unless subsection 1621.4(b)(3) of this article applies.

(3) An Associate of Science or Associate of Arts with a "major in forestry" from one of the two–year colleges recognized at the time of applicant graduation by the Society of American Foresters can be substituted for two (2) years experience. The lists(s) may be obtained from Professional Foresters Registration, or SAF, 5400 Grosvenor Lane, Bethesda, Maryland, 20814–2198.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Sections 1623.1 and 1623.2 to Section 1621.4 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.
2. Amendment of subsection (a) and second paragraph filed 10–21–96; operative 11–20–96 (Register 96, No. 43).

§ 1622. Three Years of "Having Charge of Forestry Work," or "Under the Supervision of a Person Registered."

(a) The minimum of three (3) years "having charge of forestry work," or "forestry work under the supervision of a person registered, or qualified for, but exempt from registration" as specified in Sections 757 and 769(b) of the Code is evaluated using the criteria in subsection (b), below.

(b) "Supervision" shall be deemed adequate to meet the three year requirement if it includes the following elements:

(1) Supervisor is able to hire and fire or effectively recommend same, or is able to clearly withdraw professional responsibility for forestry related matters.

(2) Supervisor must perform regular and timely quality control, work review and inspection, both in the office and in the field, and be able to take, or effectively recommend, corrective actions where necessary. The frequency of review, inspection and guidance shall take into consideration the experience of the non–RPF and technical complexity of the job, but shall be sufficiently frequent to ensure the accomplishment of work to professional standards.

(c) The following limitations apply to the requirement of three years "having charge of forestry work," or "under the supervision of a person registered."

(1) Forestry work stated in subsection 1621.1(b)(3) and 1621.1(b)(4) of this article must be performed at planning and supervision levels; scaling does not qualify unless it is part of an apprentice trainee program under the direct supervision of an RPF.

(2) Only the Master of Forestry degree, in conjunction with a qualifying Bachelor of Science degree with a major in forestry, may be substituted for one of the three years required as provided in Section 769 of the Code.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1622 to Section 1621.1, and new Section 1622 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.
2. Amendment of subsections (b)(2) and (c)(1) filed 10–21–96; operative 11–20–96 (Register 96, No. 43).

§ 1622.1. Nonforestry Activities.

NOTE: Authority cited: Sections 759 and 768, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1622.1 to Section 1621.2 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1622.2. Contracting Forestry Work Experience.

Forestry experience obtained while working as a contractor may be claimed as having charge of forestry work, or forestry work under the supervision of a person registered, or qualified but exempt from, registration provided:

(a) The applicant submits a copy of the contract and any documentation necessary to verify the appropriateness of experience.

(b) The contract required the work of the contractor to be supervised as stated in Section 1622(b) of this article.

(c) The contract or documentation specifies the various items of supervision including, but not limited to: training; frequency of contact both for professional and contract compliance purposes; office and field review; and how corrective actions can be taken.

(d) The contract or documentation has the names, current addresses, and phone numbers of each qualified forester who directly carries out this supervision. If the supervisor is Registered, the license number must be included.

NOTE: Authority cited: Sections 759 and 768, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. New section filed 8–4–89; operative 9–3–89 (register 89, No. 32).
2. Amendment of subsection (b) filed 10–21–96; operative 11–20–96 (Register 96, No. 43).

§ 1623. College Education in Forestry As Equivalent to Forestry Work Experience.

NOTE: Authority cited: Sections 759 and 769, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Amendment of NOTE filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Renumbering and amendment of former Section 1623 to Section 1620.3 filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1623.1. Degrees Equivalent to Four Years of Forestry Experience.

NOTE: Authority cited: Sections 759 and 768, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. New subsection (a)(4) filed 5–29–75; effective thirtieth day thereafter (Register 75, No. 22).
2. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
3. Amendment filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
4. Renumbering and amendment of former Section 1623.1 to Section 1621.4 filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1623.2. Restrictions to Applying College or University Degrees or Study As Equivalent to Experience.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Repealer filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1624. Date of Education and Experience.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Repealer of former Section 1624, and renumbering and amendment of former Section 1626 to Section 1624 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
2. Renumbering and amendment of former Section 1624 to Section 1620.3 filed 8–4–89, operative 9–3–89 (Register 89, No. 32).

§ 1624.1. Denial of Application.

NOTE: Authority cited: Sections 759, 768, 769 and 774, Public Resources Code. Reference: Sections 768, 769 and 774, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering and amendment of Section 1624.1 to Section 1626 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1624.2. Authorization to Take Examination.

NOTE: Authority cited: Sections 759 and 763, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Repealer filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1624.3. Notification of Authorization.

NOTE: Authority cited: Sections 759 and 763, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering of Section 1624.3 to Section 1640.1 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1624.4. Successful Completion of Examination.

NOTE: Authority cited: Sections 759 and 763, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering of Section 1624.4 to Section 1643 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1624.5. Approval of Application.

NOTE: Authority cited: Sections 759, 763 and 772, Public Resources Code. Reference: Sections 769, 770 and 772, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Repealer filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Editorial correction of NOTE (Register 97, No. 47).

§ 1624.6. Denial of Application for Failure to Pass Examination.

NOTE: Authority cited: Sections 759, 763 and 770, Public Resources Code. Reference: Sections 769 and 770, Public Resources Code and 1645 of Title 14, California Administrative Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering of Section 1624.6 to Section 1644 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1625. Year of Forestry Experience Defined.

NOTE: Authority cited: Sections 759 and 768, Public Resources Code. Reference: Section 769, Public Resources Code.

HISTORY

1. Renumbering of former Section 1625 to Section 1627, and renumbering of former Section 1628 to Section 1625 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.
2. Renumbering and amendment of former Section 1625 to Section 1621.3 filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1626. Denial of Application.

If, in the judgment of the committee, based upon the evidence submitted, the applicant lacks the required qualifications, the committee shall deny the application without prejudice. The applicant shall be notified in writing of the reasons for denial and of the right to appeal such denial as provided in Section 1647 of this article.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 768, 769 and 774, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1626 to Section 1624, and renumbering and amendment of former Section 1624.1 to Section 1626 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1627. Right to Appeal Denial of Application.

NOTE: Authority cited: Sections 759 and 765, Public Resources Code. Reference: Section 765, Public Resources Code.

HISTORY

1. Renumbering of former Section 1627 to Section 1628, and renumbering of former Section 1625 to Section 1627 filed 9–27–5; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.
2. Repealer filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1628. Abandoned Applications.

In the absence of special circumstances, the Board shall consider an application abandoned when:

(a) The applicant fails to submit a registration fee or specialty fee within sixty (60) days of the date of the letter of acceptance for registration or certification.

(b) The applicant fails to appear for a scheduled examination at the time set without obtaining an approved postponement.

(c) The applicant, after two postponements, fails to appear for the examination at the appointed time.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 767, Public Resources Code.

HISTORY

1. Renumbering of former Section 1628 to Section 1625, and renumbering of former Section 1627 to Section 1628 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.

§ 1629. Work Experience Year Defined.

HISTORY

1. New section filed 9–12–73 as an emergency; effective upon filing (Register 73, No. 37).
2. Certificate of Compliance filed 1–8–74 (Register 74, No. 2).
3. Repealer filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).

Article 2.5. Applications for Registration Without Examination

HISTORY

1. Repealer of article 2.5 (Sections 1630–1635) filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32). For prior history, see Register 74, No. 2.

Article 3. Examinations

§ 1640. Notification of Authorization to Take Examination.

Not less than thirty (30) days prior to the examination, each applicant qualified to take the exam shall be notified in writing of the date, time, and place of the examination.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Repealer of former Section 1640, and renumbering and amendment of former Section 1640.1 to Section 1640 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1640.1. Study Exams.

Copies of examination questions for the three (3) year period may be obtained upon payment of a fee covering direct cost of duplication as determined by the executive officer.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 763, Public Resources Code and Section 6257, Government Code.

HISTORY

1. Renumbering and amendment of former Section 1640.1 to Section 1640, and new Section 1640.1 filed 8–4–89; operative 9–3–89 (Register 89, No. 32). For prior history, see Register 85, No. 41.

§ 1640.2. Scheduling Examinations.

An application received less than sixty (60) days prior to an announced examination date may be scheduled for the next examination.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 770, Public Resources Code.

HISTORY

1. Renumbering of former Section 1640.2 to Section 1640.3, and renumbering of former Section 1640.1 to Section 1640.2 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.

§ 1640.3. Examinations Prescribed.

The examination shall test the applicant's understanding of the significant concepts in and working knowledge of

(1) Forest Economics,
(2) Forest Protection,
(3) Silviculture,
(4) Forest Resources Management,
(5) Forest Resources Use,
(6) Dendrology,
(7) Forest Ecology,
(8) Forest Mensuration,
(9) Forest Policy, and
(10) Forest Administration, as these apply to the management of forest lands to produce goods and services, and in terms of the environmental effects of such activities.

The committee shall prepare and administer an examination on the foregoing principles whenever the committee deems it necessary, but not less than twice per year. The special examination which may be administered on the basis of reciprocity to a person licensed in another state may be limited in scope to those subjects which in the opinion of the committee are unique to the practice of forestry in California.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 770, Public Resources Code.

HISTORY

1. Renumbering of former Section 1640.2 to Section 1640.3 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Registers 77, No. 32, and 75, No. 52.

§ 1641. Examination Facilities.

The Executive Officer shall make all of the necessary arrangements to provide adequate facilities and assistants to conduct examinations in such locations as may be required to accommodate the number of applicants to be examined.

§ 1642. Examination Irregularities.

Examinees are forbidden to receive unauthorized assistance during the examination. Communication between examinees or the use of unauthorized material or matter or devices during the examination is strictly prohibited. An applicant engaging in such conduct during the examination shall be notified that the examination shall not be graded, and shall be denied the opportunity to take the following two examinations.

NOTE: Authority cited: Sections 759 and 763, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1643. Successful Completion of Examination.

Following successful completion of the prescribed examination, the committee shall recommend to the Board approval for registration or certification of each qualified applicant.

NOTE: Authority cited: Sections 759 and 763, Public Resources Code. Reference: Section 763, Public Resources Code.

HISTORY

1. Repealer of former Section 1643, and renumbering of former Section 1624.4 to Section 1643 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).

§ 1644. Denial of Application for Failure to Pass Examination.

If an applicant fails to obtain a passing grade in the prescribed examination, the committee shall deny the application without prejudice. The applicant shall be notified in writing of the right to appeal the examination following the procedures provided in Section 1647 of this article.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 763, 765, 769 and 770, Public Resources Code.

HISTORY

1. Renumbering of former Section 1644 to Section 1645, and renumbering of former Section 1624.6 to Section 1644 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41). For prior history, see Register 77, No. 32.
2. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1645. Inspection of Examination Papers.

An applicant who fails to receive a passing grade in the written examination may, within thirty (30) days of the examination results notice, request in writing:

(a) A copy of the examination questions, and/or

(b) obtain a copy of his/her own answers which will be mailed after receipt of payment of a fee covering the direct cost of duplication as determined by the executive officer.

(c) The applicant shall not be provided any answers of others, or the exam key. The Executive Officer shall not discuss any specific answers with the applicant because Expert Examiners mutually determine the answer scores.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Section 765, Public Resources Code; and Section 6257, Government Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering of former Section 1645 to Section 1646, and renumbering of former Section 1644 to Section 1645 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Amendment filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1646. Examination Appeal.

NOTE: Authority cited: Sections 759 and 765, Public Resources Code. Reference: Section 765, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Renumbering of former Section 1645 to Section 1646 filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Repealer filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

§ 1647. Appeal Procedure.

Within thirty (30) days of mailing or personal service notice, any real party of interest may appeal the actions of the Committee or Executive Officer to the Board for a review in accordance with Section 765 of the Code. The appeal for review shall be made in writing, stating the reason therefore and citing the items against which the appeal is made. The Board's Executive Officer shall conduct a review thereon, and provide to the applicant the reasons for the decision along with a Notice of Defense form as required by Government Code 11506. The person may, by completing and returning the form, contest the results of the Board's executive officer review at a hearing with an Administrative Law Judge to assist the Board in its final determination in accordance with Chapter 5 of Part 1, Division 3, Title 2 of the Government Code, commencing with Section 11500.

NOTE: Authority cited: Section 759, Public Resources Code. Reference: Sections 765, 768, 769, 770 and 774, Public Resources Code.

HISTORY

1. New section filed 8–4–89; operative 9–3–89 (Register 89, No. 32).

Article 4. Miscellaneous

§ 1650. Specialties.

(a) As an alternative to being registered as a RPF, any person qualified pursuant to this Article is eligible for certification in a specialty. Both RPFs and non–RPFs are eligible for certification in a specialty. Only a person registered as a Certified Specialist may use the title of that specialty.

A certificate in each specialty created will be issued by the Board pursuant to the standards contained in Section 772 of the Code. Specialties will be created by regulation as the need arises.

(b) To protect the public interest, the following certified specialties shall be implemented and overseen by the Executive Officer, with the assistance of the Examining Committee:

(1) Certified Rangeland Management Specialty

(c) For independent certification programs submitted by a professional society or public agency pursuant to Section 772 of the Code, the following process shall apply:

(1) When a professional society or public agency establishes an internal certification panel for any or all of the following purposes: reviewing

an applicant's qualifications, administering an examination to evaluate an applicant's professional understanding, awarding certifications, reviewing allegations of misconduct, and administering discipline; the panel members shall have first been certified by the Board as meeting the professional qualifications and standards for that Certified Specialty before undertaking their responsibilities pursuant to this Section. The certification of the panel members may be done by a subcommittee of the PFEC appointed by the Board and composed of resource professionals in good standing representing a broad cross section of employment and expertise in that specialty. All subsequent panel members shall also be certified in this manner.

(2) The PFEC shall be notified by the appropriate society or public agency of any Certified Specialist who is guilty of violations of professional standards and is issued discipline pursuant to the respective certification program. The Certified Specialist shall be subject to disciplinary actions by the Board as defined in this chapter for violation of those standards, or for violation of those standards promulgated by the Board pursuant to Section 778 of the Code.

(3) The PFEC shall be notified of any proposed actions to be taken by a professional society or public agency which may affect the specialty certification program of the society or public agency, including but not limited to modification of the requirements for certification or professional accountability. Any modifications to a specialty certification program must be approved by the PFEC prior to implementation or the program may be rejected by the Board. The modifications shall not significantly alter the qualifications and accountability within the original certification.

(4) Prior to March 1 of each calendar year, those Professional Societies and public agencies with independent certification programs shall submit to the PFEC a report which describes the previous calendar year accomplishments of the certification program, including but not limited to the number of applicants for certification, the approvals, denials, copies of examinations, and a summary of disciplinary actions, to insure the program fully protects the public interest. Failure to submit the report may result in a full review which may result in the rejection of the Certification program by the Board.

(d) All Certified Specialists are subject to annual registration and fees for renewal of Specialty Certificates pursuant to 14 CCR, Sections 1605 and 1607.

NOTE: Authority cited: Sections 759 and 762, Public Resources Code. Reference: Sections 762 and 772, Public Resources Code.

HISTORY

1. Amendment filed 8–1–77; effective thirtieth day thereafter (Register 77, No. 32).
2. Amendment of NOTE filed 9–27–85; effective thirtieth day thereafter (Register 85, No. 41).
3. Amendment filed 4–28–94; operative 5–30–94 (Register 94, No. 17).

§ 1651. Certified Rangeland Management Specialty.

(a) A "Certified Rangeland Manager (CRM)" is a person who provides services pursuant to 14 California Code of Regulations (CCR) 1602, at the request of the landowner or hiring agent, relating to the application of scientific principles to the art and science of managing rangelands and range. A Certified Rangeland Manager shall perform professional services only in those subjects in which he or she is competent by training and experience.

(b) When a CRM is providing range management services related to the production of forage and livestock on forested landscapes, a RPF shall be consulted if there are potential impacts on related forest resources.

(c) Qualifications as a Certified Rangeland Manager may be achieved by submitting evidence of certification by the California Section of the Society for Range Management (CA–SRM) as a Certified Rangeland Manager pursuant to its "Program for Certification of Professional Rangeland Managers" (PCPRM) dated June 5, 1992 and amended on November 4, 1993.

NOTE: Authority cited: Sections 759 and 762, Public Resources Code. Reference: Sections 762 and 772, Public Resources Code.

HISTORY

1. New section filed 4–28–94; operative 5–30–94 (Register 94, No. 17).

Chapter 11. Policy for Administration for the Department

Article 1. Policy Guides for Administration of Statutes Protecting Natural Resources

§ 1655. Issues to Be Referred to the Board by the Director.

(a) If, in the exercise of the Director's powers pursuant to any state statute, the Director finds that there are not guidelines, standards, requirements or prohibitions contained therein, he or she shall immediately consult the Board for direction in the application of such laws.

(b) If application of any state law, other than the Forest Practice Act, raises substantial questions about the protection of the natural resources of the state under the provisions of the Forest Practice Act and would therefore bear on the Director's review of timber harvest plans pursuant to Sections 4582.7 and 4582.75 PRC, then the Director shall follow the same procedures as required by Section 4555 PRC and relevant regulations in 14 CAC 901 et seq.

(c) The rules and regulations of the Board, including the Forest Practice Rules, shall contain the policies of the Board for guidance of the Director in administering the Department. Such rules shall be interpreted to give recognition to all applicable state statutes and to harmonize questions of potential policy conflicts. If, during the administration of rules and regulations established by the Board, the Director finds conflicts, inconsistencies, or a lack of sufficiently clear standards to guide the Director or persons affected by the regulations, then the Director shall immediately seek clarification from the Board.

NOTE: Authority cited: Sections 740, 4551, 4552 and 4553, Public Resources Code. Reference: Sections 710, 740, 4552, 4555, 4582.7 and 4582.75, Public Resources Code; and *NRDC* v. *Arcata*, 59 Cal. App. 3d 959, 131 Cal. Rptr. 172 (1976).

HISTORY

1. New Chapter 10 (Section 1655) filed 3–9–78 as an emergency; effective upon filing (Register 78, No. 10).
2. Certificate of Compliance filed 5–10–78 (Register 78, No. 19).
3. Redesignation from Chapter 10 (Section 1655) to Chapter 11 (Section 1655) filed 5–19–78 as procedural and organizational; designated effective 7–6–78 (Register 78, No. 20).
4. Order of Repeal of introductory paragraph filed 8–26–82 by OAL pursuant to Government Code Section 11349.7(j) (Register 82, No. 35).
5. Editorial correction of subsection (c) and NOTE filed 10–19–82 (Register 82, No. 43).

Article 2. Policy Guides for Administration of the Fire Protection System

§ 1658. Criteria for County Assumption of SRA.

In approving the election of a county to assume responsibility for the prevention and suppression of all fires on all land in such county, excluding lands owned or controlled by the federal government or lands within the exterior boundaries of any city, the Director shall follow these criteria:

(a) The county shall have arrangements to provide a fire organization in place at the time of transfer, with sufficient financial support and of adequate size, depth and experience, to provide fire protection of the required type and level to the natural resources to be protected within State Responsibility Areas.

(b) The county shall submit a detailed plan that:

(1) Delineates placement of facilities, equipment and personnel for protection of State Responsibility Areas.

(2) Provides a method for orderly disposition of any state owned land and equipment, and placement of state personnel.

(3) Identifies equipment and personnel that are state supported and conditions under which the county agrees to make such personnel and

equipment available to the State for authorized uses, including uses outside county boundaries.

(4) Identifies State Responsibility Areas within the county and provides the same or higher intensity of fire protection to these lands as is provided under existing levels of state protection in other comparable areas of the state.

(5) Provides for a contingency plan whereby the State will reassume protection of State Responsibility lands if the county does not provide required minimum levels of protection as required by the State.

(c) Local assumption shall not have a significant cumulative adverse effect on the ability of the Department, either geographically or organizationally, to provide the level of fire protection mandated statewide by the State Fire Plan.

(d) Local assumption shall not have a significant adverse impact on:

(1) Those agencies contracting with CDF for fire protection unless the county has arranged to assume the contract; and

(2) Federal agencies with which CDF maintains cooperative agreements and facilities.

NOTE: Authority cited: Section 740, Public Resources Code. Reference: Sections 4129, 4130 and 4133, Public Resources Code.

HISTORY

1. New Article 2 (Section 1658) filed 4–11–80; effective thirtieth day thereafter (Register 80, No. 15).

Chapter 12. Regulations for the Implementation of the California Environmental Quality Act

Article 1. General

§ 1660. Definitions.

The words used in this subchapter have the same meaning in the California Environmental Quality Act (Division 13, Public Resources Code, commencing with Section 15000, hereafter cited as "CEQA") and the State CEQA Guidelines (Title 14, Division 6, Chapter 3). In addition to the terms used in CEQA and the State CEQA Guidelines, the following term used in these regulations has this meaning:

"Permits to burn" means those permits issued by the Department to burn trash, vegetation, agricultural waste, brush, slash, rubbish, or any other material or to build a campfire, to the extent that a permit from the Department is required.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Section 15022. Reference: Section 41852, Health and Safety Code; Sections 4118, 4371–4376, 4423–4425, 4437, 4439, 4491–4494 and 21082, Public Resources Code; and 14 CAC Section 15022.

HISTORY

1. New Subchapter 12 (Articles 1 and 2, Sections 1660–1662.9) filed 10–31–85; effective thirtieth day thereafter (Register 85, No. 45).

Article 2. Exemptions

§ 1661. Ministerial Project Exemptions.

In compliance with the requirements of CEQA and the State CEQA Guidelines, the following list of ministerial project exempt activities of the Department has been compiled. This list is subject to the limitations on ministerial projects set forth in the State CEQA Guidelines. This list does not preclude inclusion of ministerial projects or other activities that come within the State CEQA Guidelines.

(a) The issuance of timber operator licenses.

(b) The issuance of State Forest Use Permits pursuant to Section 4656 of he Public Resources Code.

(c) The issuance of a California Campfire Permit pursuant to Section 4433 of the Public Resources Code.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15268(c). Reference: Sections 4433, 4571–4577, 4656 and 21082, Public Resources Code; and 14 CAC Sections 15022 and 15268.

§ 1662. Categorically Exempt Activities.

In compliance with the State CEQA Guidelines, the following list of categorically exempt activities of the Department has been compiled. This list is subject to the limitations on categorical exemptions set forth in the State CEQA Guidelines and does not preclude inclusion of categorical exemptions for other activities that come within the State CEQA Guidelines.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Sections 21080(b) and 21084, Public Resources Code; and 14 CAC Section 15300.4.

§ 1662.1. Existing Facilities.

Class 1: Department projects under this class will consist of operation, repair, maintenance and minor alteration of existing facilities including, but not limited to:

(a) Fuel and firebreaks and other fire defense improvements;

(b) Fire prevention signs, directional signs and facility identification signs;

(c) Service roads; and

(d) Existing buildings.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Sections 4114 and 4170.5, Public Resources Code; and 14 CAC Section 15301.

§ 1662.2. New Construction of Small Structures.

Class 3: Department projects under this class will consist of new, minor construction projects costing $5,000 or less.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: 14 CAC Sections 15300.2 and 15303.

§ 1662.3. Minor Alterations to Land.

Class 4: Department projects under this class will consist of minor alterations to land including, but not limited to:

(a) Temporary work camps, equipment practice courses, fire prevention exhibits, equipment parking and fire tool caches; and

(b) Minor fire defense improvements.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Section 4114, Public Resources Code; and 14 CAC Sections 15300.2 and 15304.

§ 1662.4. Minor Alterations in Land Use Limitations.

Class 5: Department projects under this class will consist of minor alterations in land use limitations including, but not limited to, easements confirming existing use not leading up to a change in existing land use.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Section 4114, Public Resources Code; and 14 CAC Sections 15300.2 and 15305.

§ 1662.5. Information Collection.

Class 6: Department projects under this class will consist of basic data collection including, but not limited to:

(a) State Forest Demonstration areas;

(b) Range improvement studies;

(c) Forest surveys;

(d) Rehabilitation of burned areas;

(e) Fire protection and reforestation studies; and

(f) Forest research in silviculture.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Sections 4631, 4647, 4678–4678.7, 4692–4695, 4781–4788 and 4789.3, Public Resources Code; and 14 CAC Sections 15300.2 and 15306.

§ 1662.6. Action by Regulatory Agencies for Protection of Natural Resources.

Class 7: Department projects under this class will consist of actions authorized by state law or local ordinances to assure the maintenance, restoration or enhancement of natural resources where the regulatory process involves procedures for protection of the environment including, but not limited to:

(a) Establishment, modification, or dissolution of hazardous fire areas in accordance with Section 4253 of the Public Resources Code;

(b) Establishment, modification, or dissolution of zones of insects, disease, or animal infestation or infection;

(c) Controlled burning pursuant to Section 4423 of the Public Resources Code;

(d) Closures of land or access for fire protection purposes; and

(e) Forest product waste disposal and storage.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Sections 4253, 4256, 4297, 4423, 4437 and 4712–4718, Public Resources Code; and 14 CAC Sections 1300–1302 and 15307.

§ 1662.7. Inspections.

Class 9: Department projects under this class will consist of activities which relate directly to inspections including, but not limited to:

(a) Inspections for compliance with laws and regulations such as fire prevention;

(b) Forest practice inspections;

(c) Scaling and inspection of timber products or nursery stock;

(d) Facility and building inspections; and

(e) Inspections for compliance with the Agriculture and Consumer Protection Act of 1973 (16 USC 1331 et seq.) and other federal–state cooperative programs including, but not limited to:

(1) The Clarke–McNary Act (16 USC 564 et seq.).

(2) The Forestry and Rangeland Renewable Resources Planning Act (16 USC 1600–1614).

(3) National Forest Management Act of 1976 (16 USC 1600 et seq.).

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Section 13109, Health and Safety Code; Sections 4185, 4291–4296.5, 4582.7, 4586, 4588 and 4604, Public Resources Code; 14 CAC Sections 1037, 1037.5, 15309; 16 USC 564 et seq.; and 16 USC 1600 et seq.

§ 1662.8. Surplus Government Property Sales.

Class 12: Department projects under this class will consist of sales of surplus government property including, but not limited to, sales of forest products pursuant to Public Resources Code 4650.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Section 4650, Public Resources Code; and 14 CAC Section 15312.

§ 1662.9. Annexations of Existing Facilities and Lots for Exempt Facilities.

Class 19: Department projects under this class will consist of annexations including, but not limited to, organization and reorganization of fire districts.

NOTE: Authority cited: Section 21082, Public Resources Code; and 14 CAC Sections 15022 and 15300.4. Reference: Section 13821, Health and Safety Code; and 14 CAC Section 15319.

Article 3. Private Services Selection Policy

§ 1663. Private Services.

(a) The services of private environmental, architectural, engineering, or construction project management consulting firms must be procured by the Director pursuant to these regulations only if they would lead to, or result in, services for the approval of a project as defined in Section 21065 Public Resources Code.

(b) Such services shall be secured on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required, pursuant to Section 4526 Government Code.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New article 3 and section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.1. Definitions.

"Architectural and engineering services" includes those professional services of an architectural or engineering nature as well as incidental services that members of these professions and those in their employ may logically or justifiably perform. "Environmental Services" means those services performed in connection with project development and permit processing in order to comply with federal and state environmental laws. "Construction Project Management" means those services provided by a licensed architect, registered engineer, or licensed general contractor which meet the requirements of Section 4529.5 of the Government Code for management and supervision of work performed on state construction projects.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4525, 4526, 4527 and 4529.6, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.2. Publication of Announcement.

(a) When a project requiring environmental, architectural, engineering, or construction project management services is identified, an announcement shall be made by the Director through publication of professional societies as follows:

(1) If the services will be predominantly architectural, the California Council, American Institute of Architects.

(2) If the services will be predominantly engineering, the Consulting Engineers Association of California.

(b) The notice of announcement shall also be advertised in two major California daily newspapers and in the California State Contracts Register. Failure of the professional societies or newspapers to publish the notice of announcement shall not operate to invalidate any contract.

(c) The announcement shall contain the following minimal information:

(1) the nature of the work,

(2) the criteria upon which the award shall be made, and

(3) the time period within which statements of interest, qualification and performance data will be received.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.3. Establishment of Criteria.

The Director shall apply criteria which will comprise the basis for selection for each project which shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel, staff capability, workload, ability to meet schedules, principles to be assigned, nature and quality of completed work, reliability and continuity of the firm, location, professional awards and other considerations deemed relevant. Such factors shall be weighed by the Director according to the nature of the project, the needs of the State, and complexity and special requirements of the specific project.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.4. Selection of Services.

After expiration of the period stated in the publications, the Director shall evaluate statements of qualifications and performance data on file in the Department. The Director shall conduct discussions with no less than three firms regarding anticipated concepts and the relative utility of alternative methods of approach for furnishing the required service. From the firms with which discussion are held, the Director shall select no less than three, in order of preference, based upon the established criteria, who are deemed to be the most highly qualified to provide the required services.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.5. Estimate of Value of Services.

Before any discussion with any environmental firm concerning fees, the Director shall cause an estimate of the value of such services to be prepared. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.6. Negotiation.

The Director shall attempt to negotiate a Project with the best qualified firm. Should the Director be unable to negotiate a satisfactory contract with the firm considered to be the most qualified at fair and reasonable compensation, negotiations with that firm shall be terminated. The Director shall then undertake negotiations with the second most qualified firm. Failing accord, negotiations shall be terminated. The Director shall then undertake negotiations with the third most qualified firm. Failing accord, negotiations shall be terminated. Should the Director be unable to negotiate a satisfactory contract with any of the selected firms, the Director may select additional firms in the manner described and continue the negotiation procedure.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.7. Amendments.

In instances where the State affects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by mutual written agreement in a reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the Parties.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.8. Contracting in Phases.

Should the Director determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price in the initial instance, provided that the Director shall have determined that the firm is best qualified to perform the whole project at reasonable cost, and the contract contains provisions that the State, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated, mutually agreed upon and reflected in a subsequent written instrument, the procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

§ 1663.9. Small Business Participants.

The Director shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the Director concludes that small business firms could be especially qualified. The Director shall assist firms in attempting to qualify for small business status. A failure of the Director to send a copy of an announcement to any firm shall not operate to invalidate any contract.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 4527, Government Code.

HISTORY

1. New section filed 6–9–94; operative 6–9–94 (Register 94, No. 23).

Chapter 13. State Responsibility Fees

§ 1665.1. Authority.

NOTE: Authority cited: Section 4139, Public Resources Code. Reference: Sections 4102, 4111, 4114, 4125, 4138(a)–(h) and 4140(a), Public Resources Code.

HISTORY

1. New chapter 13 (sections 1665.1–1665.5) and section filed 5–10–2004 as an emergency; operative 5–10–2004 (Register 2004, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–7–2004 or emergency language will be repealed by operation of law on the following day.
2. Repealer of chapter 13 (sections 1665.1–1665.5) and repealer of section by operation of Government Code section 11346.1(g) (Register 2005, No. 11).

§ 1665.2. Definitions.

NOTE: Authority cited: Section 4139, Public Resources Code. Reference: Sections 4102, 4111, 4114, 4125, 4138(a)–(h) and 4140(a), Public Resources Code; and Section 53087.4, Government Code.

HISTORY

1. New section filed 5–10–2004 as an emergency; operative 5–10–2004 (Register 2004, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–7–2004 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2005, No. 11).

§ 1665.3. Determination of Eligible Parcel.

NOTE: Authority cited: Section 4139, Public Resources Code. Reference: Sections 4102, 4111, 4114, 4125, 4138(a)–(h) and 4140(a), Public Resources Code.

HISTORY

1. New section filed 5–10–2004 as an emergency; operative 5–10–2004 (Register 2004, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–7–2004 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2005, No. 11).

§ 1665.4. Imposition of the Benefit Fee.

NOTE: Authority cited: Section 4139, Public Resources Code; and Section 155.20, Revenue and Taxation Code. Reference: Sections 4102, 4111, 4114, 4138(a)–(h) and 4140(a), Public Resources Code.

HISTORY

1. New section filed 5–10–2004 as an emergency; operative 5–10–2004 (Register 2004, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–7–2004 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2005, No. 11).

§ 1665.5. Requests for Review and Refunds.

NOTE: Authority cited: Section 4139, Public Resources Code. Reference: Sections 4102, 4111, 4114, 4138(a)–(h) and 4140(a), Public Resources Code; Section 53087.4, Government Code; and Section 5097, Revenue and Taxation Code..

HISTORY

1. New section filed 5–10–2004 as an emergency; operative 5–10–2004 (Register 2004, No. 20). A Certificate of Compliance must be transmitted to OAL by 9–7–2004 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 2005, No. 11).

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Division 2. Department of Conservation

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Division 2. Department of Conservation

Chapter 1. Department of Conservation—Conflict of Interest Code

§ 1670. General Provisions.

The Political Reform Act (Government Code Sections 81000, *et seq.*), requires state and local government agencies to adopt and promulgate conflict of interest codes. The Fair Political Practices Commission has adopted a regulation (2 Cal. Code of Regs. Sec. 18730) which contains the terms of a standard conflict of interest code, which can be incorporated by reference in an agency's code. After public notice and hearing it may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission are hereby incorporated by reference. This regulation and the attached Appendix designating officials and employees and establishing disclosure categories shall constitute the conflict of interest code of the Department of Conservation.

Designated employees shall file statements of economic interests with the Department. Upon receipt of the statements of the Director and members of Boards and Commissions, the Department shall make and retain a copy and forward the originals of these statements to the Fair Political Practices Commission. Statements for all other designated employees will be retained by the Department which shall make them available for public inspection and reproduction.

NOTE: Authority cited: Sections 87300 and 87306, Government Code. Reference: Sections 87300, et seq., Government Code.

HISTORY

1. New Chapter 1 (Sections 1670–1675) filed 4–7–78; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 7–6–77 (Register 78, No. 14).
2. Repealer of Chapter 1 (Sections 1670–1675) and new Chapter 1 (Section 1670 and Appendix) filed 2–26–81; effective thirtieth day thereafter. Approved by Fair Political Practices Commission 12–1–80 (Register 81, No. 9).
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8. Amendment of Appendix A filed 1–10–2008; operative 2–9–2008. Approved by Fair Political Practices Commission 12–7–2007 (Register 2008, No. 2).

Appendix A

Designated Employees and Retired Annuitants filling such positions under the Conflict of Interest Code of the Department of Conservation

The following individuals are hereby required to file statements of economic interests in accordance with the disclosure category indicated:

Executive

Position	*Disclosure Category*
Director	1
Chief Deputy Director	1
Deputy Director	1
Members, State Mining and Geology Board	1
Executive Officer / Special Representative, State Mining and Geology Board	1
Senior Engineering Geologist, State Mining and Geology Board	1
Equal Employment Opportunity Officer	1
Administrative Assistant II	1

Office of Mine Reclamation

Assistant Director, Office of Mine Reclamation	1

All employees in the following Office of Mine Reclamation classifications or series:

Supervising Environmental Planner	1
Environmental Program Manager	1
Supervising Geologist	1
Senior Biologist	1
Senior Engineering Geologist	1
Engineering Geologist	1
Staff Services Manager	1
Research Analyst	3
Associate Governmental Program Analyst	3
Environmental Scientist	3
Staff Services Analyst	3
Executive Assistant	3
Student Assistant	3

Legal Office

Chief Counsel	1

All employees in the following Legal Office classifications or series:

Staff Counsel III	1
Staff Counsel	1
Staff Services Manager	1
Senior Legal Analyst	1
Legal Analyst	1
Legal Intern	1
Administrative Assistant	2

Office of Governmental and Environmental Relations

Assistant Director, Office of Governmental and Environmental Relations	1

All employees in the following Office of Governmental and Environmental Relations classifications or series:

Staff Services Manager	1
Environmental Scientist	1
Associate Governmental Program Analyst	1
Staff Services Analyst	1

Public Affairs Office

Assistant Director, Public Affairs Office	1

All employees in the following Public Affairs Office classifications or series:

Information Officer	1
Research Writer	1
Recycling Specialist	1
Associate Governmental Program Analyst	1

Division of Land Resource Protection

Assistant Director, Division of Land Resource Protection	1
Chief Deputy, Division of Land Resource Protection	1

All employees in the following Division of Land Resource Protection classifications or series:

Environmental Program Manager	1
Land and Water Use Scientist (Senior and above)	1
Land and Water Use Scientist (Entry, Associate and Staff)	6
Environmental Scientist	6
Environmental Planner	6
Research Analyst	6
Associate Governmental Program Analyst	6

Division of Administration

Deputy Director, Division of Administration	1

Position	Disclosure Category
All employees in the following Division of Administration classifications or series:	
Staff Services Manager	1
Accounting Administrator	1
Business Services Officer	2
Accounting Officer	2
Senior Accounting Officer	2
Associate Administrative Analyst	2
Associate Budget Analyst	2
Associate Governmental Program Analyst	2
Staff Services Analyst	2
Business Services Analyst	2
Human Resources Office	
Chief, Human Resources Office	1
All employees in the following Human Resources Office classifications or series:	
Staff Services Manager	1
Training Officer	2
Health and Safety Officer	2
Associate Personnel Analyst	2
Personnel Supervisor	2
Staff Services Analyst	2
Office of Technology Services	
Assistant Director, Office of Technology Services	1
All employees in the following Office of Technology Services classifications or series:	
Data Processing Manager	2
Research Program Specialist	2
Information Systems Analyst (Associate and above)	2
Systems Software Specialist	2
Programmer Analyst	2
Associate Governmental Program Analyst	2
Staff Services Analyst	2
California Geological Survey	
State Geologist	1
All employees in the following California Geological Survey classifications or series:	
Supervising Geologist	1
Supervising Engineering Geologist	1
Senior Engineering Geologist	2 and 3
Senior Geologist	2 and 3
Senior Materials and Research Engineer	2 and 3
Senior Civil Engineer	2 and 3
Senior Seismologist	2 and 3
Staff Services Manager	2 and 3
Engineering Geologist	2 and 3
Research Program Specialist	2 and 3
Research Manager	2 and 3
Staff Electronic and Instrumentation Engineer	2 and 3
Senior Librarian	2 and 3
Research Analyst	2 and 3
Associate Planner	2 and 3
Associate Seismologist	2 and 3
Senior Precision Electronics Specialist	2 and 3
Associate Governmental Program Analyst	2 and 3
Staff Services Analyst	2 and 3
Division of Oil, Gas, and Geothermal Resources	
State Oil and Gas Supervisor	1
Chief Deputy Oil and Gas Supervisor	1
All employees in the following Division of Oil, Gas, and Geothermal Resources classifications or series:	
Supervising Oil and Gas Engineers	1
Senior Oil and Gas Engineers	1
Associate Oil and Gas Engineers	4
Energy and Mineral Resources Engineer	4
Oil and Gas Technician	4
Research Program Specialist	4
Associate Governmental Program Analyst	4
Staff Services Analyst	4
Supervisor of Technical Publications	4

Position	Disclosure Category
Division of Recycling	
Assistant Director, Division of Recycling	1
Deputy Chief, Division of Recycling	1
All Managers and Supervisors	1
All employees in the following Division of Recycling classifications or series:	
Environmental Program Manager (non-supervisory)	5
Management Services Technician	5
Staff Services Analyst	5
Associate Governmental Program Analyst	5
Recycling Specialist (non-supervisory)	5
Auditor	5
Research Analyst	5
Research Program Specialist	5
Graphic Designer	5
Environmental Scientist	5
Staff Services Manager	5
Research Manager	5
Consultants	
Consultants (Department-wide)	*1

Consultants are "designated employees" for the purposes of these provisions and shall disclose pursuant to the broadest disclosure category in the Code, subject to the following limitation: The Director may determine in writing that a particular consultant, although a "designated employee," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described in the Code. This written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure required. The Director's determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

Department of Conservation
Disclosure Categories

Disclosure Category 1:

A designated employee in this category must report all investments, business positions, interests in real property, and sources of income, including gifts, loans and travel payments.

Disclosure Category 2:

A designated employee in this category must report investments and business positions in, and income, including gifts, loans, and travel payments, from any business entity of the type that provides services, supplies, materials, machinery or equipment of the type used by the Department of Conservation.

Disclosure Category 3:

A designated employee in this category must report real property and investments and business positions in and income, including gifts, loans, and travel payments, from any business entity of the type that may be affected by or subject to any provisions, guidelines, rules, regulations or policies adopted, enforced or promulgated by the California Geological Survey, the Office of Mine Reclamation, or the State Mining and Geology Board. This includes, but is not limited to, business entities engaged in real estate development, mining, quarrying, mineral refining or smelting operations, logging operations, geothermal and petroleum development, or public utility facility development; or the manufacturing, distribution, sale, repair or advertising of products for use in exploration, development and design criteria, and construction of facilities and projects involving siting investigations or land use.

Disclosure Category 4:

A designated employee in this category must report real property and investments and business positions in, and income, including gifts, loans, and travel payments, from any business entity of the type that may be affected by or subject to any provisions, guidelines, rules, or policies adopted, enforced or promulgated by the Division of Oil, Gas, and Geothermal Resources. This includes, but is not limited to, business entities of the type that are regularly engaged in the extraction and/or production

of oil, gas or geothermal resources; or providing consulting, research or other contractual services to companies sponsoring such developments; or the manufacturing, distribution, sale, repair or advertising of products for use in exploration, development and design criteria, and construction of facilities and projects involving siting investigations or land use.

Disclosure Category 5:

A designated employee in this category must report real property and investments and business positions in and income, including gifts, loans, and travel payments, from sources that:

(1) are subject to the regulatory, certification, registration, or licensing authority of the Division of Recycling;

(2) provides leased facilities, goods, equipment, vehicles, machinery or services, including training or consulting services of the type used by the Division of Recycling;

(3) are recipients of grants, or program payments from the Division of Recycling, and/or subjects of collection activity by the Division of Recycling.

Disclosure Category 6:

A designated employee in this category must report all investments and interests in real estate and business positions in and income, including gifts, loans, and travel payments, from sources of the type that are involved in the Williamson Act program or are recipients of grants from the Division of Land Resources Protection.

NOTE: Authority cited: Sections 87300 and 87306, Government Code. Reference: Sections 87300–87302 and 87306, Government Code.

Chapter 2. Implementation of the California Environmental Quality Act of 1970

Article 1. Definitions

§ 1681. Scope of Regulations.

These regulations refer to the requirements of the Division of Oil, Gas, and Geothermal Resources in the preparation of environmental documents under CEQA. They are to be used in conjunction with the "State CEQA Guidelines," Title 14 California Code of Regulations, Sections 15000 et seq.

NOTE: Authority cited: Sections 606, 3013 and 21082, Public Resources Code. Reference: Sections 21000–21176, Public Resources Code.

HISTORY

1. Repealer of Chapter 2 (Articles 1–9; Sections 1680–1695, not consecutive; Appendix A and B) and new Chapter 2 (Articles 1–3; Sections 1680–1682) filed 12–29–78 as an emergency; designated effective 1–1–79 (Register 78, No. 52). For prior history, see Registers 78, No. 14; 77, No. 14; and 73, No. 15.
2. Repealer of Chapter 2 (Articles 1–3, Sections 1680–1682) and new Chapter 2 (Articles 1–8, Sections 1681–1690.2, Appendix A) filed 8–27–79; effective thirtieth day thereafter (Register 79, No. 35).
3. *Repealer of Chapter 2 (Articles 1–8, Sections 1681–1690.2, not consecutive, and Appendix A) and new Chapter 2 (Articles 1–5, Sections 1681–1685, not consecutive) filed 9–21–82; effective thirtieth day thereafter (Register 82, No. 39).
4. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

*The reorganization of Chapter 2 is printed as a repealer and adoption for clarity.

§ 1681.1. Decision Making Body.

"Decision making body" means any person or group of people within a public agency permitted by law to approve or disapprove the project at issue. Where an applicant requests approval of a Notice of Intention to drill for an oil, gas, or geothermal well, the "decision making body" is the State Oil and Gas Supervisor or his or her representative.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080, Public Resources Code.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1681.2. Lead Agency.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 3715.5, 21065.5 and 21067, Public Resources Code.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Repealer filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1681.3. Notice of Intent to Prepare Environmental Document.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080.3, Public Resources Code.

HISTORY

1. Repealer filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1681.4. Geothermal Exploratory Project.

(a) A geothermal exploratory project is for the purpose of evaluating the presence and characteristics of geothermal resources prior to starting a geothermal field development project. An exploratory project is comprised of not more than six wells. The wells must be located at least one–half mile from the surface location of any existing geothermal wells that are capable of producing geothermal resources in commercial quantities.

(b) For the purpose of preparing an environmental document for an exploratory project, a description of the environmental impacts of a project shall be limited to the proposed drill sites, the proposed wells, and any roads or other facilities that may be required before the exploratory wells can be drilled.

The environmental document for the exploratory project does not need to describe the environmental impacts of any future exploratory or development projects.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 21065.5 and 21090.1, Public Resources Code.

Article 2. General Responsibilities for Geothermal Projects

§ 1682. Contents of a Geothermal Project Application.

An application for a geothermal exploratory project shall include:

(a) A statement declaring that the purpose of the proposed project is to evaluate the presence and characteristics of geothermal resources and that the surface location of each well in the project is at least one–half mile from the surface location of an existing well capable of producing geothermal resources in commercial quantities.

(b) The following information in narrative form:

(1) A description of the project including a regional map showing the location of the proposed well(s).

(2) A statement of whether or not the project is compatible with existing zoning and State and local plans.

(3) A description of the environmental setting.

(4) A description of probable short–term and long–term environmental effects of the project.

(5) A description of measures acceptable to the project sponsor which mitigate the project's probable environmental effects.

(6) A description of any significant adverse environmental impacts which the project sponsor cannot mitigate.

(c) A statement that the sponsor agrees to provide additional environmental information the Division may need to complete any environmental documents required by CEQA.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Sections 3715.5 and 21160, Public Resources Code.

HISTORY

1. Amendment of article heading, section heading and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1682.1. Lead Agency CEQA Time Limits for Geothermal Projects.

When the Division accepts an application for a geothermal exploratory project as complete, the Division shall prepare or cause the preparation of the required environmental documents and make a decision on the project within 135 days.

(a) The time limit shall be measured from the date on which the application is accepted as complete.

(b) Within 30 days after receiving an application for a geothermal exploratory project, the Division shall determine whether the application is complete and whether the project will require a Notice of Exemption, an Environmental Impact Report (EIR) or a Negative Declaration.

(c) The Division shall consult with Responsible Agencies to discuss the scope and content of a proposed environmental document pursuant to Section 168.3.1(b) of these regulations.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Sections 3715.5, 21080.1 and 21080.3, Public Resources Code.

HISTORY

1. Change without regulatory effect amending first paragraph filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Amendment of section heading, section and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1682.2. Responsible Agency CEQA Time Limits.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080.4, Public Resources Code.

HISTORY

1. Repealer filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1682.3. Delegation of Lead Agency Responsibilities for Geothermal Exploratory Projects.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 3715.5, Public Resources Code.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Article 3. Application of the Act to Geothermal Projects

§ 1683. Federal Geothermal Project Coordination.

Where a geothermal exploratory project will be subject to both CEQA and the National Environmental Policy Act, the Division shall approve or disapprove the project within 135 days.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Sections 3715.5, 21083.5 and 21083.7, Public Resources Code.

HISTORY

1. Amendment of article heading, section heading, section and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1683.1. Consultation In Connection with a Geothermal Project.

(a) Prior to determining whether a Notice of Exemption, Negative Declaration, or EIR is required for a geothermal exploratory project, the Division shall consult with each Responsible Agency and Trustee Agency responsible for natural resources affected by the project.

(b) In connection with a geothermal exploratory project, the Division shall consult with Responsible Agencies to discuss the scope and content of a proposed environmental document as soon as possible but not later than 30 days after the Division receives an application. The Division may waive this requirement if the project has no significant environmental impact or if the project sponsor agrees to mitigate all foreseeable environmental impacts. This requirement may be met through written correspondence.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Sections 3715.5 and 21080.3, Public Resources Code.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Amendment of section heading, section and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1683.2. Geothermal Discretionary Projects.

Permitting actions of the Division for geothermal exploratory projects are discretionary under CEQA, when the Division acts as lead agency.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Sections 3715.5 and 21080, Public Resources Code.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Amendment of section heading, section and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1683.3. Procedures for Exempted Projects.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 3715.5, Public Resources Code.

HISTORY

1. Change without regulatory effect amending subsection (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Repealer filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1683.5. Responsible Agency CEQA Time Limits.

As soon as possible after receiving a Notice of Preparation and in no event more than 45 days after receiving the notice, a Responsible Agency shall inform the Lead Agency of the scope and content of the environmental information that the Responsible Agency would need in the EIR.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 21000–21176, Public Resources Code.

§ 1683.6. Delegation of Responsibilities for Geothermal Lead Agency.

The Division may delegate its Lead Agency responsibility for geothermal exploratory projects to a county that has adopted a geothermal element for its general plan and agreed to complete its Lead Agency responsibilities for such projects within 135 days of receipt of a complete application for such project.

NOTE: Authority cited: Sections 3012 and 21082, Public Resources Code. Reference: Section 3715.5, Public Resources Code.

HISTORY

1. Change without regulatory effect amending subsection (d) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Amendment of section heading, section and NOTE filed 10–18–2004; operative 11–17–2004 (Register 2004, No. 43).

§ 1683.7. Delegation of Lead Agency Responsibilities for Geothermal Exploratory Projects.

(a) A request for delegation of Lead Agency responsibilities for geothermal exploratory projects shall contain a letter of request signed by the Chairperson of the Board of Supervisors, copies of the county's adopted geothermal element, the final environmental document on the element, and copies of the county's CEQA procedures which detail the county method of completing its Lead Agency responsibilities for geothermal exploratory projects within 135 days.

(b) Upon receipt of the request, the State Oil and Gas Supervisor shall transmit a copy of the geothermal element and final environmental document to the Office of Planning and Research (OPR) and shall consult with the OPR prior to making a decision on the county's request. The Supervisor may consult with any other agencies, at his or her discretion.

(c) If the geothermal element and CEQA procedures are adequate, the Supervisor shall approve the request.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 21000–21176, Public Resources Code.

HISTORY

1. Change without regulatory effect amending subsections (a) and (c) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Article 4. Evaluating Projects

§ 1684. Categorical Exemptions.

Section 21084 of the Public Resources Code requires these Guidelines to include a list of classes of projects which have been determined not to have a significant effect on the environment and which shall, therefore, be exempt from the provisions of the Environmental Quality Act of 1970.

In response to that mandate, the Secretary for Resources has found that the following classes of projects listed in this article do not have a signifi-

cant effect on the environment and they are declared to be categorically exempt from the requirement for the preparation of environmental documents. Only those classes of projects that would pertain to the responsibilities of the Division of Oil, Gas, and Geothermal Resources are listed in these regulations.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21084, Public Resources Code.

HISTORY

1. Change without regulatory effect amending second paragraph filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1684.1. Class 1: Existing Facilities.

Class 1 consists of the operation, repair, maintenance, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features involving negligible or no expansion of use beyond that existing previously. The Class includes, but is not limited to: remedial, maintenance, conversion, and abandonment work on oil, gas, injection, and geothermal wells involving the alteration of well casing, such as perforating and casing repair, removal, or replacement; installation or removal of downhole production or injection equipment, cement plugs, bridge plugs, and packers set to isolate production or injection intervals.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080, Public Resources Code.

HISTORY

1. Amendment filed 8–4–95; operative 9–3–95 (Register 95, No. 31).

§ 1684.2. Class 4: Minor Alterations to Land.

Class 4 consists of drilling operations that result only in minor alterations with negligible or no permanent effects to the existing condition of the land, water, air, and/or vegetation.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Section 21080, Public Resources Code.

Article 5. Evaluation of Environmental Impact Reports

§ 1685. Adequate Time for Review and Comment.

The Department shall provide adequate time for other agencies and members of the public to review and comment on EIR's that the Department or one of its subdivisions prepares. The review periods the Department sets shall coincide with those the State Clearinghouse sets, provided that the review period for draft EIR's for geothermal exploratory projects shall be no longer than 30 calendar days.

NOTE: Authority cited: Section 21082, Public Resources Code. Reference: Sections 3715.5 and 21092, Public Resources Code.

Chapter 3. Selection of Professional Service Firms

§ 1690. Selection of Professional Service Firms.

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code.

(b) Selection by the Division for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required. Selection of the services of analytical laboratory, forestry, geological, geophysical, and other firms shall be on this same basis when the additional services qualify as environmental services or ancillary services logically or justifiably performed in connection with architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New chapter 3 (sections 1690–1699) and section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending subsection (b) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1690.1. Definitions, as Used in These Regulations.

(a) "Division" means the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

(b) "Small business" shall mean a small business firm as defined by the Director of General Services (Section 1896, Title 2 of California Code of Regulations) pursuant to Section 14837 of the Government Code.

(c) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, and construction project management contractor, but may include ancillary services logically or justifiably performed in connection therewith.

(d) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in Public Resources Code section 21065.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5 and 14837, Government Code; and Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).

§ 1691. Establishment of Criteria.

(a) The Division shall establish criteria, on a case–by–case basis, which will comprise the basis for selection for each project. The criteria shall include, but is not limited to, such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the Division according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Division staff with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the Division staff would be subject to the prohibition of Government Code Section 87100.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5 and 87100, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1692. Estimate of Value of Services.

Before any discussion with any firm concerning fees, the Division may cause an estimate of the value of such services to be prepared. This

estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the Division determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be re-evaluated and modified if necessary.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1693. Request for Qualifications.

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the Division shall make an announcement in a publication of the respective professional society. Additionally, the Division may publish an announcement in a construction trade journal or in other appropriate publication, if any exist. The announcement shall be published within a reasonable time frame so that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The Division shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the Division concludes that small business firms could be especially qualified. A failure of the Division to send a copy of an announcement to any firm shall not operate to preclude any contract.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending subsections (a) and (c) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1694. Selection of Firm.

After expiration of the time period stated in the announcement, the Division shall evaluate statements of qualifications and performance data which have been submitted to the Division. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the Division shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1695. Negotiation.

The Division shall attempt to negotiate a contract with the most highly qualified firm. When the Division is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 1692 if those procedures were used, negotiations shall be terminated. The Division shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The Division shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the Division be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this Chapter and the negotiation procedure continued.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1696. Amendments.

In instances where the Division effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1697. Contracting in Phases.

Should the Division determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the Division shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the Division, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1698. Division's Power to Require Bids.

Where the Division determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiations.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1699. Exclusions.

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees nor to service agreements for the services of recognized experts retained as consultants.

NOTE: Authority cited: Section 4526, Government Code; and Section 3013, Public Resources Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 9–1–2000 as an emergency; operative 9–1–2000 (Register 2000, No. 35). A Certificate of Compliance must be transmitted to OAL by 1–2–2000 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 9–1–2000 order transmitted to OAL 12–18–2000 and filed 2–1–2001 (Register 2001, No. 5).

[The next page is 369.]

Chapter 4. Development, Regulation, and Conservation of Oil and Gas Resources

(Originally Printed 5–27–72)

Subchapter 1. Onshore Well Regulations

Article 1. General

§ 1710. Purpose.

NOTE: Authority cited: Sections 3013 and 3016, Public Resources Code. Reference: Sections 3000 through 3237, Public Resources Code.

HISTORY

1. New Subchapter 1 (§§ 1710–1714, 1720, 1723, 1723.1–1723.8, 1724) of Chapter 4 filed 2–15–74; effective thirtieth day thereafter (Register 74, No. 7).
2. Repealer filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1711. Policy.

HISTORY

1. Repealer filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1712. Scope of Regulations.

These regulations shall be statewide in application for onshore drilling, production, and injection operations. All onshore prospect, development, and service wells shall be drilled and operated in accordance with these regulations, which shall continue in effect until field rules are established by the Supervisor pursuant to Section 1722(k). If field rules are established, oil and gas operations shall be performed in accordance with those field rules.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1713. Revision of Regulations.

HISTORY

1. Repealer filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1714. Approval of Well Operations.

Written approval of the Supervisor is required prior to commencing drilling, reworking, injection, plugging, or plugging and abandonment operations, with the exception that temporary approval to commence such operations may be granted by the Supervisor or a representative of the Supervisor when such operations are necessary to avert a threat to life, health, property, or natural resources, or when approved operations are in progress and newly discovered well conditions are such that immediate corrective or plugging and abandonment operations are desirable. Notwithstanding such temporary approval, the operator shall file immediately a written notice of intention to carry out a temporarily approved program.

In addition, written approval of the Supervisor is required prior to utilizing any well, including a plugged and abandoned well, for anything other than its currently approved purpose, such as conversion to injection or production, use as a sacrificial anode in a cathodic–protection program, or conversion to a freshwater well.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3008, 3106, 3203 and 3229, Public Resources Code.

HISTORY

1. Amendment filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. New NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of section heading, section and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
4. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1715. Other Requirements.

NOTE: Authority cited: Sections 3106 and 3107, Public Resources Code. Reference: Sections 3106, 3107, 3203, 3210–3215, 3219, 3220 and 3222–3224, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Repealer filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

Article 2. Definitions

§ 1720. Definitions.

(a) "Critical well" means a well within:

(1) 300 feet of the following:

(A) Any building intended for human occupancy that is not necessary to the operation of the well; or

(B) Any airport runway.

(2) 100 feet of the following:

(A) Any dedicated public street, highway, or nearest rail of an operating railway that is in general use;

(B) Any navigable body of water or watercourse perennially covered by water;

(C) Any public recreational facility such as a golf course, amusement park, picnic ground, campground, or any other area of periodic high–density population; or

(D) Any officially recognized wildlife preserve.

Exceptions or additions to this definition may be established by the Supervisor upon his or her own judgment or upon written request of an operator. This written request shall contain justification for such an exception.

(b) "Rework" means any operation subsequent to drilling that involves deepening, redrilling, plugging, or permanently altering in any manner the casing of a well or its function.

(c) "New pool" means, for the purpose of this subchapter, a pool discovered on or after January 1, 1974.

(d) "Directional survey" means a well survey that determines the deviation of the hole in degrees from the vertical and the direction (azimuth) and amount of horizontal deviation of the hole from the surface location.

(e) "Drift–only survey" means a well survey that determines the deviation of the hole in degrees from the vertical.

(f) "Operations" means any one or all of the activities of an operator covered by Division 3 of the Public Resources Code.

(g) "Onshore well" means a well located on lands that are not submerged under ocean waters or inland bays during mean high tide.

NOTE: Wells directionally drilled offshore from onshore locations shall fall within the scope of the Onshore Regulations and wells directionally drilled onshore from offshore locations shall fall within the scope of the Offshore Regulations (Subchapter 1.1).

(h) "Ultimate economic recovery" means the maximum physical amount of a substance, such as oil or gas, that can be recovered without economic loss.

(i) "Economic loss" means the loss that occurs when the lifetime discounted revenue after current dollar operating costs, including royalties and ad valorem, severance, and excise taxes, becomes less than the initial drilling and completion costs. The discount rate shall be equal to current prime lending rates plus two percent.

NOTE: Authority cited: Sections 3013 and 3609, Public Resources Code. Reference: Sections 3000, 3013, 3106 and 3609, Public Resources Code.

HISTORY

1. Amendment filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
2. Repealer of subsections (l)–(q), renumbering of subsections (r)–(t) to (l)–(n), and new subsection (o) filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
4. Amendment of subsection (a) and new subsections (p), (q), (r) and (s) filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
5. New subsections (t) and (u) filed 2–28–80; effective thirtieth day thereafter (Register 80, No. 9).
6. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
7. Amendment of subsections (d), (f), (g) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
8. Change without regulatory effect amending subsection (a)(2)(D) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
9. Change without regulatory effect amending subsection (a)(2)(D) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 2.1. Well Spacing Patterns—New Pools

§ 1721. Objectives and Policy.

The objectives of this article are to prevent waste, protect correlative rights, increase the ultimate economic recovery of oil and gas, or either, from new pools, and protect health, safety, welfare, and the environment.

To achieve the ultimate economic recovery of oil and gas, it shall be the policy of the Supervisor to give the greatest consideration to the minimum spacing, in acres per well, that can be established based on the geologic geometry of the pool and the area that can be effectively and efficiently drained by a well without economic loss.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. New Article 2.1 (Sections 1721, 1721.1–1721.7) filed 8–5–74; effective thirtieth day thereafter (Register 74, No. 32).
2. Amendment filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
3. Amendment filed 2–28–80; effective thirtieth day thereafter (Register 80, No. 9).
4. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.1. Set Back.

The producing interval of any well drilled into a new pool after the effective date of this section shall be not less than 75 feet from an outer boundary line.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer and new section filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8). For former history, see Register 74, No. 32.
2. Amendment of subsections (b)(2) and (b)(3) filed 4–4–75 as procedural and organizational; effective upon filing (Register 75, No. 14).
3. Repealer and new section filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
4. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
5. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1721.1.1. Adoption of an Interim Well–Spacing Plan.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
2. New section filed 2–28–80; effective thirtieth day thereafter (Register 80, No. 9).
3. Repealer filed 5–23–88; operative 6–22–8 (Register 88, No. 22).

§ 1721.1.2. Permanent Well Spacing.

HISTORY

1. Repealer filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).

§ 1721.1.3. Exploratory Well Drilling.

NOTE: Authority cited: Sections 3609 and 3782, Public Resources Code.

HISTORY

1. Repealer and new section filed 11–15–74 as an emergency; effective upon filing (Register 74, No. 46).
2. Repealer filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
3. Certificate of Compliance filed 3–14–75 as to the 11–15–74 filing (Register 75, No. 11).

§ 1721.1.4. Slant Well Drilling.

HISTORY

1. Repealer filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).

§ 1721.2. Well Spacing Initiated by Supervisor.

(a) Whenever a new pool is discovered, the Supervisor may issue a notice of intent to establish a well–spacing plan for the pool the notice shall specify the well–spacing plan proposed by the Supervisor. The notice shall be delivered or mailed to all operators in the pool and any other affected persons whose identity is known to or can readily be ascertained by the Division, and shall be published in a newspaper of general circulation in the county in which the pool is located.

(b) The notice shall provide that the well spacing plan proposed by the Supervisor shall take effect as an order of the Supervisor on the 31st day after the date of the notice unless within 30 days after the date of the notice the Supervisor receives a written objection to the proposed well spacing plan from any affected person, submitting a written objection is a prerequisite to any challenge to the implementation of a well spacing plan initiated by the Supervisor. If a written objection is timely received, the Supervisor shall set a hearing on the well spacing proposal and shall give notice of that hearing in the manner provided above, within 10 days of receipt of the written objection. The hearing shall be held at a time not less than 15 days nor more than 60 days from the date of the notice and at a place within the oil and gas district where the new pool is located. The hearing may be continued for a period not to exceed 60 days with the consent of all those affected persons having informed the Division of their intent to participate in the hearing.

(c) Within 45 days following the hearing, the Supervisor shall issue an order in the form of a written decision either providing no well spacing plan or specifying a well spacing plan for the pool. If a well spacing plan is adopted, the plan shall describe the pool to which it applies and set forth the surface and subsurface well spacing pattern for all wells to be drilled or redrilled into the pool.

(d) The Supervisor shall mail or deliver the written decision to all operators in the pool and all other previously identified affected persons.

(e) The Supervisor may request at any time from any operator in the pool any or all of the data listed in Section 1721.3 for use in making the well spacing determination. If such data are neither supplied nor otherwise available to the Supervisor, the Supervisor nevertheless may make a well spacing determination using methods found in petroleum industry literature or by analogy to similar pools.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Sections 3609, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 1721.2 to 1721.3, and new Section 1721.2 filed 5–23–88, ; operative 6–22–88 (Register 88, No. 22). For history of former Section 1721.2 see Register 84, No. 52.
2. Editorial correction of subsection (c) (Register 95, No. 19).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.2.1. No New Drilling Pending Outcome of Petition.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. New section filed 2–28–80; effective thirtieth day thereafter (Register 80, No. 9).
2. Renumbering and amendment of former Section 1721.2.1 to Section 1721.4 filed 5–23–88; operative 6–22–88 (Register 88, No. 22).

§ 1721.3. Petition for Well Spacing.

Any affected person may, at any time after the discovery of a new pool, petition the Supervisor to adopt, pursuant to Public Resources Code Section 3609, a well-spacing plan other than that specified in Public Resources Code Sections 3600 to 3608.1, inclusive, or Section 1721.1 hereof. The petition shall be supported by information necessary to establish the need for an extent of such a well-spacing plan. The petition shall contain the following data pertaining to the pool for which well-spacing is sought and shall include the source (i.e., laboratory analyses, field measurements, published reports, etc.) from which such data are derived:

(a) Lease map of the area showing current lease operator and well locations.

(b) Structural contour map drawn on a geologic marker at or near the top of the pool, which includes estimated productive limits of the pool.

(c) At least two geologic cross sections, one that is parallel to and one that is perpendicular to the structural or depositional strike, and through at least one producing well in the pool.

(d) Representative electric log to a depth below the producing pool (if not already shown on the cross section) identifying all geologic units, formations, and oil or gas zones.

(e) Average net productive thickness in feet.

(f) Average effective porosity as a percent of bulk volume.

(g) Average initial oil, water, and gas saturations as a percent of pore volume.

(h) Most probable oil and gas recovery factors as percents of original oil and gas in place.

(i) Average initial stabilized oil and gas producing rates in barrels per day per well and thousand standard cubic feet per day per well.

(j) Complete reservoir pressure history, including the initial shut-in bottom hole pressure and the bubble point pressure of a crude oil system or dew point pressure of a condensate system.

(k) Reservoir temperature in degrees Fahrenheit.

(l) Solution gas/oil ratio at bubble point pressure and reservoir temperature.

(m) Initial oil formation volume factor as reservoir barrels per stock tank barrel.

(n) Average API gravity of stock tank oil and specific gravity of produced gas.

(o) Average current drilling and completion cost in dollars per well.

(p) Average current operating cost in dollars per well per year, including anticipated workover costs.

(q) Current market value of oil and gas production in dollars per stock tank barrel and dollars per thousand standard cubic feet.

(r) Amount of all royalty interests, including overriding royalties, if any, in the tracts proposed for inclusion in the well-spacing plan.

(s) Current ad valorem, severance, and excise taxes levied on the working interests, or production attributable to the working interests, proposed for inclusion in the well-spacing plan.

Failure to supply in the petition of any of these data that are available and their source shall be grounds for denial of the petition without a hearing.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer of former Section 1721.3, and renumbering and amendment of former Section 1721.2 to Section 1721.3 filed 5-23-88; operative 6-22-88 (Register 88, No. 22). For history of former Section 1721.3, see Register 84, No. 52.
2. New subsection (a), subsection relettering, and amendment of newly designated subsections (c) and (j) filed 8-4-95; operative 9-3-95 (Register 95, No. 31).
3. Change without regulatory effect amending first paragraph filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.3.1. Action on Petition for Well Spacing.

(a) Within 30 days of receipt of a petition for well spacing deemed complete by the Division, the Supervisor shall issue a notice setting a time and place for a hearing on the petition. The notice of hearing on the petition shall provide that the hearing shall be held not less than 15 days nor more than 60 days from the date of the notice and at a place within the oil and gas district in which the new pool is located. The hearing may be continued for a period not to exceed 60 days with the consent of all those affected persons having informed the Division of their intent to participate in the hearing. The notice of hearing shall be given in the manner prescribed in Section 1721.2. The hearing shall not be limited to consideration of the well-spacing plan proposed in the petition but shall encompass consideration of any appropriate well-spacing plan for the pool.

(b) Within 45 days following the hearing, the Supervisor shall issue an order in the form of a written decision which either shall refuse to adopt a well-spacing plan or shall adopt a well-spacing plan for the pool based on scientific principles and good oilfield practices. The adopted plan shall describe the pool to which it applies and set forth the surface and subsurface well-spacing pattern for all wells to be drilled or redrilled into the pool.

(c) The Supervisor shall mail or deliver the written decision to all operators in the pool and all other previously identified affected persons.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. New section filed 5-23-88; operative 6-22-88 (Register 88, No. 22).
2. Change without regulatory effect amending section filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.4. No New Drilling or Reworking Pending Decision on Well Spacing.

Upon the issuance by the Supervisor of a notice of intent to establish a well spacing plan under Section 1721.2 or upon the filing of a complete petition for well spacing under Section 1721.3, no drilling or reworking operations shall begin on any well to be completed in the pool subject to possible well spacing even if the operator has an approved notice of intention to drill or rework until an order has been issued by the Supervisor that disposes with all the matters in the Supervisor's notice or in the petition. If drilling or reworking operations have started in a well prior to the issuance of a notice or the filing of a petition, the operations may continue until completion. This temporary suspension of drilling and reworking operations is for the purpose of preventing operations during the pendency of well spacing proceedings that would preclude the establishment of an optimum spacing pattern.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer of former Section 1721.4, and renumbering and amendment of former Section 1721.2.1 to Section 1721.4 filed 5-23-88; operative 6-22-88 (Register 88, No. 22). For history of former Section 1721.4, see Register 84, No. 52.
2. Change without regulatory effect amending section filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.5. Judicial Review of Order of Supervisor.

There shall be no appeal to the Director from an order of the Supervisor either adopting or failing to adopt a well-spacing plan. Judicial review of any such order may be sought directly.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer and new section filed 2-21-75; effective thirtieth day thereafter (Register 75, No. 8). For former history, see Register 74, No. 32.
2. Repealer and new section filed 9-19-75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1-9-76 (Register 76, No. 2).
4. Amendment of subsection (b) filed 1-9-76 as an emergency; effective upon filing Certificate of Compliance included (Register 76, No. 2).
5. Amendment filed 2-28-80; effective thirtieth day thereafter (Register 80, No. 9).
6. Amendment filed 12-28-84; effective thirtieth day thereafter (Register 84, No. 52).
7. Amendment filed 5-23-88; operative 6-22-88 (Register 88, No. 22).
8. Change without regulatory effect amending section filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.6. Revision or Repeal of Spacing Plan.

Any well–spacing plan adopted by the Supervisor shall be subject to revision or repeal pursuant to either the initiative of the Supervisor or a petition of an affected person. Any revision or repeal shall be preceded by notice and hearing as provided in Section 1721.2.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer and new section filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8). For former history, see Register 74, No. 32.
2. Repealer and new section filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
4. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
5. Amendment filed 5–23–88; operative 6–22–88 (Register 88, No. 22).
6. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.7. Exceptions.

The Supervisor may approve the drilling, redrilling, or production of a well which does not comply with the requirements of a well–spacing plan adopted pursuant to this article or with the set back requirement of section 1721.1 of these regulations if, in the opinion of the Supervisor, such drilling, redrilling, or production is necessary to accommodate the use of onshore or offshore central drilling sites; to protect health, safety, welfare, or the environment; to prevent waste; or to otherwise increase the ultimate economic recovery of oil and gas.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. Repealer and new section filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8). For former history, see Register 74, No. 32.
2. Repealer and new section filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
4. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.8. Pooling.

A well–spacing plan adopted by the Supervisor shall require that all or certain parcels of land be included in a voluntary or mandatory pooling agreement if necessary to protect correlative rights. The Supervisor may provide, in any order adopting a well–spacing plan, for a period not to exceed 60 days from the date of the order during which the affected parties shall be allowed to attempt to pool voluntarily their respective interests. Such period may be extended at the Supervisor's discretion upon the written request of the affected parties. Any well–spacing order providing a period for an attempt at voluntary pooling is not a final order of the Supervisor until either voluntary pooling has been accomplished and the Supervisor notified of it or the Supervisor has ordered mandatory pooling upon the failure of the affected parties to reach a pooling agreement voluntarily.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. New section filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
2. Repealer and new section filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
4. Amendment filed 2–28–80; effective thirtieth day thereafter (Register 80, No. 9).
5. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
6. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1721.9. Surveys.

For the purpose of enforcement of this article, the Supervisor may order that a directional survey or drift–only survey of a well be made and filed with the Supervisor before the well can be produced. If such a survey shows that the producing interval of a well is less than 75 feet from an outer boundary line or does not conform to the well–spacing plan, then written approval must be obtained from the Supervisor before the well can be produced.

NOTE: Authority cited: Section 3609, Public Resources Code. Reference: Section 3609, Public Resources Code.

HISTORY

1. New section filed 2–21–75; effective thirtieth day thereafter (Register 75, No. 8).
2. Repealer and new section filed 9–19–75 as an emergency; effective upon filing (Register 75, No. 38).
3. Certificate of Compliance filed 1–9–76 (Register 76, No. 2).
4. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 3. Requirements

§ 1722. General.

(a) All operations shall be conducted in accordance with good oilfield practice.

(b) The operator for a facility or group of related facilities shall develop an oil spill contingency plan. Condensate spill plans shall also be developed by the operator for those facilities within gas fields that produce condensate at an average rate of at least one barrel per day or where condensate storage volume exceeds 50 barrels. The plan(s) shall be filed within six months after initial production or acquisition of a facility. A copy of the plan shall be on file in the local office of the operator and subject to the inspection of the Supervisor or a representative of the Supervisor during regular business hours. If the operator does not have an office in the district, a copy of the plan shall be filed with the Division district office. Plans prepared pursuant to Federal Environmental Protection Agency regulations (SPCC Plans) may fulfill the provisions of this subsection if such plans are determined to be adequate by the appropriate Division district deputy. If, in the judgment of the Supervisor, a plan becomes outdated, the Supervisor may require that the plan be updated to ensure that it addresses and applies to current conditions and technology.

(c) For certain critical or high–pressure wells designated by the Supervisor, a blowout prevention and control plan, including provisions for the duties, training, supervision, and schedules for testing equipment and performing personnel drills, shall be submitted by the operator to the appropriate Division district deputy for approval.

(d) Notices of intention to drill, deepen, redrill, rework, or plug and abandon wells shall be completed on current Division forms and submitted, in duplicate, to the appropriate Division district office for approval. Such notices shall include all information required on the forms, and such other pertinent data as the Supervisor may require. Notices of intention and approvals will be cancelled if the proposed operations have not commenced within one year of receipt of the notice. However, an approval for proposed operations may be extended for one year if the operator submits a supplementary notice prior to the expiration of the one–year period and can show good cause for such an extension. For the purpose of interpretation and enforcement of provisions of this section, operations, when commenced, must be completed in a timely and orderly manner.

(e) A copy of the operator's notice of intention and any subsequent written approval of proposed operations by the Division shall be posted at the well site throughout the operations.

(f) Operators shall give the appropriate Division district office sufficient advance notice of the time for inspections and tests requiring the presence of Division personnel.

(g) Operations approved by the Division shall not deviate from the approved program without prior Division approval, except in an emergency.

(h) Oil spills shall be promptly reported to the Office of Emergency Services (OES) by calling the toll-free telephone number (800) 852-7550 and by contacting the agencies specified in the operator's oil spill contingency plan.

(i) Blowouts, fires, serious accidents, and significant gas or water leaks resulting from or associated with an oil or gas drilling or producing operation, or related facility, shall be promptly reported to the appropriate Division district office.

(j) The use of radioactive materials in wells shall comply with the California Department of Health Services regulations in Title 17, Division 1, Chapter 5, Subchapter 4 of the California Code of Regulations. With the exception of radioactive tracers used in injection surveys, the loss of radioactive materials in a well shall be promptly reported to the Department of Health Services pursuant to Section 30350.3 of the above-referenced regulations and to the appropriate Division district office.

(k) When sufficient geologic and engineering information is available from previous drilling, operators may make application to the Supervisor for the establishment of field rules, or the Supervisor may establish field rules or change established field rules for any oil or gas pool or zone in a field. Before establishing or changing a field rule, the Supervisor shall distribute the proposed rule or change to affected persons and allow at least thirty (30) days for comments from the affected persons. The Supervisor shall notify affected persons in writing of the establishment or change of field rules.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106, 3203, 3208, 3219, 3222, 3223, 3229 and 3230, Public Resources Code.

HISTORY

1. New section filed 2-17-78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12-28-84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of subsection (b) and NOTE filed 8-4-95; operative 9-3-95 (Register 95, No. 31).
4. Change without regulatory effect amending subsections (d) and (j) filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
5. Change without regulatory effect amending subsections (b) and (j) filed 2-16-2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
6. Amendment of subsection (j) filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).
7. Change without regulatory effect amending section filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1722.1. Acquiring Right to Operate a Well.

Every person who acquires the right to operate any well, whether by purchase, transfer, assignment, conveyance, exchange, or otherwise, shall file an indemnity or cash bond, with his or her own name or company as principal, in the appropriate amount to cover obligations covered under the previous operator's bond.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3204, 3205, 3205.1 and 3205.5, Public Resources Code.

HISTORY

1. Renumbering of Section 1722.1 to 1722.1.1, and new Section 1722.1 filed 2-28-80; effective thirtieth day thereafter (Register 80, No. 9).
2. Amendment filed 12-28-84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of section heading and section filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).

§ 1722.1.1. Well and Operator Identification.

(a) Each well location shall have posted in a conspicuous place a clearly visible, legible, permanently affixed sign with the name of the operator, name or number of the lease, and number of the well. These signs shall be maintained on the premises from the time drilling operations cease until the well is plugged and abandoned.

(b) The appropriate Division district deputy may approve existing identification methods if they substantially comply with the intent of this section.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106, Public Resources Code.

HISTORY

1. New section filed 5-23-88; operative 6-22-88 (Register 88, No. 22). For prior history, see Register 84, No. 52.
2. Change without regulatory effect amending subsection (a) filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Amendment of subsection (a) filed 7-11-2006; operative 8-10-2006 (Register 2006, No. 28).
4. Change without regulatory effect amending subsection (b) filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1722.2. Casing Program.

Each well shall have casing designed to provide anchorage for blowout prevention equipment and to seal off fluids and segregate them for the protection of all oil, gas, and freshwater zones. All casing strings shall be designed to withstand anticipated collapse, burst, and tension forces with the appropriate design factor provided to obtain a safe operation.

Casing setting depths shall be based upon geological and engineering factors, including but not limited to the presence or absence of hydrocarbons, formation pressures, fracture gradients, lost circulation intervals, and the degree of formation compaction or consolidation. All depths refer to true vertical depth (TVD) below ground level.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3219 and 3220, Public Resources Code.

HISTORY

1. New section filed 2-17-78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12-28-84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1722.3. Casing Requirements.

(a) Conductor casing. This casing shall be cemented at or driven to a maximum depth of 100 feet. Exceptions may be granted by the appropriate Division district deputy if conditions require deeper casing depth.

(b) Surface casing. Surface casing shall be cemented into or through a competent bed and at a depth that will allow complete well shut-in without fracturing the formation immediately below the casing shoe. As a general guideline, the surface casing for prospect wells shall be cemented at a depth that is at least 10 percent of the proposed total depth, with a minimum of 200 feet and a maximum of 1,500 feet of casing. A second string of surface casing, cemented into or through a competent bed, shall be required in prospect wells if the first string has not been cemented in a competent bed or if unusual drilling hazards exist. In development wells, the surface casing requirement shall be determined on the basis of known field conditions. The appropriate Division district deputy may vary these general surface casing requirements, including the adoption of a field rule, consistent with known geological conditions and engineering factors, to provide adequate protection for freshwater zones and blowout control.

(c) Intermediate casing. This casing may be required for protection of oil, gas, and freshwater zones, and to seal off anomalous pressure zones, lost circulation zones, and other drilling hazards.

(d) Production casing. This casing shall be cemented and, when required by the Division, tested for fluid shutoff above the zone or zones to be produced. The test may be witnessed by a Division inspector. When the production string does not extend to the surface, at least 100 feet of overlap between the production string and next larger casing string shall be required. This overlap shall be cemented and tested by a fluid-entry test to determine whether there is a competent seal between the two casing strings. A pressure test may be allowed only when such test is conducted pursuant to an established field rule. The test may be witnessed by a Division inspector.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106 and 3220, Public Resources Code.

HISTORY

1. New section filed 2-17-78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment of section heading and NOTE filed 12-28-84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of subsection (b) and NOTE filed 8-4-95; operative 9-3-95 (Register 95, No. 31).

4. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1722.4. Cementing Casing.

Surface casing shall be cemented with sufficient cement to fill the annular space from the shoe to the surface. Intermediate and production casings, if not cemented to the surface, shall be cemented with sufficient cement to fill the annular space to at least 500 feet above oil and gas zones, and anomalous pressure intervals. Sufficient cement shall also be used to fill the annular space to at least 100 feet above the base of the freshwater zone, either by lifting cement around the casing shoe or cementing through perforations or a cementing device placed at or below the base of the freshwater zone. All casing shall be cemented in a manner that ensures proper distribution and bonding of cement in the annular spaces. The appropriate Division district deputy may require a cement bond log, temperature survey, or other survey to determine cement fill behind casing. If it is determined that the casing is not cemented adequately by the primary cementing operation, the operator shall recement in such a manner as to comply with the above requirements. If supported by known geologic conditions, an exception to the cement placement requirements of this section may be allowed by the appropriate Division district deputy.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106, 3220 and 3222–3224, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of section and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
4. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1722.5. Blowout Prevention and Related Well Control Equipment.

Blowout prevention and related well control equipment shall be installed, tested, used, and maintained in a manner necessary to prevent an uncontrolled flow of fluid from a well. Division of Oil, Gas, and Geothermal Resources publication No. MO 7, "Blowout Prevention in California," shall be used by Division personnel as a guide in establishing the blowout prevention equipment requirements specified in the Division's approval of proposed operations.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3219 and 3220, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Change without regulatory effect amending section filed 2–16–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1722.6. Drilling Fluid Program.

The operational procedures and the properties, use, and testing of drilling fluid shall be such as are necessary to prevent the uncontrolled flow of fluids from any well. Drilling fluid additives in sufficient quantity to ensure well control shall be kept readily available for immediate use at all times. Fluid which does not exert more hydrostatic pressure than the known pressure of the formations exposed to the well bore shall not be used in a drilling operation without prior approval of the supervisor.

(a) Before removal of the drill pipe or tubing from the hole is begun, the drilling fluid shall be conditioned to provide adequate pressure overbalance to control any potential source of fluid entry. Proper overbalance shall be confirmed by checking the annulus to ensure that there is no fluid flow or loss when there is no fluid movement in the drill pipe or tubing. The drilling fluid weight, the weight and volume of any heavy slug or pill, and the fact that the annulus was checked for fluid movement shall be noted on the driller's log. During removal of the drill pipe or tubing from the hole, a hole–filling program shall be followed to maintain a satisfactory pressure overbalance condition.

(b) Tests of the drilling fluid to determine viscosity, water loss, weight, and gel strength shall be performed at least once daily while circulating, and the results of such tests shall be recorded on the driller's log. Equipment for measuring viscosity and fluid weight shall be maintained at the drill site. Exceptions to the test requirements may be granted for special cases, such as shallow development wells in low pressure fields, through the field rule process.

(c) Disposal of drilling fluids shall be done in accordance with Section 1775, Subchapter 2 of these regulations.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3219 and 3220, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1722.7. Directional Surveys.

The Supervisor may order that a well be directionally surveyed.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106 and 3224, Public Resources Code.

HISTORY

1. New section filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1723. Plugging and Abandonment—General Requirements.

(a) Cement Plugs. In general, cement plugs will be placed across specified intervals to protect oil and gas zones, to prevent degradation of usable waters, to protect surface conditions, and for public health and safety purposes. Cement may be mixed with or replaced by other substances with adequate physical properties, which substances shall be approved by the Supervisor. The application of these mixed materials and other substances to particular wells shall be at the discretion of the district deputy.

(b) Hole Fluid. Mud fluid having the proper weight and consistency to prevent movement of other fluids into the well bore shall be placed across all intervals not plugged with cement, and shall be surface poured into all open annuli.

(c) Plugging by Bailer. Placing of a cement plug by bailer shall not be permitted at a depth greater than 3,000 feet. Water is the only permissible hole fluid in which a cement plug shall be placed by bailer.

(d) Surface Pours. A surface cement–pour shall be permitted in an empty hole with a diameter of not less than 5 inches. Depth limitations shall be determined on an individual well basis by the district deputy.

(e) Blowout Prevention Equipment. Blowout prevention equipment may be required during plugging and abandonment operations. Any blowout prevention equipment and inspection requirements determined necessary by the district deputy shall appear on the approval to plug and abandon issued by the Division.

(f) Junk in Hole. Diligent effort shall be made to recover junk when such junk may prevent proper plugging and abandonment either in open hole or inside casing. In the event that junk cannot be removed from the hole and fresh–saltwater contacts or oil or gas zones penetrated below cannot therefore be properly abandoned, cement shall be downsqueezed through or past the junk and a 100–foot cement plug shall be placed on top of the junk. If it is not possible to downsqueeze through the junk, a 100–foot cement plug shall be placed on top of the junk.

(g) Lost Radioactive Tool. In the event that a source containing radioactive material cannot be retrieved from the hole, a 100–foot standard color dyed (red iron oxide or equivalent red cement dye) cement plug shall be placed on top of the radioactive tool, and a whipstock or other approved deflection device shall be placed on top of the cement plug to prevent accidental or intentional mechanical disintegration of the radio-

active source. In addition, the operator shall comply with the California Department of Health Services regulations in Section 30346 of Title 17, Division 1, Chapter 5, Subchapter 4, Group 3, Article 7, of the California Code of Regulations.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3219 and 3228, Public Resources Code.

HISTORY

1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. New NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending subsections (e) and (f) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Amendment of subsection (a) and new subsection (g) filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).
5. Change without regulatory effect amending subsections (a) and (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1723.1. Plugging of Oil or Gas Zones.

(a) Plugging in an Open Hole. A cement plug shall be placed to extend from the total depth of the well or from at least 100 feet below the bottom of each oil or gas zone, to at least 100 feet above the top of each oil or gas zone.

(b) Plugging in a Cased Hole. All perforations shall be plugged with cement, and the plug shall extend at least 100 feet above the top of a landed liner, the uppermost perforations, the casing cementing point, the water shut–off holes, or the oil or gas zone, whichever is highest.

(c) Special Requirements. Special requirements may be made for particular types of hydrocarbon zones, such as:

(1) Fractured shale or schist;

(2) Massive sand intervals, particularly those with good vertical permeability;

(3) Any depleted productive interval more than 100 feet thick; or

(4) Multiple zones completed in a well.

As a minimum for an open–hole plugging and abandonment, the special requirement shall include a cement plug extending from at least 100 feet below the top of the oil or gas zone to at least 100 feet above the top of the zone.

As a minimum for a cased–hole plugging and abandonment, the special requirement shall include a cement plug extending from at least 25 feet below the top of the uppermost perforated interval to at least 100 feet above the top of the perforations, the top of the landed liner, the casing cementing point, the water shutoff holes, or the zone, whichever is highest.

(d) Bridge Plug. In a multiple zone completion, a single bridge plug above the lowermost zone may be allowed in lieu of cement through that zone if the zone is isolated from the upper zones by cement behind the casing. Subsequent bridge plugs are not allowed unless separated by cement plugs meeting the requirements of Section 1723.1(b). Temporary bridge plugs must be removed and replaced with cement plugs prior to shallower zone completions or well abandonment.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3228, Public Resources Code.

HISTORY

1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending subsection (c)(3) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Amendment of subsections (c)(2)–(3), new subsection (c)(4) and amendment of subsection (d) filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 1723.2. Plugging for Freshwater Protection.

(a) Plugging in Open Hole.

(1) A minimum 200–foot cement plug shall be placed across all fresh–saltwater interfaces.

(2) An interface plug may be placed wholly within a thick shale if such shale separates the freshwater sands from the brackish or saltwater sands.

(b) Plugging in a Cased Hole.

(1) If there is cement behind the casing across the fresh–saltwater interface, a 100–foot cement plug shall be placed inside the casing across the interface.

(2) If the top of the cement behind the casing is below the top of the highest saltwater sands, squeeze–cementing shall be required through perforations to protect the freshwater deposits. In addition, a 100–foot cement plug shall be placed inside the casing across the fresh–saltwater interface.

(3) Notwithstanding other provisions of this section, the district deputy may require or allow a cavity shot immediately below the base of the freshwater sands. In such cases, the hole shall be cleaned out to the estimated bottom of the cavity and a 100–foot cement plug shall be placed in the casing from the cleanout point.

(c) Special Plugging Requirements. Where geologic or groundwater conditions dictate, special plugging procedures may be specified to prevent contamination of usable waters by downward percolation of poor quality surface waters, separate water zones of varying quality, and isolate dry sands that are in hydraulic continuity with groundwater aquifers.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106 and 3228, Public Resources Code.

HISTORY

1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of subsection (c) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).

§ 1723.3. Plugging at a Casing Shoe.

If the hole is open below a shoe, a cement plug shall extend from at least 50 feet below to at least 50 feet above the shoe. If the hole cannot be cleaned out to 50 feet below the shoe, a 100–foot cement plug shall be placed as deep as possible.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106 and 3228, Public Resources Code.

HISTORY

1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1723.4. Plugging at the Casing Stub.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106 and 3228, Public Resources Code.

HISTORY

1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment of section heading and new NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Repealer filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).

§ 1723.5. Surface Plugging.

The hole and all annuli shall be plugged at the surface with at least a 25–foot cement plug. The district deputy may require that inner strings of uncemented casing be removed to at least the base of the surface plug prior to placement of the plug.

All well casing shall be cut off at least 5 feet but no more than 10 feet below the surface of the ground. The district deputy may approve a different cut–off depth, as conditions warrant, including but not limited to excavation or grading operations for construction purposes. As defined in Section 1760(j), a steel plate at least as thick as the outer well casing shall be welded around the circumference of the casing at the top of the casing, after Division approval of the surface plug. The steel plate shall show the well's identification, indicated by the last five digits of the API well number.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY
1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment filed 6–30–80; effective thirtieth day thereafter (Register 80, No. 27).
3. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
4. Amendment of second paragraph filed 7–22–98; operative 8–21–98 (Register 98, No. 30).
5. Amendment filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).
6. Change without regulatory effect amending last paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1723.6. Recovery of Casing.

(a) Approval to recover all casing possible will be given in the plugging and abandonment of wells where subsurface plugging can be done to the satisfaction of the district deputy.

(b) The hole shall be full of fluid prior to the detonation of any explosives in the hole. Such explosives shall be utilized only by a licensed handler with the required permits.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106 and 3228, Public Resources Code.

HISTORY
1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. New NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending subsection (a) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1723.7. Inspection of Plugging and Abandonment Operations.

Plugging and abandonment operations that require witnessing by the Division shall be witnessed and approved by a Division employee. When discretion is indicated by these regulations, the district deputy shall determine which operations are to be witnessed.

(a) Blowout prevention equipment—may inspect and witness testing of equipment and installation.

(b) Oil and gas zone plug—may witness placing and shall witness location and hardness.

(c) Mudding of hole—may witness mudding operations and determine that specified physical characteristics of mud fluid are met.

(d) Freshwater protection:

(1) Plug in open hole—may witness placing and shall witness location and hardness. Plug in cased hole—shall witness placing or location and hardness.

(2) Cementing through perforations—may witness perforating and shall witness cementing operation.

(3) Cavity shot—may witness shooting and shall witness placing or location and hardness of required plug.

(e) Casing shoe plug—shall witness placing or location and hardness.

(f) Casing stub plug—may witness placing or location and hardness.

(g) Surface plug—may witness emplacement and shall witness or verify location.

(h) Environmental inspection (after completion of plugging operations)—shall determine that Division environmental regulations (California Code of Regulations, Title 14, Subchapter 2) have been adhered to.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3228, Public Resources Code.

HISTORY
1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. Amendment of subsection (d)(1) filed 10–11–79; effective thirtieth day thereafter (Register 79, No. 41).
3. Amendment of subsections (a) and (h) filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
4. Change without regulatory effect amending subsection (h) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
5. Amendment of subsections (d)(2) and (f) filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).
6. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1723.8. Special Requirements.

The Supervisor, in special cases, may set forth other plugging and abandonment requirements or may establish field rules for the plugging and abandonment of wells. Such cases include, but are not limited to:

(a) The plugging of a high–pressure saltwater zone.

(b) Perforating and squeeze–cementing previously uncemented casing within and above a hydrocarbon zone.

(c) The plugging of particular zones or specifying cleanout intervals within a wellbore.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY
1. Amendment filed 9–21–76; effective thirtieth day thereafter (Register 76, No. 39).
2. New NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. New subsection (c) filed 7–11–2006; operative 8–10–2006 (Register 2006, No. 28).
4. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1723.9. Testing of Idle Wells.

Any well that has not produced oil or natural gas or been used for fluid injection for a continuous six–month period during any consecutive five–year period, prior to or after the adoption of this regulation, must have either the fluid level determined using acoustical, mechanical, or other reliable methods, or other diagnostic tests as approved by the Supervisor. Additional well tests or remedial operations may be required if the fluid level is located above or adjacent to freshwater or potential drinking water zones, or as specified by the appropriate Division district deputy. Subsequent testing periods shall be based on the fluid level in the well, the well's location in relation to freshwater zones, mitigation measures taken by the operator to prevent fluid migration, or other factors determined by the appropriate Division district deputy, upon a showing of good cause. The appropriate district office shall be notified before tests are made, as a Division inspector may witness the operations.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY
1. New section filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724. Required Well Records.

The operator of any well drilled, redrilled, deepened, or reworked shall keep, or cause to be kept, an accurate record of each operation on each well including, but not limited to, the following, when applicable:

(a) Log and history showing chronologically the following data:

(1) Character and depth of all formations, water–bearing strata, oil– and gas–bearing zones, lost circulation zones, and abnormal pressure zones encountered.

(2) Casing size, weight, grade, type, condition (new or used), top, bottom, and perforations; and any equipment attached to the casing.

(3) Tubing size and depth, type and location of packers, safety devices, and other tubing equipment.

(4) Casing pressure tests and pressure tests of the casing–tubing annulus, including date, duration, pressure, and percent bleed–off.

(5) Hole sizes.

(6) Cementing and plugging operations, including date, depth, slurry volume and composition, fluid displacement, pressures, calculated or actual fill, and downhole equipment.

(7) Drill–stem, leak–off, or other formation tests, including date, duration, depth, pressures, and recovery (volume and description).

(8) BOPE installation, inspections, and pressure tests.

(9) Water shutoff and lap tests of casing, including date, duration, depth, and results.

(10) Sidetracked casing, tools or other material, collapsed or bad casing, holes in casing, and stuck drill pipe, tubing, or other junk in casing or open hole.

(11) Depth and type of all electrical, physical, or chemical logs, tests, or surveys made.

(12) Production or injection method and equipment.

(b) Core record showing the depth, character, and fluid content, so far as determined, of all cores, including sidewall samples.

(c) Such other information as the Supervisor may require for the performance of his or her statutory duties.

NOTE: Authority cited: Sections 3013 and 3107, Public Resources Code. Reference: Sections 3106, 3107, 3203, 3210 and 3214, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7). For history of former section, see Register 76, No. 39.
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. New subsection (a)(4), subsection relettering, and amendment of newly designated subsections (a)(6)–(7) and (a)(9)–(10) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
4. Change without regulatory effect amending subsection (c) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
5. Change without regulatory effect amending subsection (c) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.1. Records to Be Filed with the Division.

Two true and reproducible copies of the well summary, core record, and history, and all electrical, physical and chemical logs, tests and surveys run, including mud logs shall be filed with the Division within 60 days after the completion, plugging and abandonment, or suspension of operations of a well. Dipmeter surveys shall be submitted in a form indicating the computed direction and amount of dip.

NOTE: Authority cited: Sections 3013, 3106 and 3107, Public Resources Code. Reference: Sections 3107, 3215 and 3216, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.2. Maintenance of Production Facilities, Safety Systems, and Equipment.

All surface equipment, including but not limited to production safety systems, wellheads, separators, pumps, manifolds, valves, and pipelines, used for the production of oil, gas, and waste water shall be maintained in good condition at all times to safeguard life, health, property, and natural resources. Safety systems and equipment associated with consolidated production facilities in urban areas may be inspected and tested at six–month intervals.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106, 3219, 3220 and 3222–3224, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Amendment of section heading, section and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).

§ 1724.3. Well Safety Devices for Critical Wells.

Certain wells designated by the Supervisor, that meet the definition of "critical" pursuant to Section 1720(a) and have sufficient pressure to allow fluid–flow to the surface, shall have safety devices as specified by the Supervisor, installed and maintained in operating condition. A description of such safety devices follows:

(a) Surface safety devices.

(1) Fail–close, well shut–in or shut–down devices. Wellhead assemblies shall be equipped with an automatic fail–close valve.

(2) High–low pressure sensors in all flowlines, set to actuate shut in or shut down of the well(s) in the event of abnormal pressures in the flowlines.

(3) Check valves in all headers, except for gas storage wells, to prevent backflow in the event of flowline failure. All flowlines and valves shall be capable of withstanding shut–in wellhead pressure, unless protected by a relief valve with connections to bypass the header.

(4) Fire detection devices, such as fusible plugs, at strategic points in pneumatic, hydraulic, and other shut–in control lines in fire hazard areas.

(5) Remote, manually operated, quick operating shut–in controls at strategic points.

(b) Subsurface safety devices.

(1) A surface–controlled, subsurface tubing safety valve installed at a depth of 50 feet or more below the ground level. For shut–in wells capable of flowing, a tubing plug may be installed in lieu of a subsurface tubing safety valve. Subsurface safety devices shall be installed, adjusted, and maintained to ensure reliable operation. If for any reason a subsurface safety device is removed from a well, a replacement subsurface safety device or tubing plug shall be promptly installed. Any well in which a subsurface safety device or tubing plug is installed shall have the tubing–casing annulus sealed at or below the valve– or plug–setting depth. A bypass–type packer that will seal the annulus on manual or automatic operation of the tubing subsurface safety device will meet this requirement.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106 and 3219, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.4. Testing and Inspection of Safety Devices.

(a) All installed well safety devices, required pursuant to Section 1724.3 of this article, shall be tested at least every six (6) months, as follows:

(1) Flow line pressure sensors shall be tested for proper pressure settings.

(2) Automatic wellhead safety valves shall be tested for reliable operation and holding pressure.

(3) Subsurface safety devices shall be tested for reliable operation.

(4) Tubing plugs or packers shall be tested for holding pressure.

(b) The appropriate Division district office shall be notified before such tests are made, as these tests may be witnessed by a Division inspector. Test failures not immediately repaired or corrected and not witnessed by a Division inspector shall be reported to the Division within 24 hours.

(c) The Supervisor may establish a special testing schedule for safety devices other than that specified in this section, based upon equipment performance or special conditions.

(d) The operator shall maintain records, available to Division personnel during business hours, showing the present status and history of each well safety device installed, including dates, details and results of inspections, tests, repairs, reinstallations, and replacements.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106 and 3219, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

3. Change without regulatory effect amending subsections (b)–(d) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.5. Surface Disposal of Waste Water.

NOTE: Authority cited: Sections 3106 and 3107, Public Resources Code. Reference: Sections 3106, 3107, 3203, 3210–3215, 3219, 3220 and 3222–3224, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Repealer filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).

§ 1724.6. Approval of Underground Injection and Disposal Projects.

Approval must be obtained from this Division before any subsurface injection or disposal project can begin. This includes all EPA Class II wells and air– and gas–injection wells. The operator requesting approval for such a project must provide the appropriate Division district deputy with any data that, in the judgment of the Supervisor, are pertinent and necessary for the proper evaluation of the proposed project.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.7. Project Data Requirements.

(Note: See Section 1724.8 for special requirements for cyclic steam projects, and Section 1724.9 or supplementary requirements for gas storage projects.)

The data required to be filed with the district deputy include the following, where applicable:

(a) An engineering study, including but not limited to:

(1) Statement of primary purpose of the project.

(2) Reservoir characteristics of each injection zone, such as porosity, permeability, average thickness, areal extent, fracture gradient, original and present temperature and pressure, and original and residual oil, gas, and water saturations.

(3) Reservoir fluid data for each injection zone, such as oil gravity and viscosity, water quality, and specific gravity of gas.

(4) Casing diagrams, including cement plugs, and actual or calculated cement fill behind casing, of all idle, plugged and abandoned, or deeper–zone producing wells within the area affected by the project, and evidence that plugged and abandoned wells in the area will not have an adverse effect on the project or cause damage to life, health, property, or natural resources.

(5) The planned well–drilling and plugging and abandonment program to complete the project, including a flood–pattern map showing all injection, production, and plugged and abandoned wells, and unit boundaries.

(b) A geologic study, including but not limited to:

(1) Structural contour map drawn on a geologic marker at or near the top of each injection zone in the project area.

(2) Isopachous map of each injection zone or subzone in the project area.

(3) At least one geologic cross section through at least one injection well in the project area.

(4) Representative electric log to a depth below the deepest producing zone (if not already shown on the cross section), identifying all geologic units, formations, freshwater aquifers, and oil or gas zones.

(c) An injection plan, including but not limited to:

(1) A map showing injection facilities.

(2) Maximum anticipated surface injection pressure (pump pressure) and daily rate of injection, by well.

(3) Monitoring system or method to be utilized to ensure that no damage is occurring and that the injection fluid is confined to the intended zone or zones of injection.

(4) Method of injection.

(5) List of proposed cathodic protection measures for plant, lines, and wells, if such measures are warranted.

(6) Treatment of water to be injected.

(7) Source and analysis of the injection liquid.

(8) Location and depth of each water–source well that will be used in conjunction with the project.

(d) Copies of letters of notification sent to offset operators.

(e) Other data as required for large, unusual, or hazardous projects, for unusual or complex structures, or for critical wells. Examples of such data are: isogor maps, water–oil ratio maps, isobar maps, equipment diagrams, and safety programs.

(f) All maps, diagrams and exhibits required in Section 1724.7(a) through (e) shall be clearly labeled as to scale and purpose and shall clearly identify wells, boundaries, zones, contacts, and other relevant data.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending subsections (a)(4)–(5) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1724.8. Data Required for Cyclic Steam Injection Project Approval.

The data required by the Division prior to approval of a cyclic steam (steam soak) project include, but are not limited to, the following:

(a) A letter from the operator notifying the Division of the intention to conduct cyclic steam injection operations on a specific lease, in a specific reservoir, or in a particular well.

(b) If cyclic steam injection is to be in wells adjacent to a lease boundary, a copy of a letter notifying each offset operator of the proposed project.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.9. Gas Storage Projects.

The data required by the Division prior to approval of a gas storage project include all applicable items listed in Section 1724.7(a) through (e), and the following, where applicable:

(a) Characteristics of the cap rock, such as areal extent, average thickness, and threshold pressure.

(b) Oil and gas reserves of storage zones prior to start of injection, including calculations.

(c) List of proposed surface and subsurface safety devices, tests, and precautions to be taken to ensure safety of the project.

(d) Proposed waste water disposal method.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
3. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1724.10. Filing, Notification, Operating, and Testing Requirements for Underground Injection Projects.

(a) The appropriate Division district deputy shall be notified of any anticipated changes in a project resulting in alteration of conditions originally approved, such as: increase in size, change of injection interval, or increase in injection pressure. Such changes shall not be carried out without Division approval.

(b) Notices of intention to drill, redrill, deepen, or rework, on current Division forms, shall be completed and submitted to the Division for approval whenever a new well is to be drilled for use as an injection well and whenever an existing well is converted to an injection well, even if no work is required on the well.

(c) An injection report on a current Division form or in a computerized format acceptable to the Division shall be filed with the Division on or before the 30th day of each month, for the preceding month.

(d) A chemical analysis of the liquid being injected shall be made and filed with the Division whenever the source of injection liquid is changed, or as requested by the Supervisor.

(e) An accurate, operating pressure gauge or pressure recording device shall be available at all times, and all injection wells shall be equipped for installation and operation of such gauge or device. A gauge or device used for injection–pressure testing, which is permanently affixed to the well or any part of the injection system, shall be calibrated at least every six months. Portable gauges shall be calibrated at least every two months. Evidence of such calibration shall be available to the Division upon request.

(f) All injection piping, valves, and facilities shall meet or exceed design standards for the maximum anticipated injection pressure, and shall be maintained in a safe and leak–free condition.

(g) All injection wells, except steam, air, and pipeline–quality gas injection wells, shall be equipped with tubing and packer set immediately above the approved zone of injection within one year after the effective date of this act. New or recompleted injection wells shall be equipped with tubing and packer upon completion or recompletion. Exceptions may be made when there is:

(1) No evidence of freshwater–bearing strata.

(2) More than one string of casing cemented below the base of fresh water.

(3) Other justification, as determined by the district deputy, based on documented evidence that freshwater and oil zones can be protected without the use of tubing and packer.

(h) Data shall be maintained to show performance of the project and to establish that no damage to life, health, property, or natural resources is occurring by reason of the project. Injection shall be stopped if there is evidence of such damage, or loss of hydrocarbons, or upon written notice from the Division. Project data shall be available for periodic inspection by Division personnel.

(i) To determine the maximum allowable surface injection pressure, a step–rate test shall be conducted prior to sustained liquid injection. Test pressure shall be from hydrostatic to the pressure required to fracture the injection zone or the proposed injection pressure, whichever occurs first. Maximum allowable surface injection pressure shall be less than the fracture pressure. The appropriate district office shall be notified prior to conducting the test so that it may be witnessed by a Division inspector. The district deputy may waive or modify the requirement for a step–rate test if he or she determines that surface injection pressure for a particular well will be maintained considerably below the estimated pressure required to fracture the zone of injection.

(j) A mechanical integrity test (MIT) must be performed on all injection wells to ensure the injected fluid is confined to the approved zone or zones. An MIT shall consist of a two–part demonstration as provided in subsections (j)(1) and (2).

(1) Prior to commencing injection operations, each injection well must pass a pressure test of the casing–tubing annulus to determine the absence of leaks. Thereafter, the annulus of each well must be tested at least once every five years; prior to recommencing injection operations following the repositioning or replacement of downhole equipment; or whenever requested by the appropriate Division district deputy.

(2) When required by subsection (j) above, injection wells shall pass a second demonstration of mechanical integrity. The second test of a two–part MIT shall demonstrate that there is no fluid migration behind the casing, tubing, or packer.

(3) The second part of the MIT must be performed within three (3) months after injection has commenced. Thereafter, water–disposal wells shall be tested at least once each year; waterflood wells shall be tested at least once every two years; and steamflood wells shall be tested at least once every five years. Such testing for mechanical integrity shall also be performed following any significant anomalous rate or pressure change, or whenever requested by the appropriate Division district deputy. The MIT schedule may be modified by the district deputy if supported by evidence documenting good cause.

(4) The appropriate district office shall be notified before such tests/surveys are made, as a Division inspector may witness the operations. Copies of surveys and test results shall be submitted to the Division within 60 days.

(k) Additional requirements or modifications of the above requirements may be necessary to fit specific circumstances and types of projects. Examples of such additional requirements or modifications are:

(1) Injectivity tests.

(2) Graphs of time vs. oil, water, and gas production rates, maintained for each pool in the project and available for periodic inspection by Division personnel.

(3) Graphs of time vs. tubing pressure, casing pressure, and injection rate maintained for each injection well and available for periodic inspection by Division personnel.

(4) List of all observation wells used to monitor the project, indicating what parameter each well is monitoring (i.e., pressure, temperature, etc.), submitted to the Division annually.

(5) List of all injection–withdrawal wells in a gas storage project, showing casing–integrity test methods and dates, the types of safety valves used, submitted to the Division annually.

(6) Isobaric maps of the injection zone, submitted to the Division annually.

(7) Notification of any change in waste disposal methods.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New section filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 6–30–80; effective thirtieth day thereafter (Register 80, No. 27).
3. Editorial correction of NOTE filed 12–28–84; effective thirtieth day thereafter (Register 84, No. 52).
4. Amendment of subsection (j), new subsections (j)(1)–(4) and amendment of NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
5. Change without regulatory effect amending subsection (i) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
6. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Subchapter 1.1. Offshore Well Regulations

Article 1. General

§ 1740. Purpose.

It is the purpose of this subchapter to set forth the rules and regulations governing the drilling, redrilling, production, maintenance, and plugging and abandonment of offshore oil and gas wells in accordance with the provisions of Division 3 of the Public Resources Code.

NOTE: Authority cited: Sections 3000–3013 and 3106, Public Resources Code. Reference: Sections 3203–3220 and 3227–3237, Public Resources Code.

HISTORY

1. New Subchapter 1.1 (§§ 1740, 1740.1–1740.5, 1741–1744, 1744.1–1744.6, 1745, 1745.1–1745.10, 1746, 1747, 1747.1–1747.10, 1748, 1748.1–1748.3, 1749) filed 4–22–74; effective thirtieth day thereafter (Register 74, No. 17).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1740.1. Policy.

Section 3106 of Division 3 of the Public Resources Code will be administered with the objective of furthering declared legislative policy; namely, that the Supervisor shall supervise drilling, operation, maintenance, and plugging and abandonment of wells to prevent as far as possible, damage to life, health, property, and natural resources, damage to underground oil and gas deposits from infiltrating water and other causes, loss of oil, gas, or reservoir energy and damage to underground and surface waters suitable for irrigation or domestic purposes by the infiltration of, or the addition of detrimental substances by reason of the drilling, operation, maintenance, or plugging and abandonment of wells.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1740.2. Scope of Regulations.

They shall apply to any and all oil or gas well operations conducted from locations within the offshore territorial boundaries and inland bays of the State of California, and where in conflict, the existing regulations shall supersede any and all previous rules, regulations, and requirements pertaining to the operations previously stated.

§ 1740.3. Revision of Regulations.

The Supervisor at appropriate intervals, or as the need arises, may review and issue special regulations or change present regulations, and such special regulations or changes shall prevail against general regulations if in conflict therewith. Public hearings on such special issues or changes will be held if required.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1740.4. Incorporation by Reference.

Any documents or part therein incorporated by reference herein are a part of this regulation as though set out in full.

§ 1740.5. Approval.

Written approval of the Supervisor is required prior to commencing drilling, reworking, injection, plugging, or abandonment operations. Temporary approval to commence such operations, however, may be granted by the Supervisor or his or her representative when such operations are necessary to avert a threat to life, health, property, or natural resources, or when approved operations are in progress and newly discovered well condition are such that immediate corrective or abandonment operations are desirable. Such temporary approval shall be granted only after the operator has provided the Division with all information pertaining to the condition of the well, including but not limited to, geological, mechanical, and the results of tests and surveys. Notwithstanding any such temporary approval, the operator shall immediately file a written notice of intention to carry out a program temporarily approved.

An operator shall act immediately to correct a condition which creates a clear and present danger to life, health, property, or natural resources and shall immediately notify the Division of the condition and the action taken to correct it.

HISTORY

1. Amendment filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 2. Definitions

§ 1741. Definitions.

Unless this context otherwise requires, the following definitions shall apply to these regulations:

(a) "District" means oil and gas district as provided for in Section 3105 of Division 3 of the Public Resources Code.

(b) "Division," in reference to the government of this state, means the Division of Oil, Gas, and Geothermal Resources in the Department of Conservation.

(c) "Drilling fluid" means the fluid used in the hole during drilling or other proposed operations.

(d) "Field" means the same general surface area which is underlaid or reasonably appears to be underlaid by one or more pools.

(e) "Field rules" means unique requirements or procedures which may be established by the Supervisor for a producing field.

(f) "Gas" means any natural hydrocarbon gas coming from the earth.

(g) (Reserved)

(h) "Oil" includes petroleum, and "petroleum" includes oil.

(i) "Operations" means any one or all of the activities of an operator covered by Division 3 of the Public Resources Code.

(j) "Operator" means any person drilling, maintaining, operating, pumping, or in control of any well.

(k) "Pool" means an underground reservoir containing, or appearing at the time of determination to contain, a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is separated from any other zone in the structure is a separate pool.

(*l*) "Rework" means any operation subsequent to drilling that involves deepening, redrilling, plugging, or permanently altering in any manner the casing of a well or its function.

(m) "String" means a continuous length of connected joints of casing, liner, drill pipe or tubing run into the well, including all attached drilling, cementing, testing, producing, safety, and gravel–pack equipment.

(n) "Supervisor" means the State Oil and Gas Supervisor.

(o) "Well" means any oil or gas well or well for the discovery of oil or gas, or any well on lands producing or reasonably presumed to contain oil or gas or any well drilled for the purpose of injecting fluids or gas for stimulating oil or gas recovery, repressuring or pressure maintenance of oil or gas reservoirs, or disposing of oil field waste fluids or any well drilled within or adjacent to an oil or gas pool for the purpose of obtaining water to be used in production stimulation or repressuring operations.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Sections 3000–3014, Public Resources Code.

HISTORY

1. Amendment of subsection (a) and repealer of subsection (g) filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
2. Change without regulatory effect amending subsection (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending subsection (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 3. Regulations

§ 1742. Well Identification.

(a) The number or designation, which includes the lease name when used, by which a well shall be known is subject to the approval of the Supervisor and shall not be changed without the written consent of the Supervisor.

(b) Identification of wells. The well designation shall be affixed to the wellhead or guard rail of each completed well. Wells completed from two or more zones shall have the zones individually identified at the wellhead. The Supervisor may approve existing well identification methods if they substantially comply with the intent of this section. Identifying signs shall be maintained in a legible condition.

(c) Platforms, islands, or other fixed structures shall be identified at two diagonal corners of the platform or structure by a sign with letters and figures not less than 12 inches in height with the following information: the platform or structure designation, the name of lease operator, and the lease designation. The Supervisor may approve abbreviations.

(d) Non–fixed platforms or structures shall be identified by two (2) signs with letters and figures not less than 12 inches in height affixed to opposite sides of the derrick to be visible from off the vessel with the following information: the name of the operator and the lease designation.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1743. General Requirements.

(a) It is understood that this Division's approval of operations is contingent upon the continual fulfillment of all marine and pollution control requirements established by the U. S. Coast Guard and the State of California.

(b) All operations are to be conducted in a proper and workmanlike manner in accordance with good oil field practice.

(c) All installations shall comply with applicable provisions of Safety Orders of the State Division of Industrial Safety, including the Petroleum Safety Orders, the General Industry Safety Orders and the Unfired Pressure Vessel Safety Orders.

(d) An approved oil spill contingency plan that includes provisions for rapid deployment of containment and recovery equipment shall be in effect, and a copy of the plan shall be on file with this Division prior to commencing operations.

(e) An approved plan for blowout prevention and control, "kick control plan," including provisions for duties, training, supervision, and schedules for testing equipment and drills, shall be on file with the Division prior to commencing operations.

(f) Tubing, casing, or annulus open to an oil or gas zone shall be sealed off or equipped with a device to shut it in at the surface.

(g) A copy of the operator's proposals on Division forms and subsequent approval of proposed operations by the Division shall be available at the wellsite throughout such operations.

(h) Operators shall give adequate prior notice to the Division's office of the district in which a well is located, of the time for inspections, and tests required by the Division.

(i) Operations shall not deviate from the approved basic program without prior approval of the Division. Additional requirements may be made at that time.

(j) Oil spills or slicks shall be reported to the agencies as specified in the California Oil Spill Disaster Contingency Plan and in the National Oil Hazardous Substances Pollution Contingency Plan.

(k) Blowouts, fires, hazardous gas leaks, disasters, major accidents, or similar incidents on or emanating from an oil or gas drilling, producing, or treating facility shall be reported to the Division immediately.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3203, Public Resources Code.

HISTORY

1. Amendment of subsection (k) filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Amendment of subsection (i) filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744. Drilling Regulations.

All exploratory wells and initial development wells on offshore sites shall be drilled or reworked in accordance with these regulations, which shall continue in effect until field rules are established. After field rules have been established, development wells shall be drilled or reworked according to such rules.

(a) Where sufficient geologic and engineering information is available from previous drilling, operators may make application to the Supervisor for the establishment of field rules for each oil or gas pool or zone. The Supervisor shall review field rules at least once a year and notify operators in writing of any change.

(b) Drilling or reworking of wells shall not commence without approval of the Division. Notices of intention and approvals shall be considered cancelled if the proposed operations are not commenced within one year of receipt of the notice. Each proposal to drill or rework a well shall include all information required on Division forms and a detailed work program including, when applicable, casing, cementing, drilling fluid, and blowout prevention programs, proposed bottom hole location, anticipated location of the intersection of each proposed zone of completion with the bore hole, anticipated pressures, and anticipated depths (both measured and vertical) of geologic formations, oil zones, gas zones, and freshwater zones. The casing, cementing, drilling fluid, and blowout prevention programs shall comply with either the following requirements or established field rules.

HISTORY

1. Amendment filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744.1. Casing Program.

All wells shall be cased and cemented in a manner that will fulfill the requirements of Sections 3106, 3219, 3220, and 3222 of Division 3 of the Public Resources Code. The proposal to drill, redrill, or deepen shall include a casing program designed to provide for firm anchorage and for full protection of all oil, gas, or fresh water zones. All casing strings shall be new pipe or equivalent, capable of withstanding all anticipated collapse and burst pressures to be encountered or used. For the purpose of these regulations, the several strings in order of normal installation are conductor, first surface, second surface, intermediate, protective, and production.

Casing strings shall be run and cemented prior to drilling below the specified setting depth, subject to minor variations necessary to allow the casing to be set in firm compacted or consolidated stratum. All depths refer to true vertical depth (TVD) below the ocean floor, unless otherwise specified. Determination of proper casing setting depths shall be based upon all geological and engineering factors, including but not limited to the presence or absence of hydrocarbons, formation pressures, fracture gradients, lost circulation intervals, and the degree of compaction or consolidation of formations.

§ 1744.2. Description of Casing Strings.

Names of strings used by the Division are not always the same as those used by the federal government for wells drilled on the Outer Continental Shelf. Where there is a difference, the Division name is given first followed by the federal name shown in parentheses.

(a) Conductor casing (drive or structural). This casing may be set by drilling, driving, or jetting to a depth of approximately 100 feet to provide hole stability for initial drilling operations. This casing may be omitted, when approved by the Division, if there is geological evidence that hydrocarbons will not be encountered while drilling the hole for the first surface casing and is not needed for hole stability.

(b) First surface casing (conductor). This casing shall be set at a minimum depth of 300 feet or a maximum depth of 500 feet provided that this casing string shall be set before drilling into shallow strata known to contain oil or gas or, if unknown, upon encountering such strata.

(c) Second surface casing (surface). This casing shall be set at a minimum depth of 1,000 feet or a maximum depth of 1,200 feet below the ocean floor, but may be set as deep as 1,500 feet, in the event the surface casing is set at a depth at least 450 feet.

(d) Intermediate casing. This casing shall be set if the proposed total depth of the well is more than 3,500 feet. When surface casing is set at deeper than 1,000 feet, the proposed total depth of the well may be extended two (2) feet for each foot of surface casing below 1,000 feet.

Proposed Total Depth of Well or Proposed Depth of First Full String of Protective Casing (TVD in Feet Below Ocean Floor)	*Setting Depth for Intermediate Casing (TVD in Feet Below Ocean Floor)*	
	Minimum	*Maximum*
3,500– 4,500	1,500	4,500
4,500– 6,000	1,750	4,500
6,000– 9,000	2,250	4,500
9,000–11,000	2,750	4,500
11,000–13,000	3,250	4,500
13,000–Below	3,500	4,500

(e) Protective casing. This casing shall be set when required by well conditions, such as lost circulation or abnormal pressures. When this string does not extend to the surface, the lap shall be cemented and tested by a fluid entry test to determine whether a seal between the protective string and next larger string has been achieved. The test shall be witnessed and approved by a Division inspector and recorded on the driller's log.

(f) Production casing. This casing shall be cemented as noted in Section 1744.3 below and a test of water shut–off made above the zones to be produced or injected into. The test shall be witnessed and approved by a Division inspector before completing the well for production or injection. In injection wells, the Supervisor may approve the demonstration of the shut–off by running of a survey within 30 days after injection commences. The survey must show that injection fluid is confined to the approved injection interval.

When the production string does not extend to the surface, the lap between the production string and next larger casing string shall be cemented and tested as in the case of protective casing. The surface casing shall never be used as production casing unless all lower oil or gas zones are properly plugged.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744.3. Cementing Casing.

The conductor (if drilled or jetted) and surface casings shall be cemented with sufficient cement to fill the annular space back to the ocean floor. The intermediate casing shall be cemented with sufficient cement to fill the annular space back to the ocean floor or at least 200 feet into the next larger string of pipe. The protective and production casings shall be cemented so that all fresh water zones, oil or gas zones, and abnormal pressure intervals are covered or isolated, and, in addition, a calculated volume sufficient to fill the annular space to at least 500 feet above cementing points, above oil or gas zones, and above abnormal pressure intervals not previously cased. When the cement behind casing is not returned to the ocean floor or through a lap, the amount of solid cement fill behind casing shall be determined by surveys acceptable to the Supervisor. If the annular space is not adequately cemented by the primary operation, the operator shall displace sufficient cement to fill the required annular space. Upon demonstrating shut–off above the zones to be produced or injected into as indicated under (f) above, the operator may continue with the approved operations.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744.4. Pressure Testing.

Prior to drilling out the plug after cementing, all blank casing strings, except the conductor casing, shall be pressure tested as shown in the table below. Loss in pressure shall not exceed 10 percent during a 30 minute test; corrective measures must be taken until a satisfactory test is obtained.

Casing String	*Minimum Surface Test Pressure*
First surface	1 psi/ft. of depth
Second surface	1,000 psi
Intermediate, protective and production	1,500 psi or 0.2 psi/ft., whichever is greater

After cementing any of the above strings, drilling shall not be commenced until a time lapse of: eight hours for the first surface casing string and 12 hours for all other casing strings, or sufficient time for the bottom 500 feet of annular cement fill to attain a compressive strength of at least 500 psi based on a pretest of the slurry at the temperature and pressure at the cementing depth, using testing procedures as set forth by the American Petroleum Institute in RP 10B, 1972, incorporated here by reference.

All casing pressure tests shall be witnessed and approved by a Division inspector prior to drilling out of the casing or perforating opposite possible oil or gas zones. Inspection of data recorded by a device approved by the Division may be substituted for witnessing.

HISTORY

1. Change without regulatory effect amending last paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744.5. Blowout Prevention and Related Well–Control Equipment.

This equipment shall be installed, tested, used, and maintained in a manner necessary to prevent an uncontrolled flow of fluid from a well. Division personnel shall use the current edition of Division of Oil, Gas, and Geothermal Resources Manual No. M07, "Oil and Gas Well Blowout Prevention in California," as a guide in establishing the blowout prevention equipment requirements specified in the Division's approval of proposed operations.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3219, Public Resources Code.

HISTORY

1. Amendment filed 8–3–79 as procedural and organizational; effective thirtieth day thereafter (Register 79, No. 31).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1744.6. Drilling Fluid Program—General.

The characteristics, use, and testing of drilling fluid and the method of conducting related drilling procedures shall be such as are necessary to prevent the uncontrolled flow of fluid from any well. Quantities of drilling fluid materials sufficient to insure well control shall be maintained readily accessible for immediate use at all times.

(a) Drilling fluid control. Before starting out of the hole with drill pipe, the drilling fluid shall be circulated with the drill pipe hung just off bottom until the drilling fluid is properly conditioned. Proper conditioning requires circulation of the drilling fluid to the extent that the total annulus volume is displaced and until gas is removed. When coming out of the hole with drill pipe or tubing, the annulus shall be filled with drilling fluid before the drilling fluid level drops below a calculated depth of 100 feet below the derrick floor. A mechanical device that indicates the amount of drilling fluid required to keep the hole full shall be watched. If there is any indication of "swabbing" or influx of formation fluids, the inside blowout preventer shall be installed on the drill pipe, the drill pipe shall be run to bottom, and the drilling fluid properly conditioned. The drilling fluid shall not be circulated and conditioned except on or near bottom, unless well conditions prevent running the pipe to bottom. The fluid in the hole shall be circulated or reverse circulated prior to pulling drill–stem test tools from the hole.

(b) Drilling fluid testing equipment. Drilling fluid testing equipment for measuring viscosity, water loss, weight, and thixotropic properties shall be maintained on the drillsite at all times. Tests of the drilling fluid consistent with good operating practice shall be performed at the beginning of each eight–hour tour while drilling, with additional tests as condi-

tions warrant. Results of tests shall be recorded on the driller's log. The following or comparable equipment for monitoring the drilling fluid system must be installed with the indicators at the driller's station and used throughout the period of drilling after setting and cementing the first surface casing.

(1) A recording mud–pit level indicator to determine mud pit volume gains and losses. This indicator shall include a visual and audible warning device.

(2) A mud volume measuring device for accurately determining mud volumes required to maintain fluid level at the surface while pulling the drill pipe from the hole.

(3) A mud return or full hole indicator to show when returns have been obtained, or when they occur unintentionally, and also to determine that returns essentially equal the pump discharge rate.

(c) Inspection of the complete drilling fluid system shall be made by a Division inspector. Approval of the system is required prior to drilling out the shoe of the first surface casing.

HISTORY

1. Change without regulatory effect amending subsection (c) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1745. Plugging and Abandonment.

Plugging and abandonment operations shall not commence until approval has been obtained from the Supervisor. Proposals to plug or plug and abandon shall be submitted on a Division form for plugging or plugging and abandonment and accompanied by a detailed work program. The proposed plugging and abandonment program shall be deemed to have been approved if the Supervisor does not give the operator a written response to the notice of intention within ten (10) working days. Under circumstances specified in Section 1740.5, the operator may receive conditional approval to commence operations.

The operator shall comply with the following minimum requirements which have general application to all wells. The Supervisor may approve or require specific plugging materials and methods of operation to fulfill or exceed the minimum requirements.

HISTORY

1. Amendment filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Change without regulatory effect amending first paragraph filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1745.1. Permanent Plugging and Abandonment.

(a) Plugging in uncased hole. In uncased portions of wells, cement plugs shall be placed to extend from total depth or at least 100 feet below each oil or gas zone, whichever is less, to at least 100 feet above the top of each zone, and a cement plug at least 200 feet long shall be placed across an intrazone freshwater–saltwater interface or opposite impervious strata between fresh– and saltwater zones so as to confine the fluids in the strata in which they are found and to prevent them from escaping into other strata.

(b) Isolation of open hole. Where there is open hole immediately below casing, a cement plug shall be placed in the deepest cemented casing string from total depth or at least 100 feet below the casing shoe, whichever is less to at least 100 feet above the casing shoe.

(c) Plugging perforated intervals. A cement plug shall be placed opposite all perforations extending to a minimum of 100 feet above the perforated intervals, liner top, cementing point, or zone, whichever is higher.

(d) Isolating zones behind cemented casing. Inside cemented casing, a cement plug at least 100 feet long shall be placed above each oil or gas zone and above the shoe of the intermediate or second surface casing; a cement plug at least 200 feet long shall also be placed across an intrazone freshwater–saltwater interface or opposite impervious strata between fresh– and saltwater zones.

HISTORY

1. Amendment of subsection (a) and (d) filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Change without regulatory effect amending section heading and subsection (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1745.2. Junk in Hole or Collapsed Casing.

In the event that junk cannot be removed from the hole, and the hole below the junk is not properly plugged, cement plugs shall be placed as follows:

(a) Sufficient cement shall be squeezed through the junk to isolate the lower oil, gas, or fresh water zones and a minimum of 100 feet of cement shall be placed on top of the junk, but no higher than the sea bed.

(b) If the top of the junk is opposite uncemented casing, the casing annulus immediately above the junk shall be cemented with sufficient cement to insure isolation of the lower zones.

§ 1745.3. Plugging of Casing Stubs.

If casing is cut and recovered, other than that pulled for placing the surface plug, a cement plug shall be placed from at least 100 feet below to at least 100 feet above the stub.

HISTORY

1. Amendment filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).

§ 1745.4. Plugging of Annular Space.

No annular space that extends to the ocean floor shall be left open to drilled hole below. If this condition exists, a minimum of 200 feet of the annulus immediately above the shoe shall be plugged with cement.

§ 1745.5. Surface Plug Requirement.

A cement plug at least 100 feet long shall be placed in the well with the top between 50 and 150 feet below the ocean floor. All inside casing strings with uncemented annuli shall be pulled from below the surface plug. The casing shall not be shot or cut in a manner that will damage outer casing strings and prevent reentry into the well.

§ 1745.6. Testing of Plugs.

Division tests for the location and hardness of cement plugs shall be verified by placing the total weight of the pipe string on the plug, or where there is sufficient depth, an open–end pipe weight of at least 10,000 pounds.

§ 1745.7. Mud.

Any interval of the hole not plugged with cement shall be filled with mud fluid of sufficient density to exert hydrostatic pressure exceeding the greatest formation pressure encountered while drilling such interval.

§ 1745.8. Clearance of Location.

All casing and anchor piling shall be cut and removed from not more than 5 feet below the ocean floor, and the ocean floor cleared of any obstructions, unless prior approval to the contrary is obtained from the appropriate marine navigation and wildlife agencies and a copy of the approval filed with the Division.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1745.9. Temporary Abandonments.

Any well that is to be temporarily abandoned shall be mudded and cemented as required for permanent plugging and abandonment, but requirements of Sections 1745.1(d), 1745.4, 1745.5, and 1745.8 of this article may be omitted. For ocean–floor and platform sites, a mechanical bridge plug (retrievable or permanent) shall be set in the well between 15 and 200 feet below the ocean floor. For land fill, pier, and island sites, the well shall be securely capped or closed at the surface, until operations are resumed.

HISTORY

1. Amendment filed 4–1–76; effective thirtieth day thereafter (Register 76, No. 14).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1745.10. Witnessing of Operations.

Operations to be witnessed by a Division inspector include tests for location and hardness of plugs placed across oil or gas zones open to the well, across fresh water zones, across casing shoes, cementing through junk, and placing of the surface plug. Geologic or mechanical conditions may require changes or additions to the schedule of inspections.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1746. Well Records.

The operator of any well shall keep, or cause to be kept, an accurate record of each well consisting of but not limited to the following:

(a) A log and history for each well showing chronologically the following applicable data:

(1) Character and depth of formations, water–bearing strata, oil and gas–bearing zones, and lost circulation zones encountered.

(2) Casing size, kind, top, bottom, perforations, and attached equipment used.

(3) Tubing size, and depth, type and location of packers, safety devices, and other tubing equipment used.

(4) Hole size.

(5) Cementing and plugging operations including time, depth, slurry volume and composition, fluid displacement, fill, pressures used, and down–hole equipment used.

(6) Drillstem and formation tests including time, depth, pressures, and recovery (volume and description).

(7) BOPE installation, inspections, pressure tests, and drills.

(8) Shut–off, pressure, and lap tests of casing.

(9) Depth and type of all electrical, physical or chemical logs, tests, or surveys run.

(10) Wellhead specifications and method of production.

(b) Core record showing the depth, character, and fluid content of all cores, including sidewall cores, so far as determined.

(c) Filing records.

(d) Records at wellsite.

HISTORY

1. Repealer of subsections (c) and (d) filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).

§ 1746.1. Filing Records.

Well records shall be filed in accordance with the provisions of Sections 3215 or 3216, Article 4, Public Resources Code.

NOTE: Authority cited: Sections 3000–3013 and 3016, Public Resources Code. Reference: Sections 3203–3220 and 3227–3237, Division 3, Chapter 1, Article 4, Public Resources Code.

HISTORY

1. New section filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).

§ 1746.2. Records of Wellsite.

During the performance of proposed operations, a copy of a well's tour reports shall be maintained at the wellsite. All pertinent well records shall be made available to the Division inspector upon request.

NOTE: Authority cited: Sections 3000–3013 and 3016, Public Resources Code. Reference: Sections 3203–3220 and 3227–3237, Division 3, Chapter 1, Article 4, Public Resources Code.

HISTORY

1. New section filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747. Safety and Pollution Control.

Operators shall equip wells and associated facilities with necessary safety devices and establish procedures as follows:

(a) Subsurface safety device. All wells capable of flowing oil or gas to the ocean floor shall be equipped with a surface controlled subsurface tubing safety valve installed at a depth of 100 feet or more below the ocean floor. Such device shall be installed in all oil and gas wells, including artificial lift wells, unless proof is provided to the Supervisor that such wells are incapable of any natural flow to the ocean floor. For shut–in wells capable of flowing oil or gas, a tubing plug may be installed, in lieu of a subsurface safety device, and such plug shall also be installed when required by the Supervisor.

(b) Subsurface safety devices shall be adjusted, installed, and maintained to insure reliable operation. When a subsurface safety device is removed from a well for repair or replacement, a standby subsurface safety device or tubing plug shall be available at the well location, and shall be immediately installed within the limits of practicability, consideration being given to time, equipment, and personnel safety. All wells in which subsurface safety device or tubing plug is installed shall have the tubing–casing annulus sealed below the valve or plug setting depth.

(c) Each subsurface safety device and tubing plug installed in a well shall be tested at intervals not exceeding one month and a report filed with the Division within five (5) days. Failures shall be reported to the Division immediately. The tests shall be performed in the presence of a Division inspector following installation or reinstallation and at 90–day intervals thereafter. The Supervisor may adjust the testing sequence based on equipment performance.

(d) The control system for the surface–controlled subsurface safety devices shall be an integral part of the shut–in system for the production facility.

(e) The operator shall maintain records, available at the structure or facility to any representative of the Division, showing the present status and history of each subsurface safety device or tubing plug, including dates and details of inspection, testing, repairing, adjustment, and reinstallation or replacement.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Sections 3106 and 3219, Public Resources Code.

HISTORY

1. Amendment of subsection (c) filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
2. Change without regulatory effect amending subsections (a), (c) and (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.1. Safety and Pollution Control Equipment Requirements.

The following requirements shall apply to all offshore production facilities. Sections 1747.3, 1747.4, and 1747.9 shall also apply to mobile drilling structures. Sections 1747.2 and 1747.10 shall also apply to ocean floor completions or wells with submerged wellheads.

(a) The following devices shall be installed and maintained in an operating condition on all pressurized vessels and water separation facilities when such vessels and separation facilities are in service. The operator shall maintain records on the structure or facility showing the present status and history of each such device including dates and details of inspection, testing, repairing, adjustment, and reinstallation or replacement.

(1) All separators shall be equipped with high–low pressure shut–in sensors, low level shut–in controls, and a relief valve. High liquid level control devices shall be installed when the vessel can discharge to a gas vent line.

(2) All pressure surge tanks shall be equipped with a high and low pressure shut–in sensor, a high level shut–in control, gas vent line, and relief valve.

(3) Atmospheric surge tanks shall be equipped with a high level shut–in sensor.

(4) All other hydrocarbon handling pressure vessels shall be equipped with high–low pressure shut–in sensors, high–low level shut–in controls, and relief valves, unless they are determined by the Supervisor to be otherwise protected. All low pressure systems connected to high pressure systems shall be equipped with relief valves.

(5) Pilot–operated pressure relief valves shall be equipped to permit testing with an external pressure source. Spring–loaded pressure relief valves shall either be bench–tested or equipped to permit testing with an external pressure source. A relief valve shall be set no higher than the designed working pressure of the vessel. On all vessels with a rated or de-

signed working pressure of more than 400 psi, the high pressure shut–in sensor shall be set no higher than 5 percent below the rated or designed working pressure and the low pressure shut–in sensor shall be set no lower than 10 percent below the lowest pressure in the operating pressure range. On lower pressure vessels the above percentages shall be used as guidelines for sensor settings considering pressure and operating conditions involved, except that sensor setting shall not be within 5 psi of the rated or designed working pressure or the lowest pressure in the operating pressure range.

(6) All pressure–operated sensors shall be equipped to permit testing with an external pressure source.

(7) All gas vent lines shall be equipped with a scrubber or similar separation equipment.

HISTORY

1. Change without regulatory effect amending subsection (a)(4) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.2. Safety Devices.

The following devices shall be installed and maintained in an operating condition at all times when the affected well (or wells) is producing. The operator shall maintain records on the structure or facility showing the present status and history of each such device, including dates and details of inspection, testing, repairing, adjustment, and reinstallation or replacement.

(a) All wells shall have a fail shut–in capability. For pumping wells incapable of natural flow to the ocean floor, an approved power source shut–off system may be used. On all flowing or gas lift wells the wellhead assemblies shall be equipped with an automatic failclose valve.

(b) All flowlines from wellheads shall be equipped with high–low pressure sensors located close to the wellhead. The pressure sensors shall be set to shut–in the well in the event of abnormal pressures in the flowline.

(c) All headers shall be equipped with check valves on the individual flowlines. The flowline and valves from each well located upstream of, and including, the header valves shall withstand the shut–in pressure of that well, unless protected by a relief valve with connections to bypass the header. If there is an inlet valve to a separator, the valve, flowline, and all equipment upstream of the valve shall also withstand shut–in wellhead pressure, unless protected by a relief valve with connections to bypass the header.

(d) All pneumatic, hydraulic, and other shut–in control lines shall be equipped with fusible material at strategic points.

(e) Remote shut–in controls shall be located on the helicopter deck and all exit stairway landings leading to the helicopter deck and to all boat landings. These controls shall be quick–operating devices.

(f) All pressure sensors shall be operated and tested for proper pressure settings monthly. Results of all tests shall be recorded and maintained on the structure or facility.

(g) All automatic wellhead safety valves shall be tested for holding pressure monthly. Results of all tests shall be recorded and maintained on the structure or facility.

(h) Check valves shall be tested for holding pressure monthly for at least four months. At such time as the monthly results are satisfactory, a quarterly test shall be required. Results of all tests shall be recorded and maintained on the structure or facility.

(i) A standard procedure for testing of safety equipment shall be filed with the Division and posted in a prominent place on the structure or facility.

HISTORY

1. Change without regulatory effect amending subsection (i) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.3. Containment.

Curbs, gutters, and drains shall be constructed and maintained in good condition in all deck areas in a manner necessary to collect all contaminants, unless drip pans or equivalent are placed under equipment and piped to a sump which will automatically maintain the oil at a level sufficient to prevent discharge of oil into the ocean waters. Alternate methods to obtain the same results may be approved by the Supervisor. These systems shall not permit spilled oil to flow into the wellhead area of a platform or pier.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.4. Emergency Power.

An auxiliary electrical power supply shall be installed to provide emergency power sufficient to operate all electrical equipment required to maintain safety of operation in the event the primary electrical power supply fails. The auxiliary system shall be tested weekly and the results recorded.

§ 1747.5. Fire Protection.

A fire fighting system shall be installed and maintained in an operating condition in accordance with volumes 6 and 7 of the National Fire Codes, 1973, as appropriate, incorporated here by reference. A diagram of the fire fighting system, showing the location of all equipment, shall be filed with the Division and posted in a prominent place on the structure. The system shall be tested monthly by the operator and a report filed with the Division. Failure of any part of the system shall be reported to the Division immediately.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.6. Detection System.

An automatic gas detector and alarm system shall be installed and maintained in an operating condition in accordance with the following:

(a) Gas detection systems shall be installed in all enclosed areas containing gas handling facilities or equipment, and in other areas classified as hazardous and defined in API RP 500 B, 1973, and the National Electric Code, 1971, both incorporated here by reference.

(b) All gas detection systems shall be capable of continuous monitoring. The sensitivity shall be maintained at a level that will detect the presence of combustible gas within the areas in which the detection devices are located.

(c) The central control shall be capable of giving an alarm at not higher than 60 percent of the lower explosive limit.

(d) The central control shall automatically activate shut–in sequences and emergency equipment at a point not higher than 90 percent of the lower explosive limit.

§ 1747.7. Installation Application.

An application for the installation and maintenance of any gas detection system shall be filed with the Division for approval and it shall include the following:

(a) Type, location, and number of detection or sampling heads.

(b) Cycling, non–cycling, and frequency information.

(c) Type and kind of alarm and emergency equipment to be activated.

(d) Method used for detection of combustible gas.

(e) Method and frequency of calibration.

(f) A diagram of the gas detection system.

(g) Other pertinent information.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.8. Diagram.

A diagram of the gas detection system showing the location of all gas detection points shall be filed with the Division and posted in a prominent place at the structure.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1747.9. Electrical Equipment Installation.

All electrical equipment and systems shall be installed in accordance with the California Building Standards Electrical Code, 1971, the National Electric Code, 1971, and API RP 500 B, 1973, incorporated here by reference. On mobile drilling structures, certificated by the U. S. Coast Guard, this equipment shall be installed, protected, and maintained in accordance with the applicable provisions of CG–259, Electrical Engineering Regulations, 1971, incorporated here by reference.

§ 1747.10. Testing and Inspection.

The safety and pollution control systems shall be tested and inspected every month and a report filed with the Division. Failures shall be reported to the Division immediately. A Division inspector shall witness the tests and inspect the systems at the time production is commenced and at 90–day intervals thereafter. The Supervisor may adjust the testing and inspection sequence based on equipment performance.

(a) After review by the Supervisor and with his or her written approval, existing production facilities that substantially comply with the intent of Sections 1747 through 1747.9 will be exempt from these regulations. However, any changes or additions to existing platforms will comply with these regulations.

(b) The Division shall be notified of all major production facility shutdowns anticipated to be in excess of 24–hour duration, whether intentional or otherwise. When inspected by a Division inspector, a complete shutdown may be substituted for the next scheduled test of some or all of the safety systems.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
2. Change without regulatory effect amending subsections (a) and (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1748. Waste Disposal and Injection Projects.

Disposal and injection projects are subject to the provisions of Section 1748.1 through 1748.3.

§ 1748.1. Waste Disposal.

All discharges into the ocean shall conform to the requirements of the appropriate Regional Water Quality Control Board.

§ 1748.2. Injection Projects.

All subsurface injection projects require prior approval of this Division. An operator requesting approval to inject fluid into any subsurface strata must provide certain technical data regarding the project. This information must be submitted sufficiently in advance to enable the Division to evaluate fully the possible effects of the project upon any oil, gas, or fresh water reservoirs that may be present. The completeness and accuracy of the following data filed will have a bearing on this Division's decision to approve or disapprove the project.

(a) One or more geologic cross sections through the injection well at a scale that will clearly show the following:

(1) The injection well, or wells.

(2) A sufficient number of producing wells to show the geologic structure and stratigraphic relationship.

(3) Casing detail of all wells shown.

(4) The zone or zones to be injected into, other geologic units present, and the base of any fresh water aquifer.

(5) Location of any existing oil–water and oil–gas interfaces in or above the injection zone.

(6) The intervals of all geologic formations present.

(7) Fault block designations.

(b) A representative electric log from the surface to a depth below the producing zones (if not already shown on the cross section), identifying all geologic units, formations, oil or gas zones, and fresh water aquifers.

(c) Structural contour maps of markers at or near the top of each proposed injection zone showing the following:

(1) The location of the proposed injection well or wells, together with directional plots, bottom–hole locations, well status symbols, and zones open to production for all wells bottomed within the affected area.

(2) Reservoir characteristics such as pinchouts, permeability barriers and faults.

(3) Mineral lease boundary lines and fault block designations.

(4) Lines of cross sections.

(5) Lines showing original oil–water and oil–gas contacts.

(d) Letter containing engineering and geologic details of the project, in duplicate, including:

(1) Primary purpose.

(2) Reservoir characteristics of the injection zone; i.e., porosity, permeability, thickness (net and gross), present temperature and pressure, and present oil, gas, and water saturation.

(3) Casing diagrams, including cement plugs and cement fill behind casing, of all idle, plugged and abandoned, or deeper–zone producing wells within the area affected by the project.

(4) Source and analysis of the injection water and analysis of the water in the injection zone.

(5) Treatment of the water to be injected.

(6) Method of injection, i.e., through casing, tubing, tubing with packer, between strings.

(7) Maximum daily rate of injection, by well or wells.

(8) Maximum surface injection pressure anticipated (pump pressure).

(9) Precautions taken, or to be taken, to insure that the injected fluid is confined to the injection zone and to the area controlled by the operator.

(10) Protective methods used, if any, on injection lines and well(s), i.e., cathodic, etc.

(e) Copies of letters of notification sent to neighboring operators.

(f) Other data as required for large, unusual, or hazardous projects, for unusual or complex structures, for sensitive locations, etc. Examples: Isopach map, IsoGOR map, water–oil ratio map, IsoBAR maps, equipment diagrams, and safety precautions.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3301, Public Resources Code.

HISTORY

1. Amendment of subsections (c)–(c)(2), (c)(5) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
2. Change without regulatory effect amending subsection (d)(3) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1748.3. Injection Requirements.

(a) Appropriate forms furnished by the Division for proposal to drill or rework shall be completed and submitted to the Division for approval whenever a new well is to be drilled for use as an injection well, or whenever an existing well is to be converted to an injection well, even if no work is required.

(b) An injection report on a Division form shall be filed with this Division in duplicate on or before the tenth day of each month, for the preceding month.

(c) A chemical analysis of the fluid (or gas) to be injected shall be made and filed with this Division at least every two years, whenever the source of injection fluid is changed, or as requested.

(d) An accurate, operating pressure gauge or chart shall be maintained at the wellhead at all times.

(e) Fluid injection profile surveys shall be required for all injection wells within one month after injection has commenced, at least once every year thereafter for all high–pressure or high–volume injection wells, after any significant anomalous rate or pressure change, or as requested by the Division, to confirm that the injection fluid is confined to the proper zone.

(f) Sufficient data shall be maintained to show performance of the project and to establish that no damage is occurring because of excessive injection pressure. These data shall be available for periodic inspection by personnel from this Division.

(g) Injection shall cease upon written notice from the Division if any evidence of damage is observed by the Division or in its opinion is occurring.

(h) Additional requirements or modification of the above requirements may be necessary to fit individual circumstances.

HISTORY

1. Change without regulatory effect amending subsection (a) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1749. Cooperative Agreements.

NOTE: Authority cited: Section 3106, Public Resources Code. Reference: Section 3301, Public Resources Code.

HISTORY

1. Repealer filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).

Subchapter 2. Environmental Protection

Article 1. General

§ 1750. Purpose.

It is the purpose of this subchapter to set forth the rules and regulations governing the environmental protection program of the Division of Oil, Gas, and Geothermal Resources as provided for in Section 3106 of Division 3 of the Public Resources Code.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3000 through 3237, Public Resources Code.

HISTORY

1. New Subchapter 2 (§§ 1750–1753, 1760, 1770–1780) of Chapter 4 filed 2–15–74; effective thirtieth day thereafter (Register 74, No. 7).
2. Amendment of NOTE filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
3. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1751. Policy.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1752. Scope of Regulations.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1753. Revision of Regulations.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

Article 2. Definitions

§ 1760. Definitions.

The following definitions are applicable to this subchapter:

(a) "Catch basin" means a dry sump that is constructed to protect against unplanned overflow conditions.

(b) "Designated waterways" means any named perennial or ephemeral waterways or any perennial waterways shown as solid blue lines on United States Geological Survey topographic maps and any ephemeral waterways that the Supervisor determines to have a direct impact on perennial waterways.

(c) "Evaporation sump" means a sump containing fresh or saline water which can properly be used to store such waters for evaporation.

(d) "Environmentally sensitive pipeline" means any of the following:

(1) A pipeline located within 300 feet of any public recreational area, or a building intended for human occupancy that is not necessary to the operation of the production operation, such as residences, schools, hospitals, and businesses.

(2) A pipeline located within 200 feet of any officially recognized wildlife preserve or environmentally sensitive habitat that is designated on a United States Geological Survey topographic map, designated waterways, or other surface waters such as lakes, reservoirs, rivers, canals, creeks, or other water bodies that contain water throughout the year.

(3) A pipeline located within the coastal zone as defined in Section 30103(b) of the Public Resources Code.

(4) Any pipeline for which the Supervisor determines there may be a significant potential threat to life, health, property, or natural resources in the event of a leak, or that has a history of chronic leaks.

(e) "Field" means the general surface area that is underlain or reasonably appears to be underlain by an underground accumulation of crude oil or natural gas, or both. The surface area is delineated by the administrative boundaries shown on maps maintained by the Supervisor.

(f) "Gathering line" means a pipeline (independent of size) that transports liquid hydrocarbons between any of the following: multiple wells, a testing facility, a treating and production facility, a storage facility, or a custody transfer facility.

(g) "Operations sump" means a sump used in conjunction with a drilling or workover rig during the period of time a well is being drilled or reworked.

(h) "Pipeline" means a tube, usually cylindrical, with a cross sectional area greater than 0.8 square inches (1 inch nominal diameter), through which crude oil, liquid hydrocarbons, combustible gases, and/or produced water flows from one point to another within the administrative boundaries of an oil or gas field. Pipelines under the State Fire Marshal jurisdiction, as specified by the Elder Pipeline Safety Act of 1981 (commencing with § 51010 of the Government Code, and the regulations promulgated thereunder) are exempt from this definition.

(i) "Sump" means an open pit or excavation serving as a receptacle for collecting and/or storing fluids such as mud, hydrocarbons, or waste waters attendant to oil or gas field drilling or producing operations.

(j) "Urban area" means a cohesive area of at least twenty–five business establishments, residences, or combination thereof, the perimeter of which is 300 feet beyond the outer limits of the outermost structures.

(k) "Urban pipeline" means that portion of any pipeline within an urban area as defined in this section.

(*l*) "Waste water" means produced water that after being separated from the produced oil may be of such quality that discharge requirements need to be set by a California Regional Water Quality Control Board.

NOTE: Authority cited: Sections 3013 and 3782, Public Resources Code. Reference: Sections 3106 and 3782, Public Resources Code.

HISTORY

1. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Amendment of subsection (f) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
3. New subsections (b), (d)–(f), (h) and (k) and subsection relettering filed 7–22–98; operative 8–21–98 (Register 98, No. 30).
4. Change without regulatory effect amending subsection (a) filed 2–16–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
5. Change without regulatory effect amending subsections (b) and (d)(4) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 3. Requirements

§ 1770. Oilfield Sumps.

(a) Location. Sumps for the collection of waste water or oil shall not be permitted in natural drainage channels. Contingency catch basins may be permitted, but they shall be evacuated and cleaned after any spill. Unlined evaporation sumps, if they contain harmful waters, shall not be located where they may be in communication with freshwater–bearing aquifers.

(b) Construction. Sumps shall be designed, constructed, and maintained so as to not be a hazard to people, livestock, or wildlife including birdlife.

(1) To protect people, sumps in urban areas shall be enclosed in accordance with Section 1778 (a) or (e) and (c).

(2) In non–urban areas, to protect people and livestock and to deter wildlife, an enclosure shall be constructed around sumps in accordance with Section 1778 (b) or (e).

(3) Any sump, except an operations sump, which contains oil or a mixture of oil and water shall be covered with screening to restrain entry of wildlife in accordance with Section 1778(d).

(4) A sump need not be individually fenced if the property or the production facilities of which the sump is a part is enclosed by proper perimeter fencing.

NOTE: Authority cited: Sections 3013, 3106 and 3782, Public Resources Code. Reference: Sections 3106 and 3783, Public Resources Code.

HISTORY

1. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1770.1. Oil Sumps of Immediate Danger to Wildlife.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. New Sections 1770.1–1770.5 filed 8–5–74; effective thirtieth day thereafter (Register 74, No. 32).
2. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1770.2. Oil Sumps Hazardous to Wildlife.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1770.3. Compliance.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1770.4. Appeal.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1770.5. Injunction.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1771. Channels.

Open unlined channels and ditches shall not be used to transport waste water which is harmful to underlying freshwater deposits. Oil or water containing oil shall not be transported in open unlined channels or ditches unless provisions are made so that they are not a hazard as determined by the Supervisor.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. New NOTE filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1772. Program to Eliminate Improper Sumps.

NOTE: Authority cited: Section 3782, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1773. Tank Settings.

Tank settings in areas where damage to life, health, property, or natural resources might occur as a result of leakage, shall have a method for control of the spilled fluid and detection of tank–bottom leaks. This may be accomplished by employing a combination of the following containment and detection methods:

(a) For containment:

(1) A drainage system for safe fluid containment.

(2) Diversion walls to direct fluids to a preferred collection point.

(3) Dikes or fire walls capable of containing the volume of the largest tank. Tank settings in urban areas shall have dikes.

(b) For leak detection:

(1) A tank installation that allows the exterior surface, including the bottom of the tank and connection piping, to be monitored by direct viewing.

(2) A tank foundation of concrete or gravel.

(3) A tank bottom leak detection system.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment of subsection (c) filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Amendment of section and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
3. Change without regulatory effect amending subsections (a)(1)–(3) designators filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1774. Oilfield Facilities and Equipment Maintenance.

(a) Well cellars shall be covered and kept drained. Grating or flooring shall be installed and maintained in good condition so as to exclude people and animals. Cellars should be protected from as much runoff water as practical.

(b) Production facilities, including but not limited to, tanks, pipelines, flowlines, wellheads, and separators shall be maintained in a manner to prevent leakage.

(c) Other production facilities and equipment, including but not limited to pumping units, compressors, tanks, and skimming devices, shall be installed and maintained properly for the protection of people, wildlife, and domestic animals.

(d) All equipment and facilities in urban areas shall be enclosed individually or with perimeter fencing in accordance with the provisions of Section 1778 (a) and (e) where it is necessary to protect life and property. Enclosures in nonurban areas shall be constructed in accordance with Section 1778 (a) or (b) where necessary to protect life and property.

(e) Pipelines shall be designed, constructed, tested, operated, and maintained in accordance with good oil field practice and applicable standards, such as the American Petroleum Institute (API) (API Rec. Prac. 1110, 3rd Ed., Dec. 1991, and API Spec. effective 1990) or American Society for Testing and Materials (ASTM) (ASTM Designation Stand. Spec., 1991), Code of Federal Regulations 49, Part 192, or other applicable standards for the transportation of oil, gas, produced water, and other fluids.

Good oilfield practice includes, but is not limited to:

(1) Utilization of preventative methods such as cathodic protection and corrosion inhibitors, as appropriate, to minimize external and internal corrosion.

(2) Employment, where practical, of equipment such as low–pressure alarms and safety shut–down devices to minimize spill volume in the event of a leak.

(3) Evaluating the applicability of locating any new pipelines or parts of a pipeline system that are being relocated or replaced above ground.

The use of pipe clamps or screw–in plugs are not considered good oilfield practice for permanent repair of pipeline leaks.

(f) All aboveground pipelines shall be inspected visually for leaks and corrosion at least once a year.

(g) The Supervisor may order such tests or inspections deemed necessary to establish the reliability of any pipeline system. Repair, replacement, or cathodic protection may be required.

(h) Maps of all pipelines should be maintained and updated whenever pipelines are installed or removed.

(i) On or before January 1, 1999, all operators of environmentally sensitive pipelines shall prepare a pipeline management plan for all environmentally sensitive pipelines. The plan shall be submitted to the Supervisor for approval and review every five years after the approval date. These plans shall be updated whenever pipelines are installed, altered, the plan becomes obsolete, or at the request of the Supervisor. Pipelines that have been abandoned to the standards specified in Section 1776(f) are exempt from this requirement.

The pipeline management plan shall include the following:

(1) A map showing all active and inactive environmentally sensitive pipelines, including line sizes and any buried line segments. If the location of a buried pipeline is unknown, the most probable location shall be shown.

(2) A listing of available information on each pipeline including, but not limited to: pipeline type, grade, age of pipeline, design and operating pressures, and any available leak, repair, inspection and testing history.

(3) A listing of any safety shutdown devices, corrosion prevention, or corrosion monitoring techniques utilized.

(4) A description of the testing method and schedule for any pipelines indicated in (j) or (k).

(j) After a pipeline management plan is approved, a mechanical integrity test shall be performed on all active environmentally sensitive pipelines that are gathering lines, and all urban pipelines over 4 inches in diameter, every two years. Pipelines less than ten (10) years old are exempt from the two year testing requirement. These tests shall be performed to ensure the pipeline does not present a threat to public health, safety, or the environment by using at least one of the following methods:

(1) Nondestructive testing using ultrasonic or other techniques approved by the Supervisor, to determine wall thickness.

(2) Hydrostatic testing using the guidelines recommended in Publication API RP 1110 (3d Ed., Dec. 1991), Testing of Liquid Petroleum Pipelines, or the method approved by the State Fire Marshal, Pipeline Safety and Enforcement Division.

(3) Internal inspection devices such as a smart pig, as approved by the Supervisor.

(4) Or any other method of ensuring the integrity of a pipeline that is approved by the Supervisor.

Copies of test results shall be maintained in a local office of the operator for six years and made available to the Division, upon request. The operator shall repair and retest or remove from service any pipeline that fails the mechanical integrity test. The Division shall be promptly notified in writing by the operator of any pipeline taken out of service due to a test failure.

(k) A county board of Supervisors, a city council, or another state agency may petition the Supervisor to include other pipelines within their jurisdiction as environmentally sensitive. The request must be in writing and based on findings of a competent, professional evaluation that shows there is a probability of significant public danger or environmental damage if a leak were to occur.

1. Within 30 days of receipt of a petition, the Supervisor shall notify any affected operator.

2. Within 60 days of notification to the operators, the Supervisor shall schedule a hearing with the petitioner and operators to allow all parties to be heard.

3. Within 30 days of the conclusion of the hearing, the Supervisor shall make a determination as to whether the areas or pipelines should be considered environmentally sensitive.

(*l*) Additions and Exemptions

1. The Supervisor may establish additional requirements to Section 1774(i) and (j) to ensure life, health, property, and natural resources are protected adequately.

2. The Supervisor may establish exemptions to the requirements in Section 1774(i) and (j) that will not result in a significant threat to life, health, property, or natural resources.

3. An operator may petition the Supervisor to establish an exemption or addition for any environmentally sensitive pipeline. An operator's petition to exempt a requirement must clearly establish that eliminating the requirement will not impose a significant potential threat to life, health, property, or natural resources.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Amendment of subsection (b), new subsections (c)–(d), and amendment of newly designated subsections (e)–(f) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
3. Change without regulatory effect amending subsection (d) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Amendment filed 7–22–98; operative 8–21–98 (Register 98, No. 30).
5. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1775. Oilfield Wastes and Refuse.

(a) Oilfield wastes, including but not limited to oil, water, chemicals, mud, and cement, shall be disposed of in such a manner as not to cause damage to life, health, property, freshwater aquifers or surface waters, or natural resources, or be a menace to public safety. Disposal sites for oilfield wastes shall also conform to State Water Resources Control Board and appropriate California Regional Water Quality Control Board regulations.

(b) Dumping harmful chemicals where subsequent meteoric waters might wash significant quantities into freshwaters shall be prohibited. Drilling mud shall not be permanently disposed of into open pits. Cement slurry or dry cement shall not be disposed of on the surface.

(c) Unused equipment and scrap attendant to oilfield operations shall be removed from a production or injection operations area and/or stored in such a manner as to not cause damage to life, health, or property, or become a public nuisance or a menace to public safety. Trash and other waste materials attendant to oilfield operations shall be removed and disposed of properly.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3106, Public Resources Code.

HISTORY

1. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Amendment of subsection (c) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).

§ 1776. Well Site and Lease Restoration.

(a) In conjunction with well plugging and abandonment operations, any auxiliary holes, such as rat holes, shall be filled with earth and compacted properly; all construction materials, cellars, production pads, and piers shall be removed and the resulting excavations filled with earth and compacted properly to prevent settling; well locations shall be graded and cleared of equipment, trash, or other waste materials, and returned to as near a natural state as practicable. Well site restoration must be completed within 60 days following plugging and abandonment of the well.

(b) Sumps shall be closed in accordance with Regional Water Quality Control Board and Department of Toxic Substances Control requirements.

(c) Unstable slope conditions created during site preparation shall be mitigated in such a manner as to prevent slope collapse.

(d) Access roads to well locations generally will not be covered by these regulations; however, any condition that creates a hazard to public safety or property or causes interference with natural drainage will not be acceptable.

(e) Prior to the plugging and abandonment of the last well or group of wells on a lease, the operator shall submit a plan and schedule for completing lease restoration. The lease–restoration plan shall also include the locations of any existing or previously removed, where known, sumps, tanks, pipelines, and facility settings. Lease restoration must begin within three (3) months and be completed within one year after the plugging and abandonment of the last well(s) on the lease. However, the Supervisor may require or approve a different deadline for lease restoration.

(f) Lease restoration shall include the removal of all tanks, above–ground pipelines, debris, and other facilities and equipment. Remaining buried pipelines shall be purged of oil and filled with an inert fluid. Toxic or hazardous materials shall be removed and disposed of in accordance with Department of Toxic Substances Control requirements.

(g) Upon written request of the operator or property owner, exceptions to this section may be made provided the condition does not create a public nuisance or a hazard to public safety. Exceptions may also be granted by the Supervisor when these requirements conflict with local or federal regulations. If a written request for an exception is received from the operator, consent to the exception from the property owner may be required before it is approved by the Supervisor.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Sections 3106 and 3208, Public Resources Code.

HISTORY

1. Amendment filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 6–30–80; effective thirtieth day thereafter (Register 80, No. 27).
3. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
4. Amendment of subsections (a)–(c), new subsections (e)–(f) and amendment of newly designated subsection (g) and NOTE filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
5. Change without regulatory effect amending subsection (e) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
6. Change without regulatory effect amending subsections (e) and (g) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1777. Air Pollution.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

§ 1778. Enclosure Specifications.

(a) Chain link fences. All chain link fences shall be constructed to meet the following specifications:

(1) Fences shall be not less than 5 feet high and mounted on 1 1/4" diameter steel posts with at least three strands of barbed wire mounted at a 45–degree angle from the top of the fence.

(2) The fence shall be constructed of chain link or other industrial–type fencing of not less than 11–gauge wire and of not greater than 2–inch nominal mesh.

(3) Supporting posts shall be securely anchored to the surface, spaced no more than 14 feet apart. Provisions for removable posts may be approved provided that the anchoring device is an integral part of the fence.

(4) Tension wires of at least No. 9 gauge coil spring wire, or equivalent, shall be stretched at the top and bottom of the fence fabric and shall be fastened to the fabric at 24–inch intervals. There shall be no aperture below the fence large enough to permit any child to crawl under.

(b) Wire fences. All wire fences shall be constructed to meet the following specifications:

(1) There shall be either: (1) four strands of barbed wire spaced 12 inches between strands and maintained with sufficient tension to preclude sagging; or (2) commercial livestock wire netting with a minimum height of 4 feet and sufficient tension.

(2) Posts may be of any material of sufficient strength and rigidity to support the wire and restrain people or livestock from pushing them over. Posts shall be set no more than 10 feet apart and buried at least 12 inches into the ground.

(c) Gates. Gates shall be of a structure substantially the same as the required fences and shall be kept secured when not attended by an adult.

(d) Screening. All screening to cover sumps shall meet the following specifications:

(1) Be not greater than 2–inch nominal mesh.

(2) Be of sufficient strength to restrain entry of wildlife.

(3) Be supported in such a manner so as to prevent contact with the sump fluid.

(e) Other Types of Materials. Any material that can be used effectively to restrict access may be substituted for the materials indicated in (a), (b), (c), and (d), if approved by the Supervisor.

NOTE: Authority cited: Sections 3013, 3106 and 3782, Public Resources Code. Reference: Sections 3106 and 3781, Public Resources Code.

HISTORY

1. Amendment filed 2–17–78; effective thirtieth day thereafter (Register 78, No. 7).
2. Amendment filed 6–19–78; effective thirtieth day thereafter (Register 78, No. 25).
3. Amendment filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
4. Change without regulatory effect amending subsection (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1779. Special Requirements.

The Supervisor in individual cases may set forth other requirements where justified or called for.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code. Reference: Sections 3106, 3226 and 3787, Public Resources Code.

HISTORY

1. New NOTE filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1780. Other Regulatory Agencies.

NOTE: Authority cited: Sections 3013 and 3106, Public Resources Code.

HISTORY

1. Repealer filed 10–21–82; effective thirtieth day thereafter (Register 82, No. 43).

Subchapter 2.1. Methane Gas Hazards Reduction Assistance

§ 1790. Purpose.

This subchapter specifies the criteria and procedures to be followed by the Department of Conservation in administering the Methane Gas Hazards Reduction Program for Eligible Jurisdictions under Section 3860 of the Public Resources Code.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Sections 3860 and 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1791. Definitions.

(a) "CEQA" means the California Environmental Quality Act.

(b) "Department" in reference to the government of this State, means the Department of Conservation in the Resources Agency.

(c) "Director" means the Director of Conservation.

(d) "Eligible Activity" means any one of the four purposes listed in Section 3860 of the Public Resources Code.

(e) "Eligible Jurisdiction" per Section 3855(b) of the Public Resources Code means counties and cities identified as having methane gas hazards in the study conducted by the State Oil and Gas Supervisor pursuant to Article 4.1 (commencing with Section 3240) of the Public Resources Code.

(f) "Final Application" means the application that is filed after the Department has approved a preapplication and has notified the eligible jurisdiction of its grant award.

(g) "Notice of Intent to File" means a brief project description and an estimate of the anticipated project expenditures to be covered by a grant award. This notice will be used by the Director to determine the number of jurisdictions that plan to request a grant award and the equitable amount of grant monies that ultimately may be applied for by each eligible jurisdiction.

(h) "Methane Gas Hazards" per Section 3855(a) of the Public Resources Code means collections of biogenic or thermogenic gases identified as hazards in the study conducted by the State Oil and Gas Supervisor pursuant to Article 4.1 (commencing with Section 3240) of the Public Resources Code.

(i) "Mitigation Project" is an eligible activity that identifies the potential adverse impact of accumulations of methane gas and implements measures to reduce or eliminate those impacts.

(j) "Preapplication" means a report that contains a detailed project preapplication as described in Section 1793(e) of this chapter. This preapplication will be used by the Director to evaluate project proposals.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Sections 3240, 3855, 3860 and 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1792. Amount of Financial Assistance Available.

(a) The Department shall distribute approximately three hundred and fifty thousand dollars ($350,000) in the 1988–89 fiscal year as grant awards for planning, equipment purchases, installation, and other measures related to the mitigation of methane gas hazards. Ongoing maintenance and monitoring activities of eligible jurisdictions shall not be financed by grants pursuant to this chapter.

(b) The amount of the initial grant monies available for each eligible jurisdiction shall be determined by the Director, following a review of the notices of intent to file grant applications. Within 15 days following the receipt of all notices, the Director will notify each jurisdiction of the approximate amount available for their proposed activity.

(c) Any funds distributed after the initial award shall be based upon the availability of remaining funds and a demonstration of the need for additional funds to augment an initial award, or to begin a new eligible activity.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Sections 3860, 3863 and 3865, Public Resources Code; and 1987 Statutes, Chapter 1322, Section 4.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1793. Application and Award Procedures.

(a) Within 15 days of the effective date of this subchapter, the Department shall notify jurisdictions of their eligibility to apply for grants. A notice of intent to file an application for a grant shall then be submitted by a jurisdiction to the Director no later than 30 days after notification of eligibility by the Department. The notice of intent to file should include a brief project description and an estimate of the anticipated expenditures to be covered by a grant award.

(b) Per Section 3861 of the Public Resources Code, eligible jurisdictions must provide opportunity for public review and comment, and shall hold at least one public hearing in regard to how the funds are to be expended. The hearing shall be held within 90 days after a jurisdiction is notified (per Section 1792(b)) of the approximate amount available for the proposed activity.

(c) Eligible jurisdictions shall submit a preapplication to the Director within 30 days after the last scheduled public hearing. The preapplication shall provide information indicated in Section 1793(e) and a description of how the grant award is to be expended. Also, the jurisdiction shall submit a copy of any public comments received regarding the preapplication and the jurisdiction's response to the public comments.

(d) The decision to award grants for the purposes set forth in Section 3860 of the Public Resources Code will be based upon information included in the preapplication.

(e) The preapplication shall include:

(1) Name, mailing address, and phone numbers of the project director, the budget officer, and the project manager.

(2) A detailed project narrative that includes:

(A) A detailed project description, including the problem to be solved and an explanation of how the funds are to be used to solve or mitigate the problem.

(B) The anticipated effect of the project on mitigating the methane gas hazard in the area.

(C) The expected benefits to the jurisdiction.

(D) Budget (including other funding sources investigated or secured for the project). The budget should include estimates for direct and indirect expenses.

(E) A work statement describing tasks and products (reports, technical studies, engineering plans, etc.)

(F) A project schedule to present the relationship between work tasks and the amount of time required for the work to be completed.

(G) A statement of applicable laws and regulations, including CEQA, that may affect the project.

(H) Related activities undertaken, if any.

(I) Any other information that may be relevant.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Sections 3861, 3862 and 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1794. Preapplication Criteria.

In evaluating the preapplications, the Department shall consider, but not be limited to, the following criteria:

(a) Urgency of need.

(b) Consistency with the purposes and allowable activities.

(c) Cost effectiveness.

(d) Extent to which the requested grant amount is used to leverage other funding sources.

(e) Availability of alternative sources of funding.

(f) Likelihood that the project objectives will be achieved.

(g) Compliance with CEQA and other applicable laws and regulations.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Section 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1795. Preapplication Review.

(a) Within 15 days of receipt of a preapplication, the Department shall provide written comments addressing the completeness of the submitted information. The preapplication shall be deemed complete when the preapplication is considered by the Department to be adequate for evaluation purposes. The staff of the Department of Conservation shall complete the review of preapplications within 60 days of receipt of a complete preapplication.

(b) Within 15 days of receipt of written comments, an applicant may request a meeting with the staff to discuss the staff comments concerning completeness of the application. The meeting should be held within 10 days of the request.

(c) Notification of grant awards or denials will be made by the Director within 15 days following completion of staff review. Even though a juris-

diction is notified that they will receive a grant, payment of the grant monies cannot be made until the provisions of Sections 3861 and 3862 of the Public Resources Code have been fulfilled, and the final application that meets the requirements of Section 1796 of this chapter has been filed with the Department.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Sections 3861, 3862 and 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1796. Final Application Requirements.

The final application shall include:

(a) Evidence that the items required by subsections (a), (b), and (c) of Section 3862 of the Public Resources Code have been completed.

(b) A resolution or notification from the eligible jurisdiction's governing body authorizing the request for the grant award.

(c) A statement of compliance with CEQA requirements, if CEQA compliance was necessary for the activity.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Section 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1797. Fiscal Requirements for Grants.

(a) Eligible jurisdictions receiving a grant shall establish a separate ledger account for expenditures that will be paid or are expected to be paid by grant funds. This will provide separate accountability for grant activities, ensure that expenditures to be paid by grant funds are not commingled with other funds, and feature accounting records that are supported by source documents.

(b) Financial reports to the Department shall be submitted on a semi–annual basis.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Section 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).

§ 1798. General Information.

(a) All correspondence, notices of public hearings, notices of intent, preapplications, final applications, and financial reports shall be submitted to the Department of Conservation in Sacramento and to the Division of Oil, Gas, and Geothermal Resources in Cypress. The addresses will be provided when a jurisdiction is notified of their eligibility to receive a grant award.

(b) Extensions of time periods indicated in this subchapter may be granted upon the showing of good cause.

NOTE: Authority cited: Section 3863, Public Resources Code. Reference: Section 3863, Public Resources Code.

HISTORY

1. New section filed 8–4–88 as an emergency; operative 8–4–88 (Register 88, No. 32). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 12–2–88.
2. Certificate of Compliance transmitted to OAL 11–10–88 and filed 12–1–88 (Register 88, No. 52).
3. Change without regulatory effect amending subsection (a) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
4. Change without regulatory effect amending subsection (a) filed 2–16–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).

Subchapter 3. Unit Operations

Article 1. General

§ 1810. Purpose.

It is the purpose of this subchapter to set forth the rules and regulations governing the submittal of proposed unit agreements, modifications thereof, additions thereto, and disagreements with respect to unit operations as provided in Chapter 3.5 (commencing with Section 3630) of Division 3 of the Public Resources Code and to implement, interpret and to make specific the provisions of said Chapter 3.5.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3630–3690, Public Resources Code.

HISTORY

1. New Chapter 4 §§ 1810, 1811, 1820, 1821, 1830–1832, 1840–1845, 1850–1858, 1860–1869, 1870–1877, 1880–1883) filed 5–24–72; effective thirtieth day thereafter (Register 72, No. 22).
2. Renumbering of Subchapter 2 to Subchapter 3 of Chapter 4 filed 2–15–74; effective thirtieth day thereafter (Register 74, No. 7).

§ 1811. Policy.

NOTE: Authority cited: Section 3585, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

Article 2. Definitions and Standards

§ 1820. Definitions.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1821. Standards.

In implementing Chapter 3.5, the following standards shall be applied by the Supervisor whenever relevant in any determination or order:

(a) "Price of hydrocarbons" shall be the current price as of the date of the petition for:

(1) Crude oil and liquid or liquefied products extracted and sold from wet gas, the average posted price for crude oil and like products of the same gravity in the field of which the unit area is a part, or if none, in the nearest field;

(2) Residue dry gas, the average price in the field in which the unit area is located.

In the event there are no relevant posted prices or a dry gas price, all relevant data shall be considered.

(b) "Reasonable value of the use of the surface" as used in Public Resources Code Section 3648 shall be deemed to be fair rental value. The amount stipulated in the unit agreement shall be accepted as the fair rental value for any parcel for which royalty owners have signed the agreement. For those royalty owners included by an order by the Supervisor, the fair rental value shall be determined by the Supervisor.

(c) "Present worth value" as used in Public Resources Code Section 3643(d) shall be determined by using a discount rate equal to two percent above the generally prevailing prime rate charged by three major banks in the district in which the field of which the unit area is a part as of the date of the filing of the petition.

(d) The "reasonable interest charge" provided for in Public Resources Code Section 3646(b) shall not exceed two percent above the generally prevailing prime rate charged by major banks in the metropolitan area nearest the field of which the unit area is a part as of the first day of January and the first day of July of each year.

(e) Upon a petition of a person for carrying or otherwise financing made pursuant to Section 3646(b), the Supervisor shall order a committee to review the matter and submit a report. The committee shall be made up of one person nominated by the petitioner, one person nominated by the unit operator and one person chosen by the other two nominees, or

in the event of disagreement between such two nominees as to the selection of the third person, one person chosen by the Supervisor. The committee shall review all data and submit a report and recommendation to the Supervisor as to (1) whether the petitioner is unable to meet his or her financial obligations in connection with unit operations; and (2) a program and plan for carrying or otherwise financing the petition, including but not limited to source of money, recommended interest rate and source of funds for repayment including future production from the petitioner's tract or tracts.

(f) Under Section 3646(b) of the Public Resources Code, the provisions for carrying or otherwise financing persons who request the same and are determined by the Supervisor to be unable to meet their obligations in connection with the unit operations, shall be met in one of the following methods:

(1) By one or more of the working interests.

(2) By the unit operator.

(g) The tract share or tract assignment of hydrocarbon production shall be determined by calculating the estimated economic production using good oil field practices and prudent engineering.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3643(d), 3644, 3646(b), 3648 and 3652, Public Resources Code.

HISTORY

1. New NOTE filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsection (e) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 3. Fees and Costs

§ 1830. Fees.

Upon filing a petition pursuant to this subchapter, the petitioner shall pay to the Supervisor the fees set forth in this section. The Supervisor may defer payment of a filing fee after a showing of good cause by the petitioner, but in no event shall payment be deferred beyond the effective date of the Supervisor's order under Sections 3645, 3649, or 3651 of the Public Resources Code.

(a) For any petition for approval of a unit agreement, the fee shall be $3,500.00.

(b) For any other petition, the fee shall be $2,500.00.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3685, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1831. Costs.

(a) After the filing of a petition, and from time to time as the Supervisor finds necessary, the Supervisor may issue orders requiring the deposit of funds with the Supervisor to cover the actual or estimated costs incurred by the State in the administration of Chapter 3.5 of Division 3 of the Public Resources Code or this subchapter.

(b) Within 5 working days after issuance of an order by the Supervisor pursuant to subsection (a), the petitioner shall make the required deposit. For a petition requesting the Supervisor's review and decision pursuant to Section 3653 of the Public Resources Code, all costs paid by the petitioner shall be reimbursed by the unit operator if the Supervisor upholds the position of the petitioner.

(c) Any excess funds deposited with the Supervisor shall be refunded after final disposition of the petition.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3685, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1832. Failure to Pay.

The Supervisor may dismiss the petition if the petitioner fails to pay a filing fee or deposit funds pursuant to an order of the Supervisor.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3685, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 4. Preliminary Submission

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer of Article 4 (Sections 1840–1845) filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

Article 5. Petitions

§ 1850. Requests for Action.

(a) Requests for action of the Supervisor pursuant to Sections 3642, 3646(b), 3649, 3650, or 3653 of the Public Resources Code shall be made by filing a petition as provided in this article.

(b) A petition shall be signed by the petitioner and filed, together with 5 copies, with the district deputy of the district in which the unit area is located.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3642, 3646(b), 3649, 3650 and 3653, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsection (a) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1851. Persons Who May File a Petition.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1852. Filing of Petitions.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1853. Contents of Petition Requesting Approval of Unit Agreement.

In addition to the information required by Section 3653.5 of the Public Resources Code, a petition requesting approval of a unit agreement shall contain:

(a) The names and addresses of all persons listed in the records of the county tax assessor as having an interest in the lands included in the proposed unit area.

(b) A certified copy of the resolution of the State Lands Commission approving the unit agreement in those cases where lands under the jurisdiction of the commission are in the proposed unit area.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3643(h) and 3653.5, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1854. Contents of Petition Requesting Approval of Modification of Unit Agreement.

A petition requesting approval of a proposed modification of a unit agreement previously approved by the Supervisor shall contain:

(a) A copy of the unit agreement and the proposed modification.

(b) A report, accompanied by appropriate data, which establishes that the proposed modification qualifies for approval pursuant to Section 3649 of the Public Resources Code.

(c) The names and addresses of all persons listed in the records of the county tax assessor as having an interest in the lands affected by the proposed modification.

(d) A certified copy of the resolution of the State Lands Commission approving the proposed modification of the unit agreement in those cases where lands under the jurisdiction of the commission are affected by the proposed modification.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3649, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1855. Contents of Petition Requesting Approval of Additions to Unit Area.

A petition requesting the addition of a tract or tracts of land to the unit area of the unit agreement previously approved by the Supervisor shall contain or have attached to it:

(a) A copy of the unit agreement and a description of the lands proposed to be added.

(b) A report, accompanied by appropriate data, which establishes that the request qualifies for approval pursuant to Section 3650 of the Public Resources Code.

(c) A recommendation, supported by data and calculations, of the appropriate allocation of unit production within the meaning of Section 3652 of the Public Resources Code.

(d) The names and addresses of all persons listed in the records of the county tax assessor as having an interest in the lands affected by the proposed addition.

(e) A certified copy of the resolution of the State Lands Commission approving the addition to the unit area of any lands under the jurisdiction of the commission.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3650, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1856. Resolution of Disagreement over Unit Operations.

A petition requesting review and decision by the Supervisor of a disagreement with respect to unit operations and each copy shall contain:

(a) A copy of the unit agreement and any applicable unit operating agreement.

(b) A report, accompanied by appropriate data, specifying in detail the nature of the disagreement.

(c) A recommended resolution of the disagreement, accompanied by supporting data and calculations.

(d) The names and addresses of all working interest owners in the unit, and all persons listed in the records of the county tax assessor as having an interest in the lands included in the unit area.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3653, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1857. Determination of Inability to Meet Financial Obligations.

A petition requesting the Supervisor to determine that the petitioner is unable to meet his or her financial obligations in connection with unit operations shall contain:

(a) A description of the petitioner's interest in the unit.

(b) A complete financial statement establishing that the petitioner is unable to meet his or her financial obligations in connection with the unit operations.

(c) The name and address of petitioner's nominee for the committee provided in Section 1821(e) of this subchapter.

(d) A statement of the petitioner's preferences, if any, as to the source of repayment, including any production that may be used as a source of repayment.

(e) A declaration that a copy of the petition has been sent to the unit operator.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3646(b), Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending first paragraph and subsection (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1858. Additional Data.

The Supervisor may request additional data with regard to any petition, and that data shall be submitted by the petitioner or the unit operator within 30 days of the request. Failure to comply with the request may result in the dismissal of the petition.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3642, 3646(b), 3649, 3650 and 3653, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 6. Hearings

§ 1860. Types of Hearings.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1861. Public Hearings.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1862. Informal Hearings.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1863. Time and Place for Public Hearings.

(a) A public hearing shall be held no later than 45 days after the date the petition was filed. If a request for additional data has been made by the Supervisor pursuant to Section 1858 of this subchapter, the hearing shall be held no later than 75 days after the petition was filed.

(b) Public hearings shall be held at a convenient place within the district in which the unit area is located.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3643, 3649 and 3650, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsection (a) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1864. Notice.

(a) Written notice of all public hearings shall:

(1) Be sent by regular mail to those persons and entities designated in Section 3659 of the Public Resources Code and to all persons whose names and addresses have been provided in the petition.

(b) The notice shall state the time, place, and purpose of the hearing and that written or oral evidence shall be received at the hearing.

(c) The notices shall be sent no less than ten days prior to the date set for the public hearing.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3659, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1865. Hearing Procedures.

(a) All petitions shall be heard by the Supervisor or by a deputy designated by the Supervisor.

(b) The Supervisor or the designated deputy shall determine the manner in which the hearing shall be conducted and the form and content in which evidence may be presented.

(c) Within 60 days after the close of the hearing, the Supervisor shall issue a written order granting or denying the petition in whole or in part. The written order shall state the facts upon which the Supervisor bases his or her decision and the reasons for the decision.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Sections 3643, 3645, 3646, 3649, 3650, 3651 and 3652, Public Resources Code.

HISTORY

1. Repealer and new section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsections (b) and (c) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending subsection (b) filed 2–16–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
4. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1866. Hearing Officer.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1867. Evidence.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1868. Continuances.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1869. Record.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

Article 7. Orders of the Supervisor

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer of Article 7 (Sections 1870–1877) filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

Article 8. Offers to Sell

§ 1880. General.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).

§ 1881. Notice of Offer to Sell.

(a) An offer of sale pursuant to Section 3647 of the Public Resources Code shall be made by filing a written notice of the offer to sell the interest with the district deputy of the district in which the unit area is located. The notice shall contain:

(1) An identification of the approved unit agreement.

(2) A description of the tract offered for sale.

(3) An identification of the oil and gas interest offered for sale, such as a royalty interest or working interest, together with a reference to any specific lease or contract giving rise to that interest, if applicable.

(4) The address where the offeror may receive any notices and communications concerning the offer.

(5) The price asked.

(b) Within five working days after receipt in the district office of the notice provided in subsection (a) of this section, the Supervisor shall send by regular mail copies of that notice to the unit operator and all working interest owners who have consented to the unit agreement.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3647, Public Resources Code.

HISTORY

1. Amendment filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsection (b) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1881.5. Notice of Intention to Purchase.

(a) Any working interest owner who desires to participate in the purchase of the offered interest shall file a notice of intention to purchase with the district deputy of the district in which the offered interest is located and shall give written notice thereof to the offeror on or before a date specified by the Supervisor, which shall be no later than 30 days after the date the notice of offer of sale is filed pursuant to Section 1881(a) of this subchapter.

(b) Negotiations toward the consummation of the purchase of the offeror's interest shall be undertaken in good faith by the offeror and by those working interest owners filing the notice of intention to purchase. Those negotiations shall be concluded on or before a date specified by the Supervisor, which shall be no later than 60 days after the date the notice of offer of sale is filed under Section 1881(a) of this subchapter.

(c) If the purchase price is agreed upon prior to the date specified in subsection (b) of this section, the offeror shall notify the Supervisor immediately in writing, and the parties shall proceed expeditiously to finalize the sale agreement. The sale agreement shall be promptly filed with the Supervisor and in no event shall be filed more than 15 days after written notice of the agreed price is given to the Supervisor.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3647, Public Resources Code.

HISTORY

1. New section filed 10–7–82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1882. Disagreements as to Price.

(a) If the parties fail to agree upon the purchase price for the offered interest within the time specified in Section 1881.5(b) of this subchapter, either party may invoke the arbitration provisions of Section 3647 of the Public Resources Code, and such arbitration shall be governed by the procedures described therein and in this section.

(b) The person or persons electing arbitration shall file notice of the election in writing to the Supervisor within 5 calendar days of the expiration of the negotiation period provided in Section 1881.5(b) of this subchapter.

(c) Upon receipt of the notice provided in subsection (b) of this section, the Supervisor shall:

(1) Authorize the creation of an arbitration committee and direct that the committee act in accordance with the provisions of Section 3647 of the Public Resources Code.

(2) Designate one committee member to act as chairperson and direct the committee to make an independent appraisal of the interest offered for sale.

(3) Fix a date no later than 60 days after the date of receipt of the notice under subsection (b) of this section on or prior to which the committee shall submit to the Supervisor its determination of the fair market value of the interest offered for sale and a report summarizing the basis for that value. Such 60-day period may be extended by the Supervisor for one additional period of 30 days.

(d) Notice of the Supervisor's action under subsection (c) of this section shall be sent to the parties and the unit operator.

(e) Upon receipt of the determination of the fair market value and the report of the committee, the Supervisor shall send to the parties and the unit operator notice of the price at which the offered interest shall be purchased. Subject to the provisions for judicial review contained in Section 3647 of the Public Resources Code, the parties shall finalize the sale agreement and shall file the sale agreement with the Supervisor within 15 days after receipt of the Supervisor's notice of the price.

NOTE: Authority cited: Section 3685, Public Resources Code. Reference: Section 3647, Public Resources Code.

HISTORY

1. Repealer and new section filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).
2. Change without regulatory effect amending subsections (b), (c), (c)(3), (d) and (e) filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1883. Final Orders of the Supervisor.

NOTE: Authority cited: Section 3685, Public Resources Code.

HISTORY

1. Repealer filed 10-7-82; effective thirtieth day thereafter (Register 82, No. 41).

Subchapter 4. State-Wide Geothermal Regulations

Article 1. General

§ 1900. Purpose.

It is the purpose of this subchapter to set forth the rules and regulations governing the geothermal regulation program of the Division of Oil, Gas, and Geothermal Resources as provided for by Chapter 4 (Sections 3700-3776), Division 3, of the Public Resources Code.

NOTE: Authority cited: Sections 3700 through 3776, Public Resources Code.

HISTORY

1. New Subchapter 4 (§§ 1900 through 1993, not consecutive) filed 5-15-74; effective thirtieth day thereafter (Register 74, No. 20).
2. Change without regulatory effect amending section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1910. Policy.

HISTORY

1. Change without regulatory effect repealing section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1911. Scope of Regulations.

These regulations shall be statewide in application.

§ 1912. Revision of Regulations.

HISTORY

1. Change without regulatory effect repealing section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1913. Incorporation by Reference.

HISTORY

1. Change without regulatory effect repealing section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1914. Approval.

The approval of the Supervisor is required prior to commencing drilling, deepening, redrilling, or plugging and abandonment operations. The written approval shall list any and all requirements of the Division. In an emergency, the Supervisor or a designee may give verbal approval to the operator to start any operations covered by these regulations, provided the operator sends the Division a written notice of the emergency operations conducted within 5 days after receiving the verbal approval.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3714, and 3724, Public Resources Code.

HISTORY

1. Amendment filed 8-16-79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12-26-2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1915. Legal Conflicts.

HISTORY

1. Change without regulatory effect repealing section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Article 2. Definitions

§ 1920. Legal Definitions.

NOTE: Authority cited: Sections 3712 and 3714, Public Resources Code. Reference: Sections 3701-3711, Public Resources Code.

HISTORY

1. Amendment of subsection (a) filed 8-13-76 as procedural and organizational; effective upon filing (Register 76, No. 33).
2. Amendment of subsections (e)-(k) filed 8-16-79; effective thirtieth day thereafter (Register 79, No. 33).
3. Repealer of subsection (a), subsection relettering and amendment of NOTE filed 7-1-96; operative 7-31-96 (Register 96, No. 27).
4. Change without regulatory effect repealing section filed 9-3-96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1920.1. Definitions.

(a) "Observation Well" means a well drilled strictly for monitoring purposes.

(b) "Exploratory Geothermal Well" means a well other than a development well drilled to discover or evaluate the presence of either low-temperature or high-temperature geothermal fluids, including steam, where the surface location of the well is at least .8 km or one-half mile from the surface location of an existing well capable of producing geothermal fluids in commercial quantities.

(c) "Development Well" means a well, other than an exploratory well, drilled for the purpose of producing either high-temperature or low-temperature geothermal fluids in commercial quantities.

(d) "Abandoned Well" means a well the Supervisor so designates after it has been demonstrated that all steps have been taken to protect underground or surface water suitable for irrigation or other domestic uses from the infiltration or addition of any detrimental substance, and to prevent the escape of all fluids to the surface.

(e) "Injection Well" is a service well drilled or converted for the purpose of injecting fluids.

(f) "High-Temperature Geothermal Fluid" means a naturally heated subterranean fluid with a surface temperature equal to or higher than the boiling point of water.

(g) "High-Temperature Well" means a well drilled to discover, evaluate, produce, or utilize high-temperature geothermal fluids.

(h) "High-Temperature Geothermal Field" means an area so designated by the Supervisor for administrative purposes. The area shall contain at least one well capable of producing high-temperature geothermal fluids in commercial quantities.

(i) "Low-Temperature Geothermal Fluid" means naturally heated subterranean fluid with a surface temperature below the boiling point of water at ambient atmospheric pressure.

(j) "Low-Temperature Geothermal Well" means a well drilled to discover, evaluate, produce, or utilize low-temperature geothermal fluids where the fluids will be used for their heat value.

(k) "Low-Temperature Geothermal Field" means an area the Supervisor so designates for administrative purposes. The area shall contain at

least one well capable of producing low–temperature geothermal fluids in commercial quantities.

(*l*) "Idle Well" means a well, other than a suspended well, that has not been officially plugged and abandoned, on which the operator has ceased all activity, including but not limited to drilling, production or injection.

(m) "Production Tested" means a well that the operator has tested for temperature, flow rate, and pressure.

(n) "A well capable of producing geothermal fluid in commercial quantities" means a well:

(1) Supplying geothermal fluid to an existing power plant or other facility for the purpose of generating electricity; or

(2) Production tested and scheduled to supply geothermal fluid to a power plant or other facility for the purpose of generating electricity for which:

(A) An application is pending before the California Energy Commission or the California Public Utilities Commission; or

(B) The California Energy Commission or California Public Utilities Commission has approved a site; or

(C) A contract has been executed between the supplier and a user and conditions have been fulfilled that commit the user to build a facility; or

(3) Supplying geothermal fluid or completed and scheduled to supply geothermal fluid to facilities existing, under construction, or committed for construction, for any nonelectric use of geothermal resources, including but not limited to space heating or food processing; or

(4) Production tested and, in the operator's opinion, able to supply sufficient geothermal energy to justify construction of a facility to utilize the energy, and designated capable of production by the Supervisor; or

(5) Production tested and found by the Supervisor, after a public hearing, to be capable of producing sufficient geothermal energy to be a commercially viable geothermal development project.

(o) "Usable Thermal Energy" means the usable heat energy contained in geothermal fluid, expressed in British Thermal Units or gigajoules.

(p) "Notice" means an application for permission to do work on a well.

(q) "Drilling Log" means the recorded description of the lithologic sequence encountered while drilling a well.

(r) "Drilling Operations" means the actual drilling or redrilling of a well for exploration, production, observation, or injection, including the running and cementing of casing and the installation of wellhead equipment. "Drilling Operations" do not include perforating, logging, or related operations after all the casing has been cemented.

(s) "Suspension" means the status assigned to a well that is temporarily abandoned pursuant to specified plugging requirements that are selected by the Division from the plugging and abandonment requirements contained in Sections 1980, 1981, 1981.1, and 1981.2 of this subchapter, and the operations necessary to cause temporary abandonment have been carried out by the operator and approved by the Division.

(t) With respect to well depth:

(1) "Shallow" means deeper than 25 feet (about 8 meters) but no deeper than 250 feet (about 76 meters);

(2) "Intermediate" means deeper than 250 feet (about 76 meters) but no deeper than 1,000 feet (about 305 meters);

(3) "Deep" means deeper than 1,000 feet (about 305 meters).

(u) "BOPE" is an acronym for blowout prevention equipment.

(v) "Mineral Extraction Well" means a well drilled, converted, or reworked for the purpose of discovering, evaluating, or producing minerals or other products in solution from naturally heated subterranean fluids. A low– or high–temperature geothermal well may also be a mineral extraction well.

NOTE: Authority cited: Sections 3712 and 3714, Public Resources Code. Reference: Section 3714, Public Resources Code.

HISTORY

1. Amendment of subsections (b) and (e), and new subsections (p) and (q) filed 9–19–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 38).
2. Amendment of subsection (p) and repealer of subsection (q) filed 4–13–76; effective thirtieth day thereafter (Register 76, No. 16).
3. Amendment filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).
4. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
5. Amendment filed 1–14–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 3).
6. Change without regulatory effect amending section heading, repealing first paragraph, and amending subsections (*l*) and (s) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
7. Change without regulatory effect amending subsections (d), (h), (k), (n)(4)–(5) and (s) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1920.2. Field Designation.

The Supervisor may designate geothermal fields for administrative purposes. A field shall contain at least one well capable of producing geothermal resources in commercial quantities. The Supervisor shall establish the boundaries by graphically constructing a one–mile square around each well capable of producing geothermal resources in commercial quantities. Each such well shall be at the center of a square.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3712, Public Resources Code.

HISTORY

1. New section filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1920.3. Field Rules.

When sufficient geologic and engineering information is available, the Supervisor may adopt or amend existing field rules for any geothermal resource field or area. Before adopting or amending field rules, the Supervisor shall notify affected persons, including but not limited to operators, landowners, and any utilities or other commercial users, and allow at least 30 days for them to comment on the proposed rules. The Supervisor shall notify affected persons in writing of the adoption of the rules.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3712, Public Resources Code.

HISTORY

1. New section filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1921. Duties of the Supervisor.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

§ 1921.1. Duties of the Geothermal Resources Board.

HISTORY

1. Repealer of section filed 7–1–96; operative 7–31–96 (Register 96, No. 27).

Article 3. Drilling

§ 1930. General.

All wells shall be drilled in such a manner as to protect or minimize damage to the environment, usable ground waters (if any), geothermal resources, life, health and property.

§ 1930.1. Designation of Agent.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

§ 1931. Notice of Intention to Drill.

Before an owner or operator can commence drilling a well, a Notice of Intention to Drill must be filed on a Division form (OGG105–11/93) and submitted to the Division, accompanied by the appropriate fee and bond (see Section 1932). The operator shall not commence drilling until the Division approves the Notice of Intention to Drill. The Notice shall include all information required on the Division form, and the following:

(a) A map showing the parcel boundaries and the location of the proposed well.

(b) If a government agency has prepared an environmental document for the proposed well, the name and address of the agency or a copy of the final environmental documents.

If operations on an exploratory well or observation well for which the Division is required to prepare environmental documents have not commenced within two years from the date the Notice of Intention to Drill was approved, the Division shall cancel the notice unless, prior to the expiration date, the operator requests an extension on a Rework/Supplementary Notice.

If operations on a development well, exploratory well, or observation well for which the Division is not required to prepare environmental documents have not commenced one year from the date the notice is approved, the Division shall cancel the notice unless, prior to the expiration date, the operator requests a time extension on a Rework/Supplementary Notice. The Division may extend these time limits at its discretion.

(c) Such other information as the Supervisor may require.

NOTE: Authority cited: Sections 3712 and 3714, Public Resources Code. Reference: Sections 3712, 3724, and 3724.1, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Amendment of opening paragraph, repealer of subsections (a)–(j), subsection relettering and amendment of NOTE filed 7–1–96; operative 7–31–96 (Register 96, No. 27).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1931.1. Rework/Supplementary Notice.

If there is any change in the original Notice of Intention, or if the operator plans to deepen, redrill, plug, or perform any operation that will permanently alter the well casing, a Rework/Supplementary Notice must be filed with the Division. A fee and/or bond may be required if, for example, the proposal concerns entering a plugged and abandoned or suspended well.

If the drilling operations the Division approved on a Rework/Supplementary Notice have not commenced one year from the date the notice is approved, the Division shall cancel the notice unless, prior to the expiration date, the operator requests a time extension on a Rework/Supplementary Notice. The Division may extend this time limit at its discretion.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712 and 3724, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending first paragraph filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1931.2. Notice to Convert to Injection.

An operator planning to convert an existing well to an injection or disposal well, even if there will be no change in mechanical condition, must file a Rework/Supplementary Notice with the Division and the Division must approve the notice before injection is commenced.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712 and 3724, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1931.3. Notices to Drill Individual Shallow Observation Wells and Notices to Drill Shallow Observation Well Programs Are Required.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1931.4. Supplementary Notice.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712 and 3724, Public Resources Code.

HISTORY

1. Repealer filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33). For former history, see Register 74, No. 20.

§ 1931.5. Unstable Terrain.

If the construction of drilling sites, roads, sumps, steam transmission lines, and other construction attendant to geothermal operations could cause or could be affected by slumping, landslides, or unstable earth conditions, the Supervisor shall require that the operator submit a written analysis of the proposed work prior to the commencement of any construction and prior to approving a permit to drill. At the request of the Supervisor, the report shall be prepared by a civil engineer, licensed in the state and experienced in soils engineering; and if slumping or landsliding could be involved, the requested report shall also be prepared by an engineering geologist, certified in the state and experienced in slope stability and related problems. No permit to drill shall be approved unless the report indicates that the work is planned in such a manner as to reasonably mitigate the problem throughout the life of the project.

Upon completion of any construction authorized by the Supervisor pursuant to this section, the operator shall certify in writing to the Supervisor that the work was carried out according to the approved plans subject only to changes approved by the Supervisor.

HISTORY

1. Amendment filed 4–13–76; effective thirtieth day thereafter (Register 76, No. 16).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1932. Fees.

The appropriate fee, as listed below, shall be paid when the Notice of Intention to Drill is filed. (Refer to Section 1920.1 for definitions of terms and depth limitations.)

(a) $25 Fee.

(1) Shallow low–temperature geothermal well.

(2) Shallow observation well.

(b) $200 Fee.

(1) Shallow observation well program of up to and including 25 such wells (except as provided in PRC Section 3724.1).

(2) Intermediate depth low–temperature geothermal well.

(3) Intermediate depth observation well.

(c) $500 Fee.

(1) Intermediate depth observation well program of up to and including 5 such wells.

(2) Development well, other than low–temperature, to any depth.

(3) Deep low–temperature geothermal well.

(4) Injection well.

(5) Deep observation well.

(d) $1,000 Fee. Exploratory well, other than low–temperature, to any depth.

(e) If a Notice of Intention to Drill is cancelled, the Division shall refund the fee paid by the operator, minus the Division's administrative costs for processing and reviewing the notice.

NOTE: Authority cited: Sections 3712 and 3714, Public Resources Code. Reference: Sections 3724 and 3724.1, Public Resources Code

HISTORY

1. Amendment filed 9–19–75 as an emergency; effective upon filing. Certificate of Compliance included (Register 75, No. 38).
2. Amendment filed 4–13–76; effective thirtieth day thereafter (Register 76, No. 16).
3. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
4. Amendment of subsection (a), repealer of subsection (a)(2), and amendment of subsection (b)(1) and NOTE filed 7–1–96; operative 7–31–96 (Register 96, No. 27).
5. Change without regulatory effect amending subsections (a)–(a)(1) and (b)(1) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

6. Change without regulatory effect amending subsection (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1933. Statewide Fee–Assessment Date.

June 15 of each year is established as the statewide fee–assessment date. Assessments for all geothermal operators shall be annually fixed on or before June 15. The funds provided by fees are for the supervision of geothermal resource wells during the fiscal year following the statewide fee–assessment date.

NOTE: Authority cited: Section 3724.5, Public Resources Code. Reference: Section 3724.5, Public Resources Code.

HISTORY

1. New section filed 1–14–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 3). For prior history, see Register 76, No. 49.

§ 1933.1. Establishment of Annual Well Fees.

To establish the annual fee that must be charged to each geothermal well operator, the department, on or before the statewide fee–assessment date shall:

(a) Make an estimate of the sum of the well drilling fees that will be filed by operators during the fiscal year following the fee assessment date.

(b) Establish the appropriation for the supervision of geothermal resource wells from the amount proposed in the Governor's Budget. The appropriation shall be adjusted by any changes that have occurred during the legislative review process.

(c) Establish the estimated surplus or deficit from the current and prior fiscal year by calculating the cost of the supervision of geothermal resource wells and the actual revenues therefrom.

(d) Estimate the amount assessable to geothermal operators by taking the appropriation amount (paragraph b), deducting the well drilling fees (paragraph a), and adding or deducting the current year and prior year adjustments (paragraph c).

(e) Determine the total number of chargeable wells by identifying the total number of producing, service, and idle wells that existed at any time during the preceding calendar year in the state. A well that has changed ownership one or more times during the preceding calendar year shall be counted only once, and assignment of charges shall be made to the operator of record on December 31 of that year. "Chargeable wells" shall not include:

(1) Any well used for observation purposes.

(2) Any well for which the Supervisor has approved a suspension. However, a well must be suspended for the entire calendar year to be non-chargeable.

(3) Any low–temperature well.

(f) Determine the annual well fee by dividing the amount assessable by the total number of chargeable wells.

(g) Determine the amount to be charged to each operator by multiplying the total number of chargeable wells of record on the previous December 31 by the annual well fee.

NOTE: Authority cited: Section 3724.5, Public Resources Code. Reference: Sections 3724, 3724.1 and 3724.5, Public Resources Code.

HISTORY

1. New section filed 1–14–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 3).
2. Change without regulatory effect amending subsection (e)(2) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1933.2. Notification of Assessment.

On or before June 15 of each year, the Department shall notify each operator of that operator's assessment. If an operator believes an error has been made, the operator shall notify the Supervisor of the Division on or before July 1 following the notification of assessment.

NOTE: Authority cited: Section 3724.5, Public Resources Code. Reference: Section 3724.5, Public Resources Code.

HISTORY

1. New section filed 1–14–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 3)
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1933.3. Establishment and Certification of Assessment Roll.

(a) The Director of the Department shall create an Annual Assessment Roll as of July 1 of each year. The assessment roll shall be comprised of the name of each operator, a billing address, the number of chargeable wells as identified by the provisions of Section 1933.1(e) of this subchapter, and the amount charged.

(b) On or before July 1, the Director shall transmit the roll to the State Controller, together with a certification stating that appeals have (or have not) been adjudicated and the assessment roll contains the true and correct amounts to be assessed to each operator.

(c) The Director shall keep on file and have available for public inspection during regular office hours, a listing of the chargeable wells by operator.

NOTE: Authority cited: Section 3724.5, Public Resources Code. Reference: Section 3724.5, Public Resources Code.

HISTORY

1. New section filed 1–14–85; effective upon filing pursuant to Government Code Section 11346.2(d) (Register 85, No. 3).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1933.4. Payments and Penalties.

(a) The charges levied and assessed are due and payable to the State Treasurer on the first of July of each year.

One–half of the charges shall be delinquent if not paid on or before August 15th of each year. The remaining one–half of the charges shall be delinquent if not paid on or before the first of February of the following year.

(b) Any person who fails to pay any charge within the time required shall pay a penalty of 10 percent of the amount due, plus interest on the charge due at the rate of 1 1/2% per month, or fraction thereof, computed from the delinquent date of the assessment until and including the date of payment.

(c) Any person who fails to pay any charge or penalty shall be subjected to the provisions of Sections 3772–3775 of the Public Resources Code.

NOTE: Authority cited: Section 3724.5, Public Resources Code. Reference: Sections 3724.5 and 3724.6, Public Resources Code.

HISTORY

1. New section filed 5–23–88; operative 6–22–88 (Register 88, No. 22).

§ 1934. Well Spacing.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3757, 3757.1, 3757.2, 3758, 3759, and 3761, Public Resources Code.

HISTORY

1. Repealer filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33). For former history, see Register 74, No. 20.

§ 1934.1. Violation of Spacing.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

§ 1935. Casing Requirements.

All wells shall be cased in such a manner as to protect or minimize damage to the environment, usable ground waters and surface waters (if any), geothermal resources, life, health and property. The permanent wellhead completion equipment shall be attached to the production casing or to the intermediate casing if production casing does not reach to the surface.

Division specifications for casing strings shall be determined on a well–to–well basis. All casing strings reaching the surface shall provide adequate anchorage for blowout–prevention equipment, hole pressure control and protection for all natural resources. The following casing requirements are general but should be used as guidelines in submitting proposals to drill.

HISTORY

1. Change without regulatory effect amending second paragraph filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1935.1. Conductor Pipe.

Conductor pipe shall be cemented with sufficient cement to fill the annular space from the shoe to the surface. An annular blowout preventer, or its equivalent, approved by the Division, shall be installed on conductor pipe for exploratory wells and development wells when deemed necessary by the Division. The Division may waive this requirement for low–temperature geothermal wells.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3739 and 3740, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Editorial correction of NOTE (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1935.2. Surface Casing.

Surface casing shall provide for control of formation fluids, for protection of shallow usable groundwater, and for adequate anchorage for blowout prevention equipment. All surface casing shall be cemented with sufficient cement to fill the annular space from the shoe to the surface. The following requirements may be modified or waived by the Division for low–temperature geothermal wells.

(a) Length of Surface Casing.

(1) In areas where subsurface geological conditions are variable or unknown, surface casing in general shall be set at a depth equaling or exceeding 10 percent of the proposed total depths of wells drilled in such areas. A minimum of 60 meters (about 200 feet) and a maximum of 400 meters (about 1,300 feet) of surface casing shall be set.

(2) In areas of known high formation pressure, surface casing shall be set at a depth determined by the Division after a careful study of geological conditions.

(3) Within the confines of designated geothermal fields, the depth at which surface casing shall be set shall be determined by the Division on the basis of known field conditions.

(b) Cementing Point for Surface Casing.

Surface casing shall be cemented through a sufficient series of low permeability, competent lithologic units (such as claystone or siltstone) to ensure a solid anchor for blowout prevention equipment and to protect usable groundwater and surface water from contamination. A second string of surface casing may be required if the first string has not been cemented through a sufficient series of low permeability, competent lithologic units, and either a rapidly increasing thermal gradient or rapidly increasing formation pressures are encountered.

(c) Drilling Fluid Return Temperatures. The temperature of the return drilling fluid shall be monitored continuously during the drilling of the surface casing hole. Either a continuous temperature monitoring device shall be installed and maintained in working condition, or the temperature shall be read manually. In either case, return drilling fluid temperatures shall be entered into the log book after each joint of pipe has been drilled down (every 10 meters, about 30 feet).

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3739 and 3740, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending first paragraph and subsections (a)(2)–(3) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1935.3. Intermediate Casing.

Intermediate casing shall be required for protection against anomalous pressure zones, cave–ins, washouts, abnormal temperature zones, uncontrollable lost circulation zones or other drilling hazards. Intermediate casing strings shall be, if possible, cemented solid to the surface.

§ 1935.4. Production Casing.

Production casing may be set above or through the producing or injection zone and cemented above the objective zones. Sufficient cement shall be used to exclude overlying formation fluids from the zone, to segregate zones, and to prevent movement of fluids behind the casing into zones that contain usable groundwater. Production casing shall either be cemented with sufficient cement to fill the annular space from the shoe to the surface or lapped into intermediate casing, if run. Production casing lapped into an intermediate string, shall overlap at least 15 meters (about 50 feet); the lap shall be cemented solidly; and shall be pressure tested to ensure its integrity.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3739 and 3740, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).

§ 1936. Electric Logging.

All wells, except observation wells and low–temperature thermal wells, shall be logged with an induction electrical log, or equivalent, from total depth to the bottom of the conductor pipe, except in the case where air is used as the drilling medium. This requirement may be waived by the Supervisor and may vary depending on geologic conditions as stated in Section 1935.2(a)(2).

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1937. Records.

HISTORY

1. Amendment filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).
2. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1937.1. Records Required to Be Filed with the Division.

(a) Drilling Log and Core Record. The drilling log shall show the lithologic characteristics and depths of formations encountered, the depths and temperatures of water–bearing and steam–bearing strata, the temperatures, chemical compositions, and other chemical and physical characteristics of fluids encountered from time to time, so far as ascertained.

The core record shall show the depth, lithologic character and fluid content of cores obtained, so far as determined.

(b) Well History. The history shall describe in detail in chronological order on a daily basis all significant operations carried out and equipment used during all phases of drilling, testing, completion, recompletion and plugging and abandonment of the well.

(c) Well Summary Report. The well summary report shall accompany the core record and well history reports. It is designed to show data pertinent to the condition of a well at the time of completion of work done.

(d) Production Records. Monthly production records shall be filed with the Division on or before the 30th day of each month, for the last preceding calendar month.

(e) Injection Records. Monthly injection records shall be filed with the Division on or before the 30th day of each month, for the last preceding calendar month.

(f) Other Records. The following shall also be filed with the Division, if run: electric logs, physical or chemical logs, tests, water analyses, and surveys (including temperature surveys and directional surveys).

HISTORY

1. Amendment of subsections (d), (e) and (f) filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).
2. Change without regulatory effect amending subsection (b) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending subsections (d)–(f) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1937.2. Filing of Records.

HISTORY

1. Repealer filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).

§ 1937.3. Records As Evidence.

HISTORY

1. Repealer filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).

§ 1937.4. Publications.

HISTORY

1. Repealer filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).

§ 1938. Transfer of Property.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

Article 4. Blowout Prevention

§ 1940. Authority.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1941. General.

Blowout–Prevention Equipment (BOPE) installations shall include high temperature–rated packing units and ram rubbers, if available, and shall have a minimum working–pressure rating *equal to or greater than the lesser* of:

(a) A pressure equal to the product of the depth of the BOPE anchor string in meters times 0.2 bar per meter. (Feet times one (1) psi per foot)

(b) A pressure equal to the rated burst pressure of the BOPE anchor string.

(c) A pressure equal to 138 bars (2,000 psi).

Specific inspections and tests of the BOPE shall be made by the Division. The requirements for such tests will be included in the Division's answer to the notice of intention to drill.

HISTORY

1. Change without regulatory effect amending last paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1942. BOPE Guide.

The Division shall prepare a guide for establishing the blowout prevention equipment requirements specified in the Division's approval of proposed operations.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3739, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1942.1. Unstable Areas.

Drilling any wells, including water wells, is prohibited in areas containing fumaroles, geysers, hot springs, mud pots, etc. (unstable areas), unless the Division determines, after a thorough geological investigation, that drilling in an unstable area is feasible. In this case, a special permit may be issued. The following may be required for a well drilled in an unstable area:

(a) A Division engineer shall be present at the well at all times during the initial phases of drilling until the surface casing has been cemented and the BOPE has been pressure–tested satisfactorily. The Division engineer may observe all drilling operations at the well and if, in his or her opinion, conditions warrant, may order a second or third string of surface casing to be run.

(b) The operator, while drilling the surface casing hole, shall continuously monitor and record the following:

(1) Drilling fluid temperature (in and out),

(2) Drilling fluid pit level,

(3) Drilling fluid pump volume,

(4) Drilling fluid weight, and

(5) Drilling rate.

(c) A drilling fee in addition to the fee specified in Section 1932, up to the maximum of $1,000 per well, depending on the geologic conditions in the area.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3724, 3739, 3740, and 3741, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending subsection (a) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending first paragraph and subsection (a) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1942.2. Cable Tool Drilling.

This method of drilling, or any other method of drilling, will be allowed, at the discretion of the Supervisor, with certain stipulations in the following cases only:

(a) Areas where formation pressures are known to be hydrostatic and are known to contain geothermal fluids at shallow depths, and where down–hole temperatures are less than 100° C (212° F).

(b) Areas where geothermal fluids have been produced from shallow wells, less than 150 meters (500 feet) true vertical depth, over a number of years with no known history of a blowout or geyser.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712 and 3715, Public Resources Code.

HISTORY

1. Repealer and new section filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33). For prior history, see Register 74, No. 20.
2. Change without regulatory effect amending first paragraph filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1942.3. Stable Areas Using Air As the Drilling Fluid.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3715, 3724, 3739 and 3740, Public Resources Code.

HISTORY

1. Repealer filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33). For former history, see Register 74, No. 20.

§ 1942.4. Cable Tool Drilling.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3715, 3724, 3737, and 3740, Public Resources Code.

HISTORY

1. Repealer filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33). For former history, see Register 74, No. 20.

Article 5. Completion and Production

§ 1950. Official Completion.

A well is considered to be completed 30 days after drilling operations have ceased and the well is capable of producing a geothermal resource, or 30 days after the well has commenced to produce a geothermal resource, unless drilling operations are resumed before the end of the 30–day period.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3737, Public Resources Code.

HISTORY

1. Amendment filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).
2. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).

§ 1950.1. Time Limits.

For the purpose of filing drilling records pursuant to Section 3735, Public Resources Code, the 60 day time limit for filing such records shall

begin when the Division determines that a well is completed, idle, or plugged and abandoned.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3735, Public Resources Code.

HISTORY

1. New section filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1951. Production Reports.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

§ 1952. Maintenance.

All wellheads, separators, pumps, mufflers, manifolds, valves, pipelines and other equipment used for the production of geothermal resources, shall be maintained in good condition in order to prevent loss of or damage to life, health, property and natural resources.

§ 1953. Corrosion.

All surface wellhead equipment and pipelines and subsurface casing and tubing will be subject to periodic corrosion surveillance in order to safeguard life, health, property and natural resources.

§ 1954. Tests.

(a) Requirements. The Supervisor shall require such tests or remedial work as in his or her judgment are necessary to prevent damage to life, health, property, and natural resources, to protect geothermal reservoirs from damage or to prevent the infiltration of detrimental substances into underground or surface water suitable for agricultural, industrial, municipal, or domestic purposes, to the best interest of the neighboring property owners and the public.

(b) Types of Tests.

(1) Casing Tests

(A) Spinner surveys

(B) Wall thickness

(C) Lap

(D) Pressure

(E) Radioactive tracer surveys

(2) Cementing Tests

(A) Cementing of casing

(B) Pumping of plugs

(C) Hardness of plugs

(D) Depths of plugs

(3) Equipment Tests

(A) Gauges

(B) Thermometers

(C) Surface facilities, lines, vessels, etc.

(D) Blowout–prevention equipment. BOPE inspections and/or tests are normally performed on all drilling wells. The Supervisor requires that the blowout–prevention equipment be tested prior to drilling out the shoe of the surface casing. A Division engineer must be contacted to witness a pressure test of each preventer of the well prior to drilling out the shoe of the surface casing.

HISTORY

1. Change without regulatory effect amending subsection (a) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Change without regulatory effect amending subsections (a) and (b)(3)(D) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1954.1. Right of Entry.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Article 6. Injection

§ 1960. Definition.

Injection wells are those used for the disposal of waste fluids, the augmentation of reservoir fluids, pressure maintenance of reservoirs or for any other purpose authorized by the Supervisor. New wells may be drilled and/or old wells may be converted for water injection or disposal service. Notices, bonds and fees are required for drilling or conversion as stated in Article 3.

HISTORY

1. Editorial correction of article heading (Register 98, No. 4).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1961. Projects.

Following is an outline which sets forth the requirements for initiating an injection project. Data and exhibits need only extend or cover the injection zone and zones which will possibly be affected by an injection project:

(a) Letter setting forth the entire plan of operations, which should include:

(1) Reservoir conditions.

(2) Method of injection: through casing, tubing, or tubing with a packer.

(3) Source of injection fluid.

(4) Estimates of daily amount of water to be injected.

(b) Map showing contours on a geologic marker at or near the intended zone of injection.

(c) One or more cross sections showing the wells involved.

(d) Analyses of fluid to be injected and of fluid from intended zone of injection.

(e) Copies of letter or notification sent to neighboring operators if deemed advisable by the Supervisor.

HISTORY

1. Change without regulatory effect amending subsection (e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1962. Project Approval.

A written approval of a project will be sent to the operator and such approval will contain those provisions specified by the Division as necessary for safe operations. Injection shall not commence until approval has been obtained from the Division.

HISTORY

1. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1963. Notice to Drill New Well or Convert Existing Well.

Prior to the operator doing work on a well, the appropriate notices must be approved by the Division. Proposals to drill new wells for injection purposes shall be filed on the Division form entitled Notice of Intention to Drill New Well (OGG 105). Proposals to convert existing wells shall be filed on the Division form entitled Rework/Supplementary Notice.

Bonds and fees are required for all proposed wells. The bonds and fees for an injection well are the same as those required for a development well.

Injection wells shall conform to the Division's spacing regulations.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3723, 3724, and 3725, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1964. Subsequent Work.

A Rework/Supplementary Notice is required for any subsequent work that alters the well casing(s) or changes the use of the well as provided in Section 1966(f).

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3724, 3724.2, 3724.3, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).

§ 1965. Injection Reports.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

§ 1966. Surveillance.

(a) Surveillance of waste water disposal or injection projects is necessary on a continuing basis to establish to the satisfaction of the Supervisor that all water is confined to the intended zone of injection.

(b) When an operator proposes to drill an injection well, convert a producing or idle well to an injection well, or rework an injection well and return it to injection service, the operator shall be required to demonstrate complete casing integrity to the Division by means of a specific test.

(c) To establish the integrity of the casing and the annular cement above the shoe of the casing, within 30 days after injection is started into a well, the operator shall make sufficient surveys to demonstrate that all the injected fluid is confined to the intended zone of injection. Thereafter, such surveys shall be made at least every two years, or more often if ordered by the Supervisor or his or her representative. All such surveys shall be witnessed by a Division engineer.

(d) After the well has been placed on injection, a Division inspector shall visit the well site periodically. At these times, surface conditions shall be noted and, if any unsatisfactory conditions exist, the operator shall be notified of required remedial work. If this required work is not performed within 90 days, the approval issued by the Division shall be rescinded. The Supervisor may order that the repair work be done immediately if it is determined that damage is occurring at a rapid rate.

(e) Injection pressures shall be recorded and compared with the pressures reported on the monthly injection reports. Any discrepancies shall be rectified immediately by the operator. A graph of pressures and rates versus time shall be maintained by the operator. Reasons for anomalies shall be promptly ascertained. If these reasons are such that it appears damage is being done, approval by the Division may be rescinded, and injection shall cease.

(f) When an injection well has been idle for two years, the Division may inform the operator, by letter, that approval for use of the well for injection purposes is rescinded. If the operator intends to reclaim the well for injection purposes, a Rework/Supplementary Notice shall be filed proposing to demonstrate by specified tests that the injected fluid will be confined to the intended zone of injection.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Section 3712, Public Resources Code.

HISTORY

1. Amendment filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).
2. Change without regulatory effect amending subsection (c) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1967. Abandonment.

NOTE: Authority cited: Section 3714, Public Resources Code. Reference: Sections 3712, 3729, and 3740, Public Resources Code.

HISTORY

1. Amendment filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).
2. Repealer filed 8–16–79; effective thirtieth day thereafter (Register 79, No. 33).

Article 7. Subsidence

§ 1970. Responsibility.

The prime responsibility for subsidence detection and abatement in geothermal areas in the State of California lies with the Division of Oil, Gas, and Geothermal Resources.

HISTORY

1. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1971. Imperial Valley Subsidence Regulations.

(a) Surveys and Bench Marks.

(1) Subsidence bench marks, at wellsites, tied to existing first– and/or second–order networks, are required for all wells that will be tested or produced. These bench marks shall be the responsibility of and at the expense of the operator. Surveys shall precede extensive production testing of the well.

(2) All survey work shall be coordinated with the County Surveyor.

(3) All work shall be done under the direct supervision of a Registered Civil Engineer or Licensed Land Surveyor.

(4) An adequate series of bench marks shall be set as required by the Division and shall be tied to existing survey nets.

(5) All field work, computations, etc., shall conform to National Geodetic Survey (N.G.S.) standards. Refer to "Manual of Geodetic Leveling" (1948).

(6) All surveys shall be second–order or better.

(7) All single–point tie–ins shall be double–run. Survey loops between two points on existing surveys may be single–run.

(8) Equipment shall be equal to or better than that accepted by the N.G.S. for second–order surveys. The N.G.S. procedures shall be followed.

(9) Types of acceptable bench marks are:

(A) Brass rod driven to refusal or 9 meters (about 30 feet) and fitted with an acceptable brass plate.

(B) Permanent structure (head walls, bridges, etc.) with installed plate.

(10) Bench marks at wellsites shall be situated so as to minimize the possibility of being destroyed during any subsequent work–over activity at the wells. Each bench mark shall be well marked so as to be plainly visible to work–over crews.

(11) Between the wellsite and the network, bench marks shall be set at one–half mile intervals or as specified by the Division.

(12) Surveys shall be run annually by and at the expense of the operator while well(s) are being produced unless otherwise specified by the Division.

(13) The adjusted data from all surveys shall be submitted to the Division within 60 days after leveling is completed.

(14) Resurveys of the first– and second–order networks shall be coordinated by the Division.

(b) Reservoir Engineering.

(1) Initial bottom–hole pressures and temperatures (allowing a minimum of one month static time) shall be submitted to the Division within thirty (30) days of completion of work.

(2) All preliminary test data shall be submitted to the Division within 30 days of completion of the tests.

(3) Monthly surface recordings of production, injection, temperature, and pressure shall be reported to the Division on the appropriate forms.

(4) Periodic development and review meetings between operators and the Division shall be required (at least one per year).

HISTORY

1. Amendment of subsection (b)(1) filed 8–13–76 as procedural and organizational; effective upon filing (Register 76, No. 33).
2. Change without regulatory effect amending subsections (a)(5) and (a)(8) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 8. Plugging and Abandonment

§ 1980. Objectives.

The objectives of abandonment plugging are to block interzonal migration of fluids so as to:

(a) Prevent contamination of the fresh waters or other natural resources.

(b) Prevent damage to geothermal reservoirs.

(c) Prevent loss of reservoir energy.

(d) Protect integrity of reservoirs.

(e) Protect life, health, environment and property.

HISTORY

1. Change without regulatory effect amending article 8 heading filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1981. General Requirements.

The following are general requirements which are subject to review and modification for individual wells or field conditions. The Division may require the witnessing of any or all of the field operations listed below.

(a) Notice of Intention to plug and abandon Geothermal Resources Well, is required for all wells.

(b) History of Geothermal Resources Well shall be filed within 60 days after completion of the plugging and abandonment.

(c) The Division's Report of Well plugging and abandonment, will not be issued until all records have been filed and the site inspected for final cleanup by a Division engineer.

(d) Subsequent to the plugging and abandonment of the hole, all casings shall be cut off at least 2 meters (6 feet) below the surface of the ground, all concrete cellars and other structures shall be removed, and the surface location restored, as near as practicable, to original conditions. The landowner has the option to assume legal responsibility for a well; however, to do so he or she must have legal clearance from the Division.

(e) Good quality, heavy drilling fluid approved by the Supervisor shall be used to replace any water in the hole and to fill all portions of the hole not plugged with cement.

(f) All cement plugs, with the possible exception of the surface plug, shall be pumped into the hole through drill pipe or tubing.

(g) All open annuli shall be filled solid with cement to the surface.

HISTORY

1. Amendment of subsection (b) filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).
2. Change without regulatory effect amending subsections (a)–(d) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
3. Change without regulatory effect amending first paragraph and subsections (c)–(e) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1981.1. Exploratory Well Requirements (No Production Casing).

(a) Base of fresh waters—a minimum of 30 meters (about 100 feet) of cement straddling the interface or transition zone whether behind casing or uncased.

(b) Shoe plug (all casing, including conductor pipe)—straddle with 30 meters (about 100 feet) of cement.

(c) Where the well has been drilled with air, a bridge plug shall be placed at the shoe of the surface casing and the bridge plug shall be capped with at least 60 meters (about 200 feet) of cement.

(d) Surface plug—15 meters (about 50 feet) minimum. May be either neat cement or concrete mix.

§ 1981.2. Cased Wells.

Cased exploratory, uncompleted development, former producing and injection wells.

(a) Geothermal zones—uncased or perforated. Cement plugs shall extend from the bottom of the zone or perforations to 30 meters (about 100 feet) over the top of the zone or perforations.

(b) Liners. Cement plugs shall be placed from 15 meters (about 50 feet) below to 15 meters (about 50 feet) above liner tops.

(c) Casing may be salvaged within protection, if first approved by the Division. A minimum overlap of 15 meters (about 50 feet) is required.

(d) Casing stubs and laps. Cement plugs shall be placed, if possible, from 15 meters (about 50 feet) below to 15 meters (about 50 feet) above top of casing. If unable to enter stub or lap, 30 meters (about 100 feet) of cement shall be placed on the top of the stub or lap.

(e) Fish, collapsed pipe, etc. Cement plugs shall be squeezed, with the use of a retainer or bradenhead, with sufficient cement to fill across the production zone or perforations and to 30 meters (about 100 feet) above the zone or perforations.

(f) Base of fresh waters—a minimum of 30 meters (about 100 feet) of cement straddling the interface or transition zone, whether behind casing or uncased.

(g) Shoe plug (all casing, including conductor pipe)—straddle with 30 meters (about 100 feet) of cement.

(h) Where the well has been drilled with air, a bridge plug shall be placed at the shoe of the surface casing and the bridge plug shall be capped with at least 60 meters (about 200 feet) of cement.

(i) Surface plug—15 meters (about 50 feet) minimum. May be either neat cement or concrete mix.

HISTORY

1. Change without regulatory effect amending subsections (b) and (d) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Change without regulatory effect amending subsection (c) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1982. Abandonment of Deserted Well.

HISTORY

1. Repealer filed 12–3–76 as procedural and organizational; effective upon filing (Register 76, No. 49).

Article 9. Complaints and Appeals

§ 1990. Complaints.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1991. Filing Appeals.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1992. Appeal Hearing.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1993. Review of Hearing Decision.

HISTORY

1. Change without regulatory effect repealing section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Subchapter 5. Disclosure and Inspection of Public Records

Article 1. General

§ 1995. Purpose.

The purpose of this subchapter is to set forth the rules and regulations governing the disclosure and inspection of well records on file with the Division of Oil, Gas, and Geothermal Resources as provided for in Sections 3234 and 3752, Division 3 of the Public Resources Code.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code; and Section 6253(a), Government Code. Reference: Sections 3234(a) and 3752, Public Resources Code.

HISTORY

1. New Subchapter 5 (Sections 1995, 1995.1–1995.3, 1996, 1996.1–1996.10, 1997, 1997.1–1997.5, 1998, 1998.1, 1998.2) filed 5–28–76; designated effective 7–1–76 (Register 76, No. 22).
2. Amendment of NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
3. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1995.1. Policy.

The policy of the Division is to make all well records that are open to public inspection readily available to the public. Upon request by any person, identifiable public records shall be made available for inspection and copying as provided for in this subchapter.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code; and Sections 6256 and 6257, Government Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
2. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1995.2. Scope of Regulations.

These regulations shall apply to all records on file at every office of the Division of Oil, Gas, and Geothermal Resources as defined in Section 1996.1 of this subchapter.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234 and 3752, Public Resources Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1995.3. Effective Date.

HISTORY

1. Repealer filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).

Article 2. Definitions

§ 1996. General.

The following words or terms used in this subchapter, unless otherwise defined, shall have the meaning ascribed to them in this article.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.1. Records.

"Records" mean all of the well records filed pursuant to Division 3, Chapters 3 or 4 of the Public Resources Code, including production and injection reports of the wells of any owner or operator, except experimental logs, experimental tests, or interpretive data as defined in this article.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.2. Confidential Status.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. Repealer filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.3. Experimental Log and Experimental Test.

"Experimental log" or "experimental test" means a log or test that is not generally available to all operators, or that is run to evaluate whether such log or test is an effective, workable, and valid engineering or geologic tool. A log or test that is not generally available to all operators is one that is not listed in the pricing schedules, nor offered as a routine service, by established logging companies.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(d) and 3752(c), Public Resources Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.4. Interpretive Data.

"Interpretive data" mean geologic and engineering data, from an owner or operator, that are derived from raw data by means of professional study and interpretation.

"Interpretive data" include, but are not limited to: geologic cross sections, subsurface contour maps, surface geologic maps, oil and gas reserve calculations, and paleontologic reports.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(d) and 3752(c), Public Resources Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.5. Offshore Well.

"Offshore well" as related to well records means a well that is identified by a specific API numbering system used to classify offshore wells.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3234(a), Public Resources Code.

HISTORY

1. Amendment filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.6. Well.

"Well" means an original hole, or a subsequent deepening or redrilling thereof, carried out after completion of the original drilling operation. The records of all holes drilled during the course of a single drilling operation or shallow geothermal observation well program shall be considered as records of a single well for purposes of this subchapter.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. Repealer and new section filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. Amendment filed 12–3–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 49).
4. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.7. Date of Cessation of Drilling Operations.

"Date of cessation of drilling operations" means the date on which any or all equipment or machinery necessary for carrying out a drilling operation is removed from the well site.

NOTE: Authority cited: Section 3013, Public Resources Code. Reference: Section 3234(e), Public Resources Code.

HISTORY

1. Repealer and new section filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.8. Date of Abandonment.

"Date of abandonment" means the date on which, in the judgment of the Supervisor, the plugging for the purpose of abandonment is completed or virtually completed.

NOTE: Authority cited: Section 3712, Public Resources Code. Reference: Section 3752(a), Public Resources Code.

HISTORY

1. Repealer and new section filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
4. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1996.9. Extenuating Circumstances.

"Extenuating circumstances" mean conditions, beyond the control of the owner or operator, which have prevented the owner or operator from utilizing the competitive advantage from the information obtained from a well. "Extenuating circumstances" include, but are not limited to, the following:

(a) Active competitive leasing or mineral rights sales in the immediate vicinity of the well;

(b) Governmental or judicial action delaying oil, gas, or geothermal development;

(c) Natural disasters; or

(d) Scarcity of materials and equipment.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1996.10. Applicant.

"Applicant" means any person requesting permission to inspect and/or copy records on file with the Division of Oil, Gas, and Geothermal Resources.

NOTE: Authority cite: Sections 3013 and 3712, Public Resources Code. Reference: Section 6250, Government Code.

HISTORY

1. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
2. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

Article 3. Status Determination

§ 1997. General.

All records filed with the Division of Oil, Gas, and Geothermal Resources, including records filed before July 1, 1976, are public records and are open for inspection and copying, except those records maintained in confidential status pursuant to Sections 3234 or 3752, Division 3 of the Public Resources Code.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections3234(a) and 3752(a), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
4. Change without regulatory effect amending section filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).

§ 1997.1. Request for Confidential Status.

(a) A request for confidential status pursuant to Sections 3234 or 3752, Division 3, Public Resources Code, must be filed prior to or at the time the records subject to said request are filed, and shall not apply retrospectively to portions of a well record already on file with the Division for which confidential status had not been requested. Said request shall be made in writing to:

(1) The district deputy of the district in which the well is located, for an onshore oil or gas well (see map titled "Oil and Gas District Boundaries of the Division of Oil, Gas, and Geothermal Resources");

(2) The district geothermal office for a geothermal well (see map titled "Geothermal District Boundaries of the Division of Oil, Gas, and Geothermal Resources");

Such request shall be signed by a representative of the company.

(b) If the Supervisor fails to reply to a request for confidential status within twenty (20) working days from the date of receipt of such request, the request shall be deemed approved.

(c) Records that are the subject of a request for confidential status shall be retained in confidential status after receipt of the request until their status is determined by the Supervisor.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. Amendment of subsection (a) filed 12–3–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 49).
4. Amendment of subsection (a) filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
5. Amendment of NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
6. Change without regulatory effect amending subsections (a)(1)–(3) filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
7. Change without regulatory effect repealing and adopting new Maps 1 and 2 filed 4–8–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 15).
8. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1997.2. Request for Extension of Confidential Status.

(a) A request for extension of confidential status pursuant to Sections 3234 or 3752, Division 3, Public Resources Code, shall be made in writing to the appropriate party, as indicated in Section 1997.1 of this article; shall document extenuating circumstances; and shall be signed by a representative of the company.

(b) If the Supervisor fails to reply to a request for extension of confidential status within twenty (20) working days from the date of receipt of such request, the request shall be deemed approved.

(c) Records that are the subject of a request for extension of confidential status shall be retained in confidential status after receipt of the request until their status is determined by the Supervisor.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(a) and 3752(a), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
4. Change without regulatory effect amending subsections (b)–(c) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1997.3. Classification As Experimental Log or Experimental Test.

(a) The Supervisor shall not consider a log or test for classification as experimental unless the owner or operator requests that such log or test be classified as experimental at the time of filing of the log or test with the Division. Such request shall be made in writing to the appropriate party, as indicated in Section 1997.1 of this article; shall contain justification for the request; and shall be signed by a representative of the company.

(b) If the Supervisor fails to reply to a request for experimental status within twenty (20) working days from the date of receipt of such request, the request shall be deemed approved.

(c) A log or test that is the subject of a request for classification as experimental shall be retained in confidential status after receipt of the request until the Supervisor determines whether it is experimental.

(d) The Supervisor may review the experimental classification of logs and tests to determine if the classification remains appropriate. If technological advances or other factors indicate the experimental classification should be withdrawn, thus revoking confidential status, the Supervisor shall notify the operator of this decision. If no written appeal is made pur-

suant to section 1997.5 of this article, the Supervisor may open the log or test data to public review.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(d) and 3752(c), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. Amendment of subsection (a) filed 12–3–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 49).
4. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
5. New subsection (d) filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
6. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1997.4. Classification As Interpretive Data.

(a) An owner or operator may request that certain data filed with the Division be classified as interpretive; however, in the absence of such request, the Supervisor may classify data as interpretive.

(b) A request for classification of data as interpretive must be made at the time of filing of the data with the Division. Such request shall be made in writing to the appropriate party, as indicated in Section 1997.1 of this article; shall contain justification for the request; and shall be signed by a representative of the company.

(c) If the Supervisor fails to reply to a request for interpretive status within twenty (20) working days from the date of receipt of such request, the request shall be deemed approved.

(d) Data that are the subject of a request for classification as interpretive shall be retained in confidential status after receipt of the request until the Supervisor determines whether they are interpretive.

(e) The Supervisor may review the confidential status of interpretive data after a period of five years. The data shall remain confidential unless the Supervisor demonstrates that the data does not warrant classification as interpretive data. The Supervisor shall notify the operator of this decision. If no written appeal is made pursuant to section 1997.5 of this article, the Supervisor may open the interpretive data to public review.

NOTE: Authority cited: Sections 3013 and 3712, Public Resources Code. Reference: Sections 3234(d) and 3752(c), Public Resources Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. Amendment of subsections (a) and (b) filed 12–3–76 as an emergency; effective upon filing. Certificate of Compliance included (Register 76, No. 49).
4. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
5. New subsection (e) filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
6. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

§ 1997.5. Appeal.

(a) An owner or operator may appeal to the Director of the Department of Conservation within thirty (30) days following notification of:

(1) the denial of a request for confidential status made pursuant to Section 1997.1 of this article, or

(2) the denial of a request for extension of confidential status under Section 1997.2 of this article or

(3) the denial of a request for, or the Supervisor's withdrawal of, classification as an experimental log or test, or interpretive data made pursuant to Sections 1997.3 or 1997.4 of this article. Such appeal shall be made in writing, shall contain justification for the appeal, and shall be signed by the owner, operator or a representative of the company.

(b) All records that are the subject of a denial of a request for, or extension of, confidential status made pursuant to Sections 1997.1 or 1997.2 of this article, or the subject of a denial of a request for, or withdrawal of, classification as an experimental log or test, or interpretive data made pursuant to Sections 1997.3 or 1997.4 of this article shall be confidential for a period of thirty (30) days following notification of the denial or withdrawal to allow adequate time for the filing of an appeal. Records that are the subject of an appeal pursuant to this section shall be retained in confidential status pending the Director's decision on the appeal.

(c) If no written reply is made by the Director within thirty (30) days following the date of the appeal, the appeal shall be deemed denied and the records in question shall be public records.

NOTE: Authority cited: Section 6253(a), Government Code. Reference: Section 6253(a), Government Code.

HISTORY

1. Amendment filed 9–27–76 as an emergency; effective upon filing (Register 76, No. 40).
2. Certificate of Compliance filed 12–3–76 (Register 76, No. 49).
3. New NOTE filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).
4. Amendment of subsections (a)–(b), including designation of subsections (a)(1)–(3) filed 8–4–95; operative 9–3–95 (Register 95, No. 31).
5. Change without regulatory effect amending subsection (a)(3) filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

Article 4. Disclosure Procedures

§ 1998. Request to Inspect and/or Copy Records.

NOTE: Authority cited: Section 6253(a), Government Code.

HISTORY

1. Amendment of subsection (a) filed 6–19–79; effective thirtieth day thereafter (Register 79, No. 25).
2. Amendment of subsection (a) filed 2–13–81 as procedural and organizational; effective upon filing (Register 81, No. 7).
3. Repealer filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1998.1. Inspection and Copying of Records.

NOTE: Authority cited: Section 6253(a), Government Code.

HISTORY

1. Repealer filed 1–18–82; effective thirtieth day thereafter (Register 82, No. 4).

§ 1998.2. Written Guidelines.

The Supervisor shall establish written guidelines for accessibility of public records consistent with these regulations. A copy of the guidelines shall be posted in a conspicuous public place at the offices of the Division and thereafter be available free of charge to any person.

HISTORY

1. Change without regulatory effect amending "Geothermal District Boundaries and Offices" maps filed 9–3–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 36).
2. Change without regulatory effect repealing and adopting new Maps 1 and 2 filed 4–8–98 pursuant to section 100, title 1, California Code of Regulations (Register 98, No. 15).
3. Change without regulatory effect amending section filed 12–26–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 52).

GEOTHERMAL DISTRICT BOUNDARIES
of the
Division of Oil, Gas, and Geothermal Resources



GEOTHERMAL DISTRICT OFFICES

Headquarters & District No. G1
801 K Street, 20th Floor, MS 21, Sacramento, CA 95814-3530
Phone: (916) 323-1788
Telefax: (916) 323-0424

District No. G2
1699 West Main Street, Suite E, El Centro, CA 92243-2235
Phone: (760) 353-9900
Telefax: (760) 353-9594

District No. G3
50 D Street, Room 300, Santa Rosa, CA 95404
Phone: (707) 576-2385
Telefax: (707) 576-2611

OG81 (2/98/GSR1/5C)

OIL AND GAS DISTRICT BOUNDARIES
of the
Division of Oil, Gas, and Geothermal Resources



DISTRICT OFFICES

Headquarters	801 K Street, 20th Floor, MS 20, Sacramento, CA 95814-3530 Phone: (916) 445-9686, TDD (916) 324-2555 Telefax: (916) 323-0424
District No. 1	5816 Corporate Avenue, Suite 200, Cypress, CA 90630-4731 Phone: (714) 816-6847 Telefax: (714) 816-6853
District No. 2	1000 S. Hill Rd., Suite 116, Ventura, CA 93003-4458 Phone: (805) 654-4761 Telefax: (805) 654-4765
District No. 3	5075 S. Bradley Rd., Suite 221, Santa Maria, CA 93455 Phone: (805) 937-7246 Telefax: (805) 937-0673
District No. 4	4800 Stockdale Hwy., Suite 417, Bakersfield, CA 93309 Phone: (805) 322-4031 Telefax: (805) 861-0279
District No. 5	466 N. Fifth St., Coalinga, CA 93210 Phone: (209) 935-2941 Telefax: (209) 935-5154
District No. 6	801 K Street, 20th Floor, MS 22, Sacramento, CA 95814-3530 Phone: (916) 322-1110 Telefax: (916) 323-0424

Chapter 5. Division of Recycling

Subchapter 1. Definitions

§ 2000. Definitions.

(a) In addition to the definitions provided in the California Beverage Container Recycling and Litter Reduction Act, except for subdivisions (a)(3.1), (10), (20), (21), (35), (37), (38), (40) and (42) below which modify definitions in the Act for purposes of these regulations, the following definitions shall apply whenever the terms are used in this chapter.

(1) "Act" means the California Beverage Container Recycling and Litter Reduction Act (Division 12.1 of the Public Resources Code).

(2) "Administrative Costs" means the cost of recordkeeping and accounting required of curbside programs, distributors, recycling centers and processors to comply with the requirements of the Act and these regulations.

(2.1) "Amended Processor Invoice" means an invoice submitted by a processor correcting an original report that has been processed and paid.

(2.2) "Amended Shipping Report" means a shipping report submitted by a processor correcting an original shipping report that has been processed and paid.

(2.5) "Alternative Methodology" means an individual commingled rate survey methodology, which either employs the Division's methodology with variations or creates a proposed methodology for the dropoff or collection, community service or curbside programs to arrive at an individual commingled rate.

(3) "Applicant" means the person(s) who has authority to legally bind the operator to a contract.

(3.1) "Beneficiating Processor" means any processor certified by the department who sells cullet to another certified processor or to a glass container manufacturer during the three months preceding the month in which scrap value data is reported to the Division and who beneficiates purchased cullet so that the cullet either:

(A) meets the American Society for Testing and Materials (ASTM) standard specification for waste glass as a raw material for the manufacture of glass containers [E708–79 (Reapproved 1988) Standard Specification for Waste Glass As A Raw Material For The Manufacture of Glass Containers. Current Edition Approved Nov. 30, 1979: published January 1980, see appendix A]; or,

(B) is free from nonglass contaminants and non–container glass compositions, cleansed, crushed to size, free–flowing with minimum water content, absent of hazardous material residue and passes furnace ready sampling and testing methods of a purchasing glass container manufacturer.

(C) Notwithstanding, the other provisions of this section, any certified processor shall not be considered a beneficiating processor if fifty percent (50%) or more of the cullet purchased by that processor during the survey month in which the scrap value data is reported was purchased as beneficiated cullet.

(3.2) "Beverage manufacturer" shall have the same definition as provided in Public Resources Code section 14506, and "any person . . . who imports", as provided in that section, shall include, in the following order of preference:

(A) Any consignee of filled beverage containers brought into this State from without this State, when the filled beverage containers are for delivery, use, or sale within this State.

(B) Any person or entity to whom delivery is first made in this State of filled beverage containers brought into this State from without this State, when the filled beverage containers are for delivery, use, or sale within this State.

(C) Any person or entity bringing filled beverage containers into this State from without this State which are not consigned to any person, when the filled beverage containers are for delivery, use, or sale within this State.

(4) "Cancellation" means the act of removing the refund value of an empty beverage container by any of the following actions:

(A) Aluminum empty beverage containers shall be deemed cancelled when such containers can no longer be physically reconstituted or distinguished as container units. Except as provided in section 2110(b), this may be accomplished by shredding or densification to thirty pounds per cubic foot or more.

(B) Glass empty beverage containers shall be deemed cancelled when such containers have been substantially cleaned of non–glass contaminants and they are crushed size in such a manner as to be acceptable without further processing by a willing user.

(C) Plastic empty beverage containers shall be deemed cancelled when the original form has been so altered as to make its reconstitution physically impossible.

(D) Bimetal empty beverage containers shall be deemed cancelled by densification sufficient to ensure that separation of a single container is no longer possible, or by shredding, milling, or nuggeting.

(E) Any empty beverage container shall be deemed cancelled when it is permanently exported from the State and export verified in accordance with subsections 2420(d)(1), (2) and (3) of these regulations provided that, if aluminum beverage containers, they are first densified to no less than 15 pounds per cubic foot, or shredded.

(F) Any empty beverage container shall be deemed cancelled when it is delivered to a location of end use and the delivery verified in accordance with subsections 2420(d)(1), (2) and (3) of these regulations provided that the following requirements are met:

1. aluminum beverage containers are first densified to not less than 15 pounds per cubic foot, or shredded.

2. glass beverage containers are delivered to a location of end use, which includes a beneficiating processor, as defined in Public Resources Code section 14503.6.

(5) "Category" means the classification of operation, i.e., processor, recycling center, grandfathered recycling center, dropoff or collection program, or community service program.

(6) "Certificate" means the official document issued by the Division which identifies an operator of a recycling center, dropoff or collection program, community service program or processing facility as meeting the requirements for certification by the Division.

(7) "Certified" means an operator of a recycling center, dropoff or collection program, community service program or processing facility has met the minimum requirements established by the Division to receive the certificate defined in (6) above.

(8) "Certification Sign" means a sign or decal issued by the Division for display which identifies the operator of a recycling center as meeting the requirements for certification by the Division.

(9) "Clearly and Prominently" means that the redemption message is displayed so that it is easily found and read by consumers and recyclers. Each letter comprising the message is complete, legible, and cannot be readily obscured. Other factors include boldness, width, spacing, and location of lettering. The message must be distinguishable from refund messages of other states.

(9.5) "Close proximity" means the area within, or adjacent to, a convenience zone, as determined by the Division on a case–by–case basis considering geographic and demographic factors, and consumer convenience.

(10) "Commingled" means a mix of empty beverage containers and other containers of the same material type. Any broken glass empty beverage container(s) purchased from consumers, dropoff or collection programs, or community service programs shall be deemed commingled. Any broken or partial beverage container(s) or rejected, line breakage or out–of–state containers shall not be included when performing a survey methodology to arrive at an individual commingled rate or statewide average commingled rate. Dropoff or collection, curbside and community service programs' individual commingled rate shall be determined pursuant to subsection 2620 through 2645, 2660 through 2685, and 2720 through 2745, respectively. The statewide average commingled rates

shall be determined by the Division pursuant to subsections 2900(a)(1)(B) and section 2930 of these regulations.

(11) "Community Service Program" means a program, certified by the Division, which does not pay refund value and accepts or collects empty beverage containers at a specific location or locations and meets one of the following criteria:

(A) The program is organized under Section 501(c) or 501(d) of the Internal Revenue Code [26 U.S.C. 501(c) and 501(d)], or

(B) The program is a charitable group organized under Section 23701 of the California Revenue and Taxation Code, or

(C) The program is operated by, or caused to be operated by, a city, county or other public agency.

(11.1) "Consolidated Shipping Report" documents the delivery and receipt of material for processors or recycling centers that operate multiple recycling centers or receive material from dropoff or collection programs, community service programs, or curbside programs and is prepared pursuant to subsection 2090(f) of these regulations.

(12) "Contrasting Colors" as used in reference to the redemption message lettering means a clear differentiation in hue, value, and intensity with the background on which the redemption message appears, surrounding artwork, and other nearby printed information.

(13) "Days" means all calendar days unless provided otherwise.

(14) "Delivered" or "Delivery", as used in subchapters 5 & 6 of these regulations, means physically taking possession of the material.

(15) "Dual Certified Entity" means any person who is certified as a processor and also a recycling center at the same location as the processor.

(16) "Densification" means the process of compressing material for the purpose of increasing the weight to volume ratio.

(17) "Disposal Cost" means the transportation cost for hauling post-filled beverage container types to a state–permitted disposal site (landfill, incinerator, or other type of state–permitted site), plus the specified disposal fee.

(18) "Division" means the Division of Recycling which is within the Department of Conservation.

(19) (Reserved)

(20) "Dropoff or Collection Program" means a recycling program which does not pay refund value and accepts or collects empty beverage containers, and which cannot qualify as a curbside program as defined in Section 14509.5 of the Act. "Dropoff or Collection Program" also means a program which separates recyclables from mixed municipal waste. "Dropoff or Collection Program" does not mean a program which accepts or collects recyclable materials which have already been separated from mixed municipal waste. Dropoff or Collection Program includes a Neighborhood Dropoff Program which meets all of the criteria in Section 14514.4.1 of the Act.

(21) "Empty Beverage Container" means a beverage container which meets all the requirements in Section 14512 of the Act except that such term does not include refillable beverage containers.

(22) "Exemption" means an exclusion to the requirement that a recycling center must be established in a convenience zone.

(22.5) "Exempt convenience zone" or "Exempt zone" means a convenience zone which has been granted an exemption pursuant to Section 14571.8 of the Act.

(23) "Exporting" means the act of sending a filled or unfilled empty beverage container or empty beverage container component permanently out of this State.

(24) "Facility" means a recycling or processing operation that has been built, installed or established to serve as a collection or processing point for redeemable beverage containers.

(25) "Grandfathered" is a term which refers to recycling centers that meet the requirements of section 2500(c) of these regulations.

(26) "Importing" means the act of bringing into this State a filled or unfilled empty beverage container or empty beverage container component.

(27) "Indelibly" means that the redemption message is permanently affixed on the beverage container from the point of purchase until the point of redemption and cannot be smeared or removed during regular use.

(27.1) "Individual Commingled Rate" means a commingled rate approved by the Division which is applicable to dropoff or collection, community service, or curbside programs, which have obtained prior approval from the Division.

(27.5) "Interested person" means a supermarket, dealer, certified recycling center, person with a pending certification application, located in or in close proximity to the zone under consideration for an exemption or revocation of an exemption, or a local government agency with jurisdiction over the area where the zone under consideration for an exemption or revocation is located.

(27.6) "Line Breakage," for purposes of these regulations, means pre-consumer material that is recycled or disposed of by a container manufacturer, beverage manufacturer, distributor, or dealer.

(27.7) "Letter of Denial" (LED) means a notice sent to program participants denying requests to conduct an individual commingled rate survey or denying approval of an individual commingled rate, or revoking an individual commingled rate for reason(s) indicated in the LED.

(28) "Location" means the street address where the facility operates.

(29) "Location of End Use" means the place where beverage containers or materials are physically reconstituted for purposes other than sorting, shredding, stripping, compressing, storing, landfilling, disposing, or other activities which do not result in recycling.

(29.5) "Low volume" means an average monthly volume, as defined at Section 14503.5 of the Act, which is less than the statewide average monthly volume of recycling centers in convenience zones. Average monthly volumes shall be calculated annually and shall apply during the calendar year immediately following the calculation.

(30) "Material" means the physical substance used to manufacture a beverage container or food and drink package including, but not limited to, aluminum, bimetal, glass, and plastic.

(30.7) "Milk" means the lacteal secretion which is obtained from the udder of a cow or goat.

(31) "Minimum Lettering Size" is applicable to the height of all the letters in the redemption message.

(32) "Nonaffiliated seller" means any person who sells scrap beverage container material types to a certified processor and is neither owned nor managed in common with such processor.

(32.4) "Notice of Denial" (NOD) means a notice sent to program participants denying requests for program payments, including handling fees, for reason(s) indicated on the notice. Handling fee notices will be sent for each denied site and will explain why the site was denied during a particular month.

(33) "Operator" means the person(s) or entity who has ultimate responsibility for a recycling facility, processing facility, dropoff or collection program, or community service program.

(34) "Person" means an individual, corporation, operation, or other entity, regardless of its form, subject to the Act.

(35) "Processor" means any person, including a scrap dealer, who purchases or offers to purchase empty beverage containers from more than one recycling center in this state and is responsible for cancelling empty beverage container(s) in a manner prescribed in section 2000(a)(4) of these regulations.

(35.1) "Processor Invoice" means the report required in section 2425 of these regulations which the Department uses to determine payment to a certified processor.

(36) "Public Agency" means the city, county, district or other government entity which operates a curbside program or which has the authority to approve or acknowledge the operation of a curbside program.

(36.5) "Recycling Center" means those operations defined in Section 14520 of the Act and includes "Nonprofit Convenience Zone Recycler" as defined in Section 14514.7 of the Act and "Rural Region Recycler" as defined in Section 14525.5.1 of the Act.

(37) "Redeem" means to return an empty beverage container which bears the message as required in Section 14561 of the Act to a certified

recycling or processing facility and receive refund value for the container.

(38) "Redeemable Beverage Container" means a container which bears the message as required in Section 14561 of the Act and has an established refund value.

(39) "Redemption Weight" is the weight of empty California redemption–labeled beverage containers.

(40) "Refund Value" means, in addition to the definition provided in Section 14524 of the Act, any amount paid by a noncertified recycler, dropoff or collection program, or community service program, or any payments received by a noncertified recycler, in excess of:

(A) For aluminum, the scrap price as listed in the American Metal Market publication.

(B) For glass, plastic and bimetal, the portion of the processing payment which are the costs for the recycler, as determined by the Division pursuant to Section 14575 of the Act.

(41) "Rejected Container" means a California redemption–labeled beverage container, which a container manufacturer or beverage manufacturer elects to recycle or dispose of without paying any applicable processing fee, or which a distributor elects to recycle or dispose of without paying the redemption payment. "Rejected containers" includes container tops, lids, or other components which bear the message as required in Section 14561 of the Act.

(41.05) "Representation of Materials" means a typical collection of commingled container materials, of the same material type, representing a ratio of empty beverage containers and all other containers collected by the program and surveyed by the operator to determine an individual commingled rate for dropoff or collection, community service, or curbside programs.

(41.1) "Rural Region" means a non–urban area identified by the Division on an annual basis using Farmers Home Administration criteria. Such criteria for area include, but are not limited to, places, open country, cities, towns, or census designated places with populations less than 10,000. Areas with populations between 10,000 and 50,000 may be designated as rural unless identified as part of, or associated with, urban areas, as determined by the Department on a case by case basis.

(41.2) "Scrap", for purposes of these regulations, is any recyclable container, including food or drink packaging material, other beverage containers, other nonredeemable containers, out–of–state beverage containers, line breakage or rejected containers, of the same material composition as redeemable containers covered by the Act.

(42) "Scrap Value" is the total net payment per ton to any nonaffiliated sellers in each of the following categories: Certified recycling centers, dropoff or collection programs, community service programs, registered curbside programs, and certified processors, for container material types.

(43) "Segregated" means divided by material type and that such divided load consists of 100% California Refund Value material.

(44) "Shipping Report" is the documentation of the receipt of material by a processor, or by a recycling center from another recycling center, dropoff or collection program, community service program, or curbside program. The shipping report is the basis for payments by the Division pursuant to Section 14573 of the Act.

(45) "Shrinkage" means the reduced value due to contamination of empty beverage containers by dirt, moisture, or other foreign substances.

(46) "Size" means the capacity of the beverage container in fluid ounces.

(47) "Statistical Sample" means an estimate with an 85% confidence level.

(47.1) "Supplemental Processor Invoice" means:

(A) A report to correct any shipping report(s) denied on the original processor invoice and/or

(B) A report to add any shipping report(s) to the original processor invoice for transactions that occurred within the same specific reporting period.

(47.2) "Total Net Payment", as used in subparagraph (a)(42) of this section and section 2425, means the amount paid for the reported monthly weight after deductions (e.g., transportation service) and additions (e.g., freight allowance) pertinent to the specific sales transaction have been made. "Total net payment" includes positive, zero and negative dollar amounts, as applicable. This subsection is not intended to relieve a processor of its obligation to pay refund value, administrative and processing payments pursuant to Sections 14539(b)(3) of the Act and sections 2400 and 2430 of this chapter.

(47.3) "Urban Area" means an area identified by the Division on an annual basis using Farmers Home Administration criteria. Such criteria for area include, but are not limited to, densely settled areas of continuous residential development with minimum population of 50,000. Areas with populations less than 50,000 and greater than 10,000 may be designated as urban unless identified as part of, or associated with, rural areas, as determined by the Department on a case by case basis.

(48) "Working Days" means all days except Saturdays, Sundays, and official California State Holidays.

(49) "Zonemate" means a supermarket which lies within the boundaries of a convenience zone other than the one that it creates.

NOTE: Authority cited: Sections 14530.5(b), 14536(b) and 14536.1, Public Resources Code. Reference: Sections 14500, 14501(f), 14503, 14503.6, 14504, 14505, 14506.5, 14509.5(b), 14511.7, 14512, 14512.5, 14513, 14514.4.1, 14514.7, 14517, 14518, 14518.5, 14519.5, 14520, 14520.5, 14520.6, 14522.5, 14524, 14525.5.1, 14526, 14530, 14530.2, 14536(a), 14537, 14538, 14539, 14550, 14552, 14561, 14571.2, 14571.8(b), 14572, 14573, 14573.5, 14573.51, 14574 and 14575(a) and (b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former sections 2120, 2500, 2550, and 2800 to section 2000, and amendment of existing section 2000 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Editorial correction of printing errors in subsections (a), (a)(10), (a)(33), (a)(38) and (a)(42) (Register 92, No. 13).
3. Amendment filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
4. Amendments of definitions for "Collection Program" and "Redeem" and new definition for "Location" filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
5. New subsection (a)(34.5) filed 12–26–91 as an emergency; operative 12–26–91 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL 4–24–92 or emergency language will be repealed by operation of law on the following day.
6. Amendment filed 4–9–92 as an emergency; operative 4–9–92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–7–92 or emergency language will be repealed by operation of law on the following day.
7. Repealer of emergency amendment filed 12–26–91 and reinstatement of prior text filed 9–22–92 by operation of Government Code section 11346.1(f) (Register 92, No. 40).
8. Emergency regulations filed 4–9–92 readopted 10–5–92; operative 10–5–92 (Register 92, No. 41). A Certificate of Compliance must be transmitted to OAL 2–2–93 or emergency language will be repealed by operation of law on the following day.
9. Emergency regulations filed 4–9–92, including amendments: new subsections (a)(3.1)–(a)(3.1)(c), amendment of subsection (a)(35), repealer and new subsection (a)(42), amendment of NOTE, and new Appendix A refiled 12–21–92 as an emergency; operative 12–21–92 (Register 92, No. 52). A Certificate of Compliance must be transmitted to OAL 4–22–93 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsections (a)(4)(D) and (a)(42), new subsection (a)(32.1), and amendment of NOTE filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.
11. Editorial correction of printing error (Register 93, No. 1).
12. New subsections (a)(9.5), (22.5), (27.5), (29.5) and (49) filed 3–29–93; operative 4–28–93 (Register 93, No. 14).
13. Amendment of subsections (a), (a)(5)–(a)(7), (a)(20), (a)(25), (a)(33), (a)(40) and (a)(44), repealer of subsections (a)(10)–(a)(10)(D) and subsection renumbering, new subsections (a)(11)–(a)(11)(C) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
14. Certificate of Compliance as to 12–21–92 order including amendments transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
15. New subsections (a)(2.5), (a)(27.1), (a)(36.5) and (a)(47.2) and amendment of subsection (a)(10) and NOTE filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
16. Amendment of subsection (a)(22) and NOTE and new subsections (a)(32.2), (a)(41.1), and (a)(47.3) filed 10–19–93; operative 10–19–93 (Register 93, No. 43).
17. New subsections (a)(2.5), (a)(27.1) and (a)(47.2) refiled 1–24–94 as an emergency, including additional amendments to subsections (a)(10) and (a)(32.2), new subsection (a)(41.05), repealer of subsection (a)(36.5) and amendment of NOTE; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must

be transmitted to OAL 6–3–94 or emergency language will be repealed by operation of law on the following day.
18. Reinstatement of section as it existed prior to emergency amendment filed 1–24–94 by operation of Government Code section 11346.1(f) (Register 94, No. 39).
19. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
20. Amendment of subsections (a) and (a)(10), new subsections (a)(2.5), (a)(27.1), (a)(27.7), (a)(41.05) and amendment of NOTE filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
21. Amendment of subsection (a)(7), new subsection (a)(7)(B) and amendment of NOTE filed 1–13–95 as an emergency; operative 1–13–95 (Register 95, No. 2). Pursuant to Public Resources Code section 14581.5(e)(2), a Certificate of Compliance must be transmitted to OAL by 7–12–95 or emergency language will be repealed by operation of law on the following day.
22. New subsection (a)(11.1) and amendment of NOTE filed 2–7–95; operative 2–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 6).
23. Certificate of Compliance as to 10–27–94 order including amendment of section transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
24. New subsection (a)(7)(A) refiled 7–7–95 as an emergency; operative 7–7–95 (Register 95, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–4–95 or emergency language will be repealed by operation of law on the following day.
25. Repealer of subsection (a)(7)(A) and amendment of subsection (a)(42) and NOTE filed 12–22–95 as an emergency pursuant to Public Resources Code section 14536.1; operative 1–1–96 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 7–1–96 or emergency language will be repealed by operation of law on the following day.
26. Change without regulatory effect amending subsections (a)(40)(B) and (a)(47.2) filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
27. Editorial correction of section and HISTORY 25 (Register 96, No. 10).
28. Repealer of subsection (a)(7)(A) and amendment of subsection (a)(42) and NOTE refiled 6–26–96 as an emergency pursuant to Public Resources Code section 14536.1; operative 6–30–96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 12–27–96 or emergency language will be repealed by operation of law on the following day.
29. Certificate of Compliance as to 6–26–96 order, including amendment of subsections (a)(2), (a)(3.1)(B)–(C), (a)(4)(B), new subsections (a)(4)(F)1. and 2. and amendment of NOTE, transmitted to OAL 10–22–96 and filed 12–6–96 (Register 96, No. 49).
30. New subsections (a)(27.55) and (a)(47.6) and amendment of subsection (a)(32) filed 7–24–98 as an emergency; operative 7–24–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 1–22–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
31. Editorial correction of HISTORY 30 (Register 98, No. 43).
32. Reinstatement of section as it existed prior to 7–24–98 emergency amendment by operation of Government Code section 11346.1(f) (Register 99, No. 13).
33. New subsection (a)(27.55), amendment of subsection (a)(32), new subsections (a)(42.1)–(42.2), amendment of subsection (a)(47.2), new subsections (a)(47.3) and (a)(47.5) and subsection renumbering filed 4–12–99 as an emergency; operative 4–12–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–9–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
34. New subsections (a)(3.2)–(a)(3.2)(C) and amendment of NOTE filed 6–3–99; operative 6–3–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 23).
35. Reinstatement of section as it existed prior to 4–12–99 action by operation of Government Code section 11346.1(f) (Register 99, No. 43).
36. Amendment of subsection (a)(20), new subsections (a)(27.3), (a)(30.5), (a)(30.7), (a)(32.3) and (a)(36.5), subsection renumbering, and amendment of subsection (a)(40)(B) and NOTE filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
37. Amendment of subsection (a)(20), new subsections (a)(27.3), (a)(30.5), (a)(30.7) and (a)(36.5), subsection renumbering, and amendment of subsection (a)(40)(B) and NOTE refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
38. Amendment of subsection (a)(20), new subsections (a)(27.3), (a)(30.5), (a)(30.7) and (a)(36.5), subsection renumbering, and amendment of subsection (a)(40)(B) and NOTE refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
39. Certificate of Compliance as to 8–11–2000 order, including repealer of subsections (a)(27.3) and (a)(30.5) and repealer and new subsection (a)(30.7), transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).
40. Amendment of subsection (a)(27.7) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
41. Change without regulatory effect repealing and reserving subsection (a)(19) and amending subsections (a)(37)–(38) and (a)(41) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
42. Change without regulatory effect amending subsections (a)(4)(B), (a)(37)–(38), (a)(40)(B) and (a)(41) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
43. Editorial correction of subsection (a)(33) (Register 2004, No. 20).
44. Amendment of subsection (a)(10) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

Appendix A

Designation: E 708–79

Standard Specification for Waste Glass As a Raw Material for the Manufacture of Glass Containers[1]

This standard is issued under the fixed designation E 708: the number immediately following the designation indicates the year of original adoption or, in the case of revision, the year of last revision. A number in parentheses indicates the year of last reapproval.

1. Scope

1.1 This specification covers particulate glass (cullet material, recovered from waste destined for disposal, smaller than 6 mm intended for reuse as a raw material in the manufacture of glass containers.

2. Applicable Documents

2.1 *ASTM Standards.*

C 162 Definitions of Terms Relating to Glass and Glass Products[2]

C 169 Chemical Analysis of Soda–Lime and Borosilicate Glass[2]

C 429 Sieve Analysis of Raw Materials for Glass Manufacture[2]

E 688 Testing Waste Glass as a Raw Material for Manufacture of Glass Containers[3]

3. Definitions

3.1 *first glass cullet* — a particulate glass material that contains no more than 0.1 weight % Fe_2O_3 or 0.0015 weight % Cr_2O_3, as determined by chemical analysis.

3.2 For definitions of other terms used in this specification, refer to Definitions C 162.

4. Representative Sample

4.1 The following requirements qualify the glass lot to be used for direct use in soda–lime glass container manufacturing. Sample should be prepared and examined in accordance with Methods E 688.

NOTE 1—A preponderant proportion of glass cullet will be soda–lime bottle glass, the glass cullet having a composition as follows, as determined by Method C 169.

Oxide	*Composition, Weight %*
SiO_2	66 to 75
$A1_2O_3$	1 to 7
CaO + MgO	9 to 13
Na_2O	12 to 16

NOTE 2—All percents referred to in this specification are weight percents.

5. General Requirements.

5.1 The sample shall show no drainage of liquid and be noncaking and free flowing. A moisture content of less than 0.5 weight % is required to meet the free–flowing characteristics of a cullet that is predominantly of smaller particle size, 1.18–mm (No. 16) sieve or smaller.

5.2 *Screen Size* — No material shall be retained on a 6–mm (1/4–in.) screen. Material not exceeding 15 weight % shall pass through a 106–μm (No. 140) screen.

5.3 *Organic Materials*— The total content of organic materials, as measured in accordance with Section 6 shall not exceed 0.2 weight % of dry sample, except for color–mixed glass where the content of organic material may exceed 0.2 weight %. However, a content of organic material greater than 0.2 weight % must be held within a tolerance of ±0.05 weight %, with a maximum organic limit of 0.4 weight %.

5.4 *Magnetic Materials*—The total magnetic materials shall not exceed 0.05 weight % of dry sample weight for flint glass and 0.14 weight % for colored glass of dry sample weight in accordance with Section 6.

[1] This specification is under the jurisdiction of ASTM Committee E–38 on Resource Recovery and is the direct responsibility of Subcommittee E38.05 on Glass.

Current edition approved Nov. 30, 1979. Published February 1980.

[2] *Annual Book of ASTM Standards*, Part 17.

[3] *Annual Book of ASTM Standards*, Part 41.

5.5 *Permissible Color Mix for Color Sorted Glass Cullet by Weight:*

5.5.1 *Amber Glass Cullet:*

90 to 100 % amber
0 to 10 % flint
0 to 10 % green
0 to 5 % other colors

5.5.2 *Green Glass Cullet:*

50 to 100 % green
0 to 35 % amber
0 to 15 % flint
0 to 4 % other colors

5.5.3 *Flint Glass Cullet:*

95 to 100 % flint
0 to 5 % amber
0 to 1 % green
0 to 0.5 % other colors

5.5.3.1 Percents above 0.1 weight % of Fe_2O_3 or 0.0015 weight % of Cr_7O_3, or both, as determined by chemical analysis shall be considered mixed color glass. These limits are consistent with industry experience on raw material.

5.5.3.2 Flint glass cullet may contain up to 1 weight % emerald green or 10 weight % Georgia green, or a combination within the limits: 1 % Georgia green = 0.1 % emerald green.

5.6 *Other Inorganic Material* (such as non–magnetic metals or refractories)—As measured, material larger than 850–μm (No. 20) screen size shall not exceed 0.1 % of the dry sample weight. Material smaller than 850–μm screen size shall not exceed 0.5 % of the dry sample weight.

5.6.1 *Refractories*—Based upon U.S. series screen size and sample weight, the following refractory particle limits shall apply for each screen fraction as stated below.

+20 mesh	1 particle per 18–kg (40–lb) sample
–20, +40 mesh	2 particles per 450–g (1–lb) sample
–40, +60 mesh	20 refractory particles per 450–g (1–lb) sample

5.6.2 *Nonmagnetic Metals:*

+20 mesh	1 particle per 18–kg (40–lb) sample

Upon failure to meet the previously stated specification limits, retesting is permissible.

6. Sampling and Testing

6.1 Sampling and testing shall be in accordance with Methods E 688.

The American Society for Testing and Materials takes no position respecting the validity of any patent rights assured in connection with any item mentioned in this standard. Users of this standard are expressly advised that determination of the validity of any such patent rights, and the risk of infringement of such rights, are entirely their own responsibility.

This standard is subject to revision at any time by the responsible technical committee and must be reviewed every five years and if not revised, either reapproved or withdrawn. Your comments are invited either for revision of this standard or for additional standards and should be addressed to ASTM Headquarters. Your comments will receive careful consideration at a meeting of the responsible technical committee, which you may attend. If you feel that your comments have not received a fair hearing you should make your views known to the ASTM Committee on Standards 1916 Race St., Philadelphia, Pa. 19103, which will schedule a further hearing regarding your comments. Failing satisfaction there, you may appeal to the ASTM Board of Directors.

§ 2005. Certification Required.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538, 14539 and 14541.5, Public Resources Code.

HISTORY

1. Amendment refiled 2–15–89 as an emergency; operative 2–15–89 (Register 89, No. 8). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–15–89. For prior history, see Register 88, No. 44.
2. Amendment refiled 6–16–89 as an emergency; operative 6–16–89 (Register 89, No. 25). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–16–89.
3. Amendment refiled 10–16–89 as an emergency; operative 10–16–89 (Register 89, No. 44). A Certificate of Compliance must be transmitted to OAL by 11–17–89 or emergency language will be repealed on 11–17–89.
4. Certificate of Compliance as to 10–16–89 order including amendment of subsection(b) transmitted to OAL 11–17–89 and filed 12–18–89 (Register 89, No. 52).
5. Renumbering and amendment of former section 2005 to section 2060 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Subchapter 2. General Requirements

Article 1. Certification Application Procedures

§ 2010. Applicant Qualifications.

(a) Any operator of a recycling center, a dropoff or collection program, community service program or a processing facility shall be eligible to apply for certification in the respective category from the Division.

(b) A processor shall meet the requirements and be certified to operate a recycling center in order to receive any payments from the Division for beverage containers purchased by the processor directly from consumers.

(c) Operators certified by the Division must establish and maintain an office in California where records and reports meeting the requirements of Articles 3 of Subchapter 5 and Article 3 of subchapter 6 of these regulations will be stored and available for inspection at the request of the Divi-sion. The office shall be identified on the application for certification as the business address of the operator.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14514.5, 14538, 14539, 14540 and 14553(b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2030 to section 2010 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. New subsection (c) and amendment to NOTE filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsection (a) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2015. Filing of Applications for Certification.

(a) Applications for certification, on a form(s) provided by the Division, shall be accepted and reviewed on a continuous basis as received.

(b) A separate, complete application shall be submitted to request certification to operate each recycling center, dropoff or collection program, community service program and processing facility.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538, 14539 and 14540, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2015 to section 2020, and renumbering and amendment of former section 2035 to section 2015 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (c) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).

3. Repealer of subsection (a) and subsection redesignation and amendment of subsection (b) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

4. Editorial correction of subsection (a) (Register 96, No. 10).

§ 2020. Multiple Convenience Zones or Multiple Locations.

(a) The Division shall accept a single application for an individual recycling center to redeem empty beverage containers in more than one convenience zone only if the convenience zones overlap and the recycling center is located in the overlapped area of the convenience zones.

(b) The Division shall accept multiple applications from an individual operator of a recycling center or a processing facility requesting certification at more than one location.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14538, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2020 to section 2025, and renumbering and amendment of former section 2015 to section 2020 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

2. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2025. Certification Outside Convenience Zones.

(a) Certification of an operator of a recycling center shall not require that the recycling center be located within a designated convenience zone.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14538, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2025 to section 2065, and renumbering and amendment of former section 2020 to section 2025 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

2. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2030. Review of Applications.

(a) All applications for certification shall be reviewed by the Division for compliance with these regulations.

(b) The Division shall periodically conduct field investigations to verify the accuracy of information contained in the certification application and explain program requirements.

(c) The Division shall notify the applicant in writing within fifteen (15) working days of receipt of the application, or receipt of additional information if the application was initially incomplete, that it is either:

(1) Complete and accepted for further review, or

(2) Incomplete and the reasons for the incompleteness.

(d) Upon determining that an application is complete, the Division shall notify the applicant in writing within forty–five (45) calendar days that such application is either:

(1) Approved,

(2) Approved with a probationary status, or

(3) Denied and the reasons for denial.

(e) In determining whether the operator is likely to operate in accordance with these regulations, the Division shall review the certification history of the operator and other individuals identified in the application as responsible for the recycling center, processing facility, dropoff or collection program, or community service program operation.

(f) The Division shall review its records to determine whether one or more certified entities have operated within the past five years at the same location that is the subject of an application for certification of a recycling center or processor. If one or more entities have operated at the same location, the Division shall review the certification history of the entity or entities certified at the same location within the past five years and determine whether the operations at the location exhibit, to the Division's satisfaction, a pattern of operation in compliance with the requirements of the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations adopted thereunder.

(g) Reasons for denial of applications may include, but shall not be limited to, any of the following:

(1) Failure to provide information or documentation to complete the application as stipulated in section 2045 and 2055 of these regulations;

(2) The operator is unwilling to accept and redeem all beverage container types;

(3) The recycling center operator does not agree to be open for business at least thirty (30) hours per week, five (5) of which are other than from 9 a.m. to 5 p.m. on Monday through Friday;

(4) The operator's certification history demonstrates outstanding fines, penalties, or audit findings;

(5) The operator's certification history discloses decertification of a recycling center, processing facility, dropoff or collection program, or community service program within the past two–year period;

(6) The operator's certification history demonstrates a pattern of operation in conflict with the requirements of the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations adopted thereunder; or

(7) For applications for certification of recycling centers or processors, the certification history of one or more entities certified at the same location within the past five years fails to demonstrate to the Division's satisfaction a pattern of operation in compliance with the requirements of the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations adopted thereunder.

(h) Notwithstanding paragraph (3) of subsection (g) above, the Division may allow the applicant to operate less than 30 hours per week if all of the following conditions are met:

(1) the recycling center will be located in a designated rural region; and,

(2) the recycling center will not be located within a convenience zone; and,

(3) the proposed operating hours will not significantly decrease the ability of consumers to conveniently return beverage containers for the refund value to a certified recycling center redeeming all material types.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538, 14539, 14540, 14541 and 14571, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2030 to section 2010, and renumbering and amendment of former section 2050 to section 2030 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

2. Amendment of subsections (c) and (d) and new subsections (d)(2), (e), and (f)(1)–(6), and amendment to NOTE filed 12–9–91; operative 1–8–92 (Register 92, No. 25).

3. Amendment of subsections (e) and (f)(5) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).

4. Amendment of subsection (f)(2) and new subsections (g)–(g)(3) filed 10–19–93; operative 10–19–93 (Register 93, No. 43).

5. Amendment of subsections (b), (c), (e) and (f)(1)–(6) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

6. Editorial correction of subsection (e) (Register 96, No. 10).

7. New subsection (f), subsection relettering, amendment of newly designated subsections (g)(5)–(6), new subsection (g)(7) and amendment of newly designated subsection (h) filed 3–4–2002 as an emergency; operative 3–4–2002 (Register 2002, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–2–2002 or emergency language will be repealed by operation of law on the following day.

8. New subsection (f), subsection relettering, amendment of newly designated subsections (g)(5)–(6), new subsection (g)(7) and amendment of newly designated subsection (h) refiled 6–19–2002 as an emergency; operative 7–2–2002 (Register 2002, No. 25). A Certificate of Compliance must be transmitted to OAL by 10–30–2002 or emergency language will be repealed by operation of law on the following day.

9. Certificate of Compliance as to 6–19–2002 order transmitted to OAL 9–30–2002 and filed 10–15–2002 (Register 2002, No. 42).

10. Editorial correction of subsection (e) (Register 2004, No. 20).

11. Change without regulatory effect amending subsection (h)(3) filed 4–13–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).

§ 2035. Withdrawal of Applications.

(a) An applicant shall have the right to withdraw an application from review by the Division. Such withdrawal shall be requested in writing and submitted to the Division.

(b) A withdrawal of application shall not prohibit the operator of a recycling center, dropoff or collection program, community service program or processing facility from reapplying at a later date.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538 and 14539, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2035 to section 2015, and renumbering and amendment of former section 2060 to section 2035 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (b) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
3. Amendment of subsection (b) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2040. Submission of New Applications.

(a) The occurrence of any one of the following conditions shall require an operator to file a new application with the Division in accordance with section 2045 or section 2055 of these regulations:

(1) A change in the location of the recycling center or processing facility; or

(2) A change in the operator of the recycling center, dropoff or collection program, community service program or processing facility; or

(3) A change in category as defined in section 2000(a)(5) of these regulations; or

(4) With the exception of an operator who is currently operating under a probationary certification, expiration of the certificate; or

(5) A change in the type of organization operating the certified entity.

(b) A new application shall be submitted forty–five (45) calendar days prior to the occurrence of any of the conditions in subsection (a), above.

(c) If a new application is not received and approved by the Division on or before the expiration date of the certificate, the existing certificate shall expire and the operator shall not be eligible for any refund value, administrative fees, processing payments or handling fees from the date of expiration until a new application is approved. The Division shall review all new applications for renewal of certification in the same manner as initial applications.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14518.5, 14538, 14539 and 14541, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2040 to section 2045, and renumbering and amendment of former section 2065 to section 2040 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a)(4) and NOTE filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsections (a)(2) and (a)(4) and new subsection (a)(5) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsections (a)–(a)(3), (b) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. Change without regulatory effect amending subsection (c) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).

Article 2. Content of Certification Applications

§ 2045. Applications for Recycling Centers and Processors.

(a) To be considered complete, the applications (see Figures 1, 2, 3, and 4) shall contain the following information:

(1) The category of certification requested.

(2) The contact person, business address, mailing address, and telephone number of the organization.

(3) The type of organization which is requesting certification.

(A) If the organization is an individual doing or proposing to do business under a different name, the applicant shall provide a copy of any fictitious business name statement.

(B) If the organization is a partnership, the applicant shall provide a copy of the current partnership agreement and any fictitious business name statement.

(C) If the organization is a corporation, the applicant shall provide the corporate number and Articles of Incorporation and name and position of all current corporate officers as filed with the Secretary of State, any fictitious business name statement, and the agent for service of process.

(D) If the organization is a corporation from a state other than California, the applicant shall provide a copy of the approved certificate from the California Secretary of State qualifying and authorizing the corporation to transact business in California.

(E) If the organization is a husband and wife co–ownership, the applicant shall provide both names and any fictitious business name statement.

(F) If the organization is a local government agency, the applicant shall provide a copy of the authorizing resolution from the governing board.

(G) If the organization is a limited liability company (LLC), the applicant shall provide a copy of the Articles of Organization and Statement of Information as filed with the Secretary of State, any operating agreement, any fictitious business name statement, and the agent for service of process.

(H) If the organization is a limited liability company from a state other than California, the applicant shall provide a copy of their certificate from the California Secretary of State authorizing the LLC to transact business in California.

(4) The federal identification number (employer ID number) of the organization.

(5) A history of past and pending certifications requested from the Division.

(6) The name, address, and phone number (if applicable) of the recycling center or processing facility.

(7) The physical location of the facility in relation to the nearest cross street.

(8) The name, address and phone number of the owner or leaseholder, if applicable, of the facility premises.

(A) If the applicant owns the property, a current mortgage statement or a current tax bill which specifically identifies the organization name and the facility location.

(B) If applicant is leasing, renting, or operating on donated space, a signed copy of a current lease, rental agreement or written permission from the property owner or leaseholder who has authority to determine use of the specific property shall be provided.

(9) Processors shall provide the actual days and hours open for business if a regular schedule is maintained or, if a regular schedule is not maintained, processors shall indicate that they transact business by appointment only. This is for informational purposes only and does not subject processors to the fine and penalty provisions of the Act.

(10) Recycling centers shall provide the actual days and hours open for business.

(A) For recycling centers which are staffed, "actual days and hours open for business" shall be those days and hours where staff are scheduled to be present and do not include lunch breaks.

(B) For recycling centers which consist of reverse vending machines, "actual days and hours open for business" shall include all of the following:

1. The days and hours when the machine is scheduled to be in operation, and

2. The days and hours when beverage containers which are odd–sized or made from materials other than aluminum, glass and plastic will be redeemed, and

3. The days and hours when any beverage containers not accepted by the reverse vending machine will be redeemed by the host dealer.

(11) With the exception of recycling centers which meet the criteria for grandfathering and processors, acknowledgment that the organization agrees to accept and redeem all types of redeemable beverage containers.

(12) For recycling centers, a general description of the methods used to collect, store and/or cancel redeemed beverage containers. This shall include, but is not limited to, the types of equipment and/or receptacles used and the staffing.

(13) For recycling centers, the organization shall indicate if applying as a rural region recycler or a nonprofit convenience zone recycler.

(14) Recycling centers which consist of reverse vending machines shall specify a method for redeeming empty beverage containers which are odd-sized, made from materials other than aluminum, glass and plastic, or otherwise not accepted by the reverse vending machine. In determining whether the method is acceptable, the Division shall consider, but not be limited to, the following:

(A) Convenience to the public,

(B) Volume of containers sold, and

(C) Size and shape of containers

(15) For processors, the type(s) of beverage containers which will be accepted.

(16) Processors shall describe which of the acceptable methods prescribed in section 2000(a)(4) of these regulations will be used to cancel redeemable beverage containers.

(17) The name, residence address, including city and zip code, and residence phone number of the applicant. Programs operated by limited liability companies, corporations or governmental agencies are exempt from this provision.

(18) For an organization seeking certification of a recycling center located on federal land, a written authorization from an authorized agent of the federal government which will allow inspectors from the Division to enter the federal property for the purpose of conducting audits and unannounced inspections of the recycling center, pursuant to section 2125 of these regulations.

(19) For organizations requesting certification to operate a grandfathered facility, evidence that the recycling center was in operation on January 1, 1986, and the types of beverage containers accepted on that date.

(b) The application shall be submitted on a form entitled "Certification Application, Recycling Centers and Processors," DOR 6/93 6, Rev. 10/99 provided by the Division and signed by the applicant under penalty of perjury. The signature block shall contain an affidavit that the information in the application is true and that the organization agrees to operate in compliance with the Act and these regulations.

(1) If the organization is a partnership, the application shall be signed by each partner.

(2) If the organization is a firm, association, corporation, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual with authority to legally bind said entity to a contract.

(3) If the organization is a husband and wife co-ownership, the application shall be signed by both the husband and wife.

(4) If the organization is a limited liability company, the application shall be signed by a managing member, Executive Officer, or other designated member with the authority to legally bind the limited liability company to a contract.

(5) The applicant shall provide the drivers license number of the applicant for identification purposes.

(c) An organization seeking certification to operate a recycling center as a nonprofit convenience zone recycler shall provide written documentation showing that its organization was established under Section 501(c) or 501(d) of Title 26 of the United States Code.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14514.7, 14515.6, 14538, 14539, 14540 and 14571(a), (b) and (d), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2045 to section 2050, and renumbering and amendment of former section 2040 to section 2045 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Editorial correction instituting amendment of section and adoption of Figures 1-4 filed 12-9-91; operative 12-9-91 (Register 93, No. 20).
3. Amendment of subsections (a)(3)(B)-(a)(3)(D), (a)(9)(B), (a)(10)(A), (a)(24) and (b), new subsection (a)(25), and repealer and new figures 1-4 filed 5-21-93; operative 5-21-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of section heading, text and NOTE and repealer and new Figures 1-4 filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. Amendment of section and form DOR 6/93 6 filed 6-24-99; operative 7-24-99 (Register 99, No. 26).
6. Amendment of section and NOTE and amendment of form DOR 6/93 6 filed 1-24-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1-24-2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5-23-2000 or emergency language will be repealed by operation of law on the following day.
7. Amendment of section and NOTE and amendment of form DOR 6/93 6 refiled 4-17-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4-17-2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8-15-2000 or emergency language will be repealed by operation of law on the following day.
8. Amendment of section and NOTE and amendment of form DOR 6/93 6 refiled 8-11-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8-16-2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12-14-2000 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8-11-2000 order transmitted to OAL 11-28-2000 and filed 1-11-2001 (Register 2001, No. 2).

DEPARTMENT OF CONSERVATION
Division of Recycling

Certification Application
RECYCLING CENTERS & PROCESSORS

Mail to: **Department of Conservation** • ***Division of Recycling*** • *Certification Section*
801 K Street • MS 15-59 • Sacramento, CA 95814-3533
Questions? Call: (916)324-8598

Instructions

- *Print In Ink Or Type.*
- *Submit A Separate Form For Each Location Or Category.*
- *Indicate N/A For Any Items Which Are Not Applicable.*

Office Use Only

App. # A _____

Certification No. _____

❑ 5 year ❑ Probationary: *Expiration* _____

OPERATOR INFORMATION

1) Category of Certification

(Check One)

❑ Recycling Center ❑ Processor

2)

Contact Person _____ (First) _____ (Middle) _____ (Last) _____ (Title)

Organization Name _____ _____ (Fictitious Business Name, if applicable)

Business Address _____ (Address) _____ (City) _____ (County) _____ (State) _____ (Zip Code)

Mailing Address _____ (Address) _____ (City) _____ (County) _____ (State) _____ (Zip Code)

Telephone Number (___) _____ (___) _____ (Fax)

3) Type Of Organization

(Check one box)

a. ❑ Individual:

b. ❑ Partnership: __General or __Limited ***Submit copy of current partnership agreement.***

c. ❑ Corporation: ***Number as filed with Secretary of State*** _____ ***Submit Articles of Incorporation and list of current corporate officers.***

_____ Profit or _____ Nonprofit *(Select one)*

_____ Domestic or _____ Foreign *(Select one)* ***If foreign, submit copy of certificate from California Secretary of State.***

Agent for service of process _____

d. ❑ Limited Liability Company: ***Submit Articles of Organization, Statement of Information and operating agreement.***

_____ Domestic or _____ Foreign *(Select one)* ***If foreign, submit copy of certificate from California Secretary of State.***

Agent for service of process _____

e. ❑ Husband and Wife Co-Ownership: ***Name of Spouse*** _____

f. ❑ Local Government Agency: __City __County __City & County __Other ***Submit governing board resolution authorizing this application.***

g. ❑ Federal Agency: __Military Installation __National Park __Other Federal Property _____

h. ❑ Other (Explain): _____

4) Submit a copy of the fictitious business name statement, if applicable

5) Federal ID # (Employer ID#) _____
Corporations, partnerships and other organizations with paid employees must provide a Federal ID#.

Printed on recycled paper

DOR 6/93 6 Rev. 10/99

Type Of Organization (Continued)

6) Are you, your spouse, your partner, or any corporate officer ***currently certified*** by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

If YES, *Certification Number(s)* _____

7) Have you, your spouse, your partner, or any corporate officer ***ever been certified*** by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

If YES, *Certification Number(s)* _____

8) Do you, your spouse, your partner, or any corporate officer have additional ***pending applications*** with the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

9) Have you, your spouse, your partner, or any corporate officer ever had a certificate ***denied, suspended, or revoked*** by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

10) Do you speak English? ..... ❑ Yes ❑ No

If NO, *which language is spoken?*_____

FACILITY INFORMATION

11)

_____ ( ) _____
Name of Facility Facility Telephone Number, If Applicable

_____
Facility Address

_____ _____ _____ _____
City County State Zip Code

12) Identify the nearest cross street to the facility: _____

13) Property Ownership: ❑ Own ❑ Lease ❑ Rent ❑ Donated Space ❑ Other (specify): _____

Submit a copy of the current tax or mortgage statement, or current rental/lease agreement or written use agreement from the owner or leaseholder authorizing use of the property for a recycling business. The document must identify the operator and the facility address (as stated in item 10).

_____ ( ) _____
Name of Property Owner/Leaseholder Telephone Number

_____ _____ _____ _____
Address City State Zip Code

14) Has the facility or program ***ever been operated*** by a different certified operator or under a different facility name in any category? ..... ❑ Yes ❑ No

a. Former facility name, if applicable: _____

b. Former operator name, if applicable: _____

c. Former certification number, if known: _____

15) What will be the facility's actual days and hours of operation?

(Must identify am/pm.)

Business hours:	***Hours closed for lunch:***
Mon ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Tues ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Wed ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Thurs ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Fri ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Sat ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.
Sun ___ a.m. / p.m. to ___ a.m. / p.m.	___ a.m. / p.m. to ___ a.m. / p.m.

If using reverse vending machine(s):

❑ ***24 hours/7 days a week for:*** ❑ Aluminum ❑ Glass ❑ Plastic ❑ Bimetal

RECYCLING CENTERS ONLY

16) Is this facility located on federal land? ..... ❑ Yes ❑ No

If yes, submit authorization for State Inspectors to enter property.

17) Do you agree to inspect loads of empty beverage containers in accordance with the regulations? ***All partners, both husband and wife co-owners must initial.***

❑ Yes ❑ No Your ***original*** initials _____

18) Do you agree to accept and redeem all type(s) of redeemable beverage containers at the facility? ***All partners, both husband and wife co-owners must initial.***

❑ Yes ❑ No Your ***original*** initials _____

19) Are you requesting ***"grandfathered"*** status for your facility? ❑ Yes ❑ No
If yes, which material types do you accept? ❑ Aluminum ❑ Glass ❑ Plastic ❑ Bimetal
Provide proof of operation as of January 1, 1986.

20) Number of Staff: Self _____ Others _____

21) Describe the methods used to collect and store redeemed beverage containers:

❑ Igloos ❑ Bins ❑ Trailers ❑ Reverse vending machines ❑ Carts ❑ Bales ❑ Pickup truck/Van/Auto

❑ Other (Explain): _____

22) **If using reverse vending machine(s),** indicate the proposed method for redeeming beverage containers which are not accepted by the machine(s).

❑ In-store redemption: Name and address of store: _____

❑ On-site attendant ❑ Other (Explain): _____

23) Are you applying for certification as a Nonprofit Convenience Zone Recycler ..... ❑ Yes ❑ No
If yes, provide proof of Nonprofit Tax Exempt status.

24) Are you applying for certification as a Rural Region Recycler ..... ❑ Yes ❑ No

PROCESSORS ONLY

25) Which redeemable beverage containers will be **accepted** at the facility? ❑ Aluminum ❑ Glass ❑ Plastic ❑ Bimetal

26) Indicate the method(s) to be used to cancel each type of redeemable beverage container by container type.

Aluminum

❑ Shredding
❑ Densification to 30 lbs./cu. ft.
❑ Exported from State*
❑ Delivered to end-user*
❑ Other: _____ (Specify)
*Containers must first be densified to 15 lbs./cu. ft.

Glass

❑ Crushed to uniform size acceptable by willing user
❑ Exported from State
❑ Delivered to end-user

Plastic

❑ Shredded
❑ Exported from State
❑ Delivered to end-user
❑ Other: _____

Bimetal

❑ Densification
❑ Shredding
❑ Milling
❑ Nuggetting
❑ Exported from State
❑ Delivered to end-user

27) Do you agree to purchase redeemed beverage containers from any requesting certified recycler? ..... ❑ Yes ❑ No

All partners, both husband and wife co-owners must initial. Your ***original*** initials _____

28) Do you transact business by appointment only? ..... ❑ Yes ❑ No
If No, complete item #15 on page 2 of this application.

DECLARATION AND SIGNATURES

29)

a. I agree to operate the facility in compliance with the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations contained in Chapter 5 of Division 2 of Title 14 of the California Code of Regulations.

b. I declare under penalty of perjury under the laws of the State of California that all information on this application and supporting documents is true and correct and that I am authorized to sign this application.

Note: Please refer to note below (*) for information on who is eligible and required to sign this form.

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone( ) _____

Residence Address _____ (Address) _____ (City) _____ (State) _____ (Zip Code)

Social Security # ** _____ California Driver License # _____

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone( ) _____

Residence Address _____ (Address) _____ (City) _____ (State) _____ (Zip Code)

Social Security # ** _____ California Driver License # _____

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone( ) _____

Residence Address _____ (Address) _____ (City) _____ (State) _____ (Zip Code)

Social Security # ** _____ California Driver License # _____

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone( ) _____

Residence Address _____ (Address) _____ (City) _____ (State) _____ (Zip Code)

Social Security # ** _____ California Driver License # _____

Attach Additional Sheet if Necessary.

* ***Who must sign affidavit: For Individuals-the applicant; Partnerships-each partner; Husband & Wife Co-ownerships-both husband & wife; Corporations, Limited Liability Companies, Government or Public Agencies-persons with authority to legally bind said entity to a contract (e.g., Executive Officer, Managing Member).***

** ***Providing the Social Security Number is voluntary in accordance with the Privacy Act of 1974 (PL 93-579). This information is used for applicant identification purposes. Authority: California Beverage Container Recycling and Litter Reduction Act (Public Resources Code Section 14500 et seq.).***

FOR INFORMATION ONLY

What other recyclable material(s) do you collect or accept?

❑ Newsprint	❑ White Paper	❑ Computer Paper	❑ Cardboard	❑ Construction/Demolition		❑ Styrofoam
❑ Other Aluminum	❑ Scrap Metal	❑ Other Glass	❑ Other Plastic	❑ Telephone Books	❑ Magazines	❑ Oil
❑ Auto Batteries	❑ Used Oil	❑ Yard Waste	❑ Oil Filters	❑ Tin Cans	❑ Tires	❑ Wood
❑ Mixed Paper	❑ Steel	❑ Copper	❑ Iron	❑ Toner Cartridges	❑ Other_____	

§ 2046. General Content of Applications for Dropoff Programs and Collection Programs.

HISTORY

1. New section filed 10–17–88 as an emergency; operative 10–17–88 (Register 88, No. 44). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 2–14–89.
2. New section refiled 2–15–89 as an emergency; operative 2–15–89 (Register 89, No. 8). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 6–15–89.
3. New section refiled 6–16–89 as an emergency; operative 6–16–89 (Register 89, No. 25). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 10–16–89.
4. New section refiled 10–16–89 as an emergency; operative 10–16–89 (Register 89, No. 44). A Certificate of Compliance must be transmitted to OAL by 11–17–89 or emergency language will be repealed on 11–17–89.
5. Certificate of Compliance as to 10–16–89 order including amendment of subsection (a) transmitted to OAL 11–17–89 and filed 12–18–89 (Register 89, No. 52).
6. Amendment filed 4–9–90 as an emergency; operative 4–9–90 (Register 90, No. 18). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–7–90.
7. Certificate of Compliance as to 4–9–90 order transmitted to OAL on 8–6– 90 and filed 8–29–90 (Register 90, No. 42).
8. Renumbering and amendment of former section 2046 to section 2055 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2050. Plan of Operation for Recycling Centers, Nonprofit Dropoff Programs and Processors.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14515.6, 14538, 14539, 14540, 14541.5, 14542, 14571(a), (b) and (d), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2050 to section 2030, and renumbering and amendment of former section 2045 to section 2050 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer filed 9–27–96; operative 9–27–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).

§ 2051. Filing and Review of Applications for Certification of Dropoff and Collection Programs.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Repealer filed 4–9–90 as an emergency; operative 4–9–90 (Register 90, No. 18). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 8–7–90.
2. Certificate of Compliance as to 4–9–90 order transmitted to OAL on 8–6–90 and filed 8–29–90 (Register 90, No. 42).

§ 2055. Applications for Dropoff or Collection Programs and Community Service Programs.

(a) To be considered complete, applications (See Figures 5, 6, and 7) shall contain the following information:

(1) The contact person, title, organization name, business address, mailing address and daytime telephone number of the person, association, corporation, church, club or other organization requesting certification.

(2) The type of organization which is requesting certification.

(A) If the organization is an individual doing or proposing to do business under a different name, the applicant shall provide a copy of any fictitious business name statement.

(B) If the organization is a partnership, the applicant shall provide a copy of the current partnership agreement and any fictitious business name statement.

(C) If the organization is a corporation, the applicant shall provide the corporate number and Articles of Incorporation and name and position of all current corporate officers, as filed with the Secretary of State, any fictitious business name statement, and the agent for service of process.

(D) If the organization is a corporation from a state other than California, the applicant shall provide a copy of the approved certificate from the California Secretary of State qualifying and authorizing the corporation to transact business in California.

(E) If the organization is a husband and wife co–ownership, the applicant shall provide both names and any fictitious business name statement.

(F) If the organization is a local government agency, the applicant shall provide a copy of the authorizing resolution from the governing board.

(G) If the organization is a limited liability company (LLC), the applicant shall provide a copy of the Articles of Organization and Statement of Information as filed with the Secretary of State, the operating agreement, any fictitious business name statement, and the agent for service of process.

(H) If the organization is a limited liability company from a state other than California, the applicant shall provide a copy of their certificate from the California Secretary of State authorizing the LLC to transact business in California.

(3) The federal identification number (employer ID number) of the organization.

(4) A history of past and pending certifications requested from the Division.

(5) The name of the program, if different from the organization name (i.e., association, corporation, church, club or other organization).

(6) The types of empty beverage containers collected or accepted.

(7) A description of the recycling program demonstrating that it meets the criteria for a dropoff or collection program as defined in section 2000(a)(20) or a community service program as defined in section 2000(a)(11) of these regulations.

(8) If seeking certification as a neighborhood dropoff program, the applicant shall so state.

(9) If the program separates beverage containers from mixed municipal waste, a copy of the current permit or formal acknowledgement from the local government agency.

(10) The number and location of any dropoff sites.

(11) If applicable, the business name, address, contact person's name and telephone number of three (3) bars, restaurants, hotels or motels, or other commercial or industrial establishments, from which the organization collects empty beverage containers.

(12) The name, residence address, including city and zip code, and residence phone number of the applicant. Programs operated by limited liability companies, corporations or governmental agencies are exempt from this provision.

(13) The application shall be submitted on a form entitled, "Certification Application, Dropoff or Collection Programs and Community Service Programs," DOR 6/93 7, Rev. 10/99 provided by the Division and signed by the applicant under penalty of perjury.

(A) The signature block shall contain an affidavit that the information in the application is true and that the organization agrees to operate in compliance with the Act and these regulations.

(B) If the organization is a partnership, the application shall be signed by each partner.

(C) If the organization is a firm, association, corporation, county, city, public agency or other government entity, the application shall be signed by the chief executive officer or the individual with authority to legally bind said entity to a contract.

(D) If the organization is a husband and wife co–ownership, the application shall be signed by both the husband and wife.

(E) If the organization is a limited liability company, the application shall be signed by a managing member, Executive Officer, or other designated member with the authority to legally bind the limited liability company to a contract.

(F) The applicant shall provide the vehicle license number and driver license number of the applicant for identification purposes.

(14) For an organization seeking certification of a dropoff or collection program located on federal land, a written authorization from an authorized agent of the federal government which will allow inspectors from the Division to enter the federal property for the purpose of conducting audits and unannounced inspections of the dropoff or collection program, pursuant to section 2125 of these regulations.

(b) An organization seeking certification as a neighborhood dropoff program shall provide:

(1) An area map noting the dropoff locations included in the program; and

(2) The specific address of each dropoff location included in the program.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2046 to section 2055 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a), (a)(4)(D), (a)(9), (a)(13), (a)(13)(B), new subsection (a)(12), subsection renumbering, and amendments to Certification Application filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsections (a), (a)(4)(B)–(a)(4)(D), (a)(9), (a)(10) and (a)(14), new subsections (a)(13), (a)(14)(E) and (a)(15), subsection renumbering and repealer and new figures 5–7 filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of section heading and text and repealer and new figures 5–7 filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. Editorial correction of subsections (a)(4) and (a)(7) (Register 96, No. 10).
6. Amendment of section and form DOR 6/93 7 filed 6–24–99; operative 7–24–99 (Register 99, No. 26).
7. Amendment of section and NOTE and amendment of form DOR 6/93 7 filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
8. Amendment of section and NOTE and amendment of form DOR 6/93 7 refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
9. Editorial correction restoring inadvertently deleted subsection (a)(2)(E) (Register 2000, No. 17).
10. Amendment of section and NOTE and amendment of form DOR 6/93 7 refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 8–11–2000 order transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).

DEPARTMENT OF CONSERVATION
Division of Recycling

Certification Application

DROPOFF OR COLLECTION & COMMUNITY SERVICE PROGRAMS

Mail to: **Department of Conservation** • ***Division of Recycling*** • *Certification Section*
801 K Street • MS 15-59 • Sacramento, CA 95814-3533
Questions? Call: (916)324-8598

Instructions

- *Print In Ink Or Type.*
- *Submit A Separate Form For Each Location Or Category.*
- *Indicate N/A For Any Items Which Are Not Applicable.*

Office Use Only

App. # _____
Category: ❑ Dropoff or Collection Program ❑ Community Service Program
❑ Neighborhood Dropoff Program
Certification No. _____
❑ 2 year ❑ Probationary: *Expiration* _____

OPERATOR INFORMATION

1)

Contact Person _____ (First) _____ (Middle) _____ (Last) _____ (Title)

Organization Name _____ _____ (Fictitious Business Name, If applicable)

Business Address _____ (Address) _____ (City) _____ (County) _____ (State) _____ (Zip Code)

Mailing Address _____ (Address) _____ (City) _____ (County) _____ (State) _____ (Zip Code)

Telephone Number (___) _____ (___) _____ (Fax)

2) ***(Check one box)*** **Type Of Organization**

a. ❑ Individual:

b. ❑ Partnership: __General or __Limited ***Submit copy of current partnership agreement.***

c. ❑ Corporation: ***Submit Articles of Incorporation and list of current corporate officers.***

Corporate # as filed with Secretary of State _____

_____ Profit or _____ Nonprofit *(Select one)*

_____ Domestic or _____ Foreign *(Select one)* ***If foreign, submit copy of certificate from California Secretary of State.***

Agent for service of process _____

d. ❑ Limited Liability Company: ***Submit Articles of Organization, Statement of Information and operating agreement.***

_____ Domestic or_____ Foreign *(Select one)* ***If foreign, submit copy of certificate from California Secretary of State.***

Agent for service of process _____

e. ❑ Husband and Wife Co-Ownership: ***Name of Spouse*** _____

f. ❑ Nonprofit Organization with State of California or Federal Tax Exempt Status.

g. ❑ Government or Public Agency: _____ City _____ County _____ City & County _____ School _____ State _____ Federal

Submit governing board resolution authorizing this application.

h. ❑ Other (Explain): _____

3) Submit a copy of the fictitious business name statement, if applicable

4) Federal ID # (Employer ID#) _____

Corporations, partnerships and other organizations with paid employees must provide a Federal ID#.

Printed on recycled paper DOR 6/93 7 Rev. 10/99

OPERATOR INFORMATION (Continued)

5) Are you or this program ***currently certified*** by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

If YES, Certification Number(s) _____

6) Were you or this program ***previously certified*** by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

If YES, Certification Number(s) _____

7) Do you or this program have other applications ***pending*** with the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

8) Have you or this program ***ever been denied*** certification by the Department of Conservation, Division of Recycling, in any category? ..... ❑ Yes ❑ No

9) Do you speak English? ..... ❑ Yes ❑ No

If No, which language is spoken? _____

PROGRAM DESCRIPTION

10) Program Name _____

11) What types of empty beverage containers do you collect or accept?

❑ Aluminum ❑ Glass ❑ Plastic ❑ Bimetal

12) Are you applying as a Neighborhood Dropoff Program? ..... ❑ Yes ❑ No

If yes, submit a copy of a letter of authorization from city, county, or city and county specifying the dropoff locations, and a regional map outlining the geographical area served.

List the address of the dropoff location(s) served under the neighborhood dropoff program

_____

_____

_____

13) Do you have an established (or regular) route you follow to collect empty beverage containers? ..... ❑ Yes ❑ No

14) Do you have a regular schedule for collecting empty beverage containers? ..... ❑ Yes ❑ No

15) Do you collect empty beverage containers directly from bars, restaurants, hotels and motels? ..... ❑ Yes ❑ No

If yes, please list the name, address, phone and contact person for three of any of the following: bars, restaurants, hotels and motels where you collect.

_____

_____

_____

16) Do you collect empty beverage containers directly from office buildings, industrial/commercial buildings? ..... ❑ Yes ❑ No

If yes, please list the name, address, phone and contact person for three of any of the following: office buildings, industrial/commercial buildings where you collect.

_____

_____

_____

17) Where else do you collect empty beverage containers?

❑ Streets/Alleys ❑ Apartment Complexes ❑ Parks/Recreation Areas ❑ Parking Lots ❑ Residential Garbage ❑ Transfer Station ❑ Landfill Disposal Site

❑ Material Recovery Facility (MRF) ❑ Special Events ❑ Other (explain): _____

PROGRAM DESCRIPTION (Continued)

18) Do you have donation bins at specific locations? ..... ❑ Yes ❑ No

If yes, how many? _____

If yes, where are your donation locations? (e.g., school, store parking lot, church, specific address, etc.)

_____

_____

_____

19) Do you collect empty beverage containers at ***residential*** curbside under contract or with written acknowledgment by a local government agency? ..... ❑ Yes ❑ No

20) Do you separate beverage containers from mixed municipal waste under permit by a local government agency? ..... ❑ Yes ❑ No

If yes, attach a copy of your current permit or formal acknowledgment of operation from the local government agency.

21) Do you operate a dropoff or collection program located on federal land? ..... ❑ Yes ❑ No

❑ National Park ❑ Military Installation ❑ Other Federal Property

If yes, submit authorization for State Inspectors to enter property.

22) Do you pay refund value for the empty beverage containers? ..... ❑ Yes ❑ No

23) Do you pay scrap value for the empty beverage containers? ..... ❑ Yes ❑ No

24) Do you accept/collect containers only in California? ..... ❑ Yes ❑ No

DECLARATION AND SIGNATURES

25) a. I agree to operate my program in compliance with the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations contained in Chapter 5 of Division 2 of Title 14 of the California Code of Regulations.

b. I declare under penalty of perjury under the laws of the State of California that all information on this application and supporting documents is true and correct and that I am authorized to sign this application.

Note: Please refer to note below (*) for information on who is eligible and required to sign this form.

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone ( ) _____

Residence Address _____ (Address) _____ (City) _____ (State) _____ (Zip Code)

Vehicle License # _____ California Driver License # _____

Social Security # ** _____

Executed at _____ (City) _____ (County) _____ (State) on _____ (Month/ Day/Year)

Signature _____ Title _____

Printed Name _____ Residence Phone _____

Residence Address _____ (Address) _____ ( ) (City) _____ (State) _____ (Zip Code)

Vehicle License # _____ California Driver License # _____

Social Security # ** _____

* ***Who must sign affidavit: For Individuals-the applicant; Partnerships-each partner; Husband & Wife Co-ownerships-both husband & wife; Corporations, Limited Liability Companies, Government or Public Agencies-persons with authority to legally bind said entity to a contract (e.g., Executive Officer, Managing Member).***

** ***Providing the Social Security Number is voluntary in accordance with the Privacy Act of 1974 (PL 93-579). This information is used for applicant identification purposes. Authority: California Beverage Container Recycling and Litter Reduction Act (Public Resources Code Section 14500 et seq.).***

FOR INFORMATION ONLY

What other recyclable material(s) do you collect or accept?

❑ Newsprint	❑ White Paper	❑ Computer Paper	❑ Cardboard	❑ Construction/Demolition		❑ Styrofoam
❑ Other Aluminum	❑ Scrap Metal	❑ Other Glass	❑ Other Plastic	❑ Telephone Books	❑ Magazines	❑ Oil
❑ Auto Batteries	❑ Used Oil	❑ Yard Waste	❑ Oil Filters	❑ Tin Cans	❑ Tires	❑ Wood
❑ Mixed Paper	❑ Steel	❑ Copper	❑ Iron	❑ Toner Cartridges	❑ Other _____	

§ 2060. Certification Required.

(a) With the exception of section 2060(b), the certificate shall be kept on file at the recycling and/or processing facility. An operator may request that the certificate be kept on file at another location, and the Division shall grant approval of such request when the request is submitted in writing and the following conditions are met:

(1) A facsimile of the certificate with a statement indicating where the original certificate is maintained is kept on file at the recycling and/or processing facility, and

(2) The original certificate is maintained at the main business office of the operator where records and reports meeting the requirements of Article 3 of subchapter 5 and Article 3 of subchapter 6 of these regulations are maintained.

(b) The certificate issued to the operator of a reverse vending machine, dropoff or collection program, or community service program shall be kept on file at the main business office of the operator where records and reports meeting the requirements of Article 3 of subchapter 5 and Article 3 of subchapter 6 of these regulations are maintained.

(c) With the exception of probationary certificates and certificates whose term is otherwise limited by law, the certificate for recycling centers and processors shall be valid for five (5) years and the certificate for dropoff or collection programs and community service programs shall be valid for two (2) years from the date the certification application is approved by the Division, or until such time as it is surrendered by the operator, or suspended or revoked by the Division.

(d) The certificate is neither transferrable nor assignable to any other person, company, processor, recycling center, dropoff or collection program, community service program or other entity.

(e) The certificate is issued to a specific operator of a recycling center or processing facility for a specific category of certification for a specific location. The certificate issued to a dropoff or collection program or community service program is issued to the operator for a specific category.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538 and 14539 Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2060 to section 2035, and renumbering and amendment of former section 2005 to section 2060 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a), (c) and (e), new subsections (a)(1), (a)(2), and (b), subsection renumbering and amendment of NOTE filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsections (b)–(e) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsections (b), (d), (e) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2065. Posting of Certification.

(a) The certification sign provided by the Division shall be prominently displayed where it can be viewed by customers approaching the recycling center.

(b) The certification sign may be posted at a location which varies from the provisions of this section if requested in writing and approved in writing by the Division.

(c) The certificate or certification sign shall not be displayed by any person, company, processor, recycling center, dropoff or collection program, community service program or other entity not approved for certification by the Division. Dropoff or collection programs or community service programs, and processors are not required to post a certification sign.

(d) The certificate is the property of the Division and shall be returned to the Division upon decertification, revocation of certification, invalidation of certificate or expiration of certification.

(e) The certification sign is the property of the Division and, at the request of the Division, this sign shall be returned to the Division upon decertification, revocation of certification, invalidation of certification or expiration of certification. Certification decals are exempt from this provision.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7, 14538, and 14539 Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2065 to section 2040, and renumbering and amendment of former section 2025 to section 2065 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a)(1), new subsections (b), (d) and (e), and subsection relettering filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsection (c) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

Article 4. General Accounting Requirements

§ 2070. Applicability.

To the extent that a person performs the functions of more than one entity (such as beverage manufacturer and distributor or recycling center and processor) governed by these regulations, such person shall separately comply with the applicable subchapter and article for each function. The provisions of this article apply to every person subject to regulation under the Act, including but not limited to container manufacturers, beverage manufacturers, distributors, recycling centers, and processors, unless specifically stated otherwise.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2070 to section 2125, and renumbering and amendment of former sections 2510 and 2600 to section 2070 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2075. Examinations.

(a) The Division or persons authorized by it shall conduct examinations of curbside programs, recycling centers, processors, beverage manufacturers, distributors, and any other person subject to audit or examination pursuant to the Act. Nothing herein shall limit the authority of the Division pursuant to the Act to audit, examine, review, inspect, or otherwise determine the compliance of any person with the Act or this chapter.

(b) An examination is a review, of any books, records, accounts, or on–site operations, for the purpose of determining compliance with the Act or this chapter. Such reviews may include observation and inspection of transactions, verification of measurements, counts, weights or statistics, or other examination procedures regarding payments, transfers or other activities related to the Act. Nothing herein shall in any way limit the Division's ability to carry out its responsibilities pursuant to the Act.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14537, 14541(c), 14549.1, 14552 and 14553(b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2075 to section 2130, and renumbering and amendment of former section 2601 to section 2075 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of section and NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
3. Amendment of section and NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
4. Certificate of Compliance as to 7–6–2000 order transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).

§ 2080. Proprietary and Other Records Exempt from Disclosure.

(a) All information obtained by the Division pursuant to this chapter may be disclosed to the public upon request unless the information is ex-

empt from such disclosure pursuant to the Act, the Public Records Act, or other applicable law. Information exempt from public disclosure includes, but is not limited to, proprietary information concerning specific sales or purchases; market reports; personal financial data; or other information as permitted by section 6255 of the Public Records Act (Government Code section 6255).

(b) Upon receipt of a written request for records pertaining to information obtained by the Division pursuant to this chapter, the Division shall determine whether the requested information may be exempt from disclosure. The Division shall notify the requesting party of its determination within 10 days of the receipt of the written request as required by the Public Records Act (Government Code section 6256). If the Division determines that the information is not exempt from disclosure, it shall promptly provide it to the requesting party in accordance with the procedures of the Public Records Act.

(c) This subsection does not preclude the Department from compiling aggregate information for use in a final public document.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14551(b), Public Resources Code; Sections 6250–6267, Government Code.

HISTORY

1. Renumbering and amendment of former section 2080 to section 2500, and renumbering and amendment of former section 2602 to section 2080 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2085. Records.

Any records which persons are required to maintain pursuant to these regulations shall be kept in accordance with the following provisions:

(a) Location of Records.

(1) Records of certified recycling centers and certified processors shall be kept at the business address identified in the application for certification pursuant to section 2045(a)(2) or (a)(6) of these regulations. Records may be moved to and kept at a different location if notice is given to the Division pursuant to subsection (3) below.

(2) Container manufacturers in this state, beverage manufacturers in this state, and distributors shall give the Division notice of the location of their records on or before October 1, 1987. Notice of any change in location, or intent to establish a new location of such records, shall be provided pursuant to subsection (3) below.

(3) Notice shall mean written notice stating the full name of the person; certification number where applicable; complete present and future addresses of the location of the records, and name and phone number of the individuals responsible for such records. Such notice shall be submitted no less than 10 days prior to any change in location or establishment of a new location.

(4) Records of dropoff or collection programs and community service programs shall be kept at the business address identified in the application for certification pursuant to section 2055(a)(1) of these regulations. Records may be moved to and kept at a different location, if notice is given to the Division pursuant to subsection (3) above.

(b) Record Retention Period. Records shall be maintained for at least five years following their preparation.

(c) Suitability for Examination. Any receipt or log records that certified recycling centers other than reverse vending machines are required to maintain pursuant to this chapter shall be original receipt or log records. All records maintained pursuant to this chapter shall be suitable for examination. All records suitable for examination shall be prepared and retained in accordance with all of the following conditions:

(1) records must be legible;

(2) records must be stored at the address identified by the certified operator pursuant to subsection (a)(1), (3) or (4) above;

(3) records must be stored in a secured area where the records are protected from debris, moisture, contamination, hazardous waste, fire and theft;

(4) records shall not be stored in an unprotected area, stored in an outside location, stored in a motor vehicle or stored in a location where the records are likely to become contaminated, damaged or stolen.

(d) If the Department determines that records do not meet the conditions in Section 2085(c), the Department may take disciplinary action against the certificate holder pursuant to Section 14591.2(c) of the Act.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14537, 14538, 14539 and 14552, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2085 to section 2505, and renumbering and amendment of former section 2603 to section 2085 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a)(1) and new subsection (a)(5) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
3. Amendment of subsection (a)(1), subsection renumbering, and amendment of subsections (a)(2) and (4) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Amendment of subsections (a)(4) and (c) and new subsections (c)(1)–(d) filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).

§ 2090. Reports, Notices, and Claims Submitted to the Division.

(a) Except where specifically provided otherwise, any reports, notices, and claims prepared pursuant to this chapter shall be prepared and submitted in the form designated by the Division. Only reports, notices, and claims in such form and bearing an original signature pursuant to subsection 2090(d)(4) shall be acceptable. The Division shall provide reporting forms to any person upon request.

(b) In lieu of submitting information on report forms provided by the Division, program participants who use Automated Data Processing (ADP) equipment for maintaining records and producing reports, may submit these ADP reports, provided that such reports:

(1) are consistent with the recordkeeping requirements of these regulations; and

(2) provide the information in the form and manner required by the Division.

Where magnetic tapes, diskettes, microfilms, or other ADP–produced reports are submitted in lieu of written reports, a representative of the submitting organization shall certify in accordance with subsections (d)(4) and (5) below, that these ADP reports are the actual records or were compiled from the actual records of the program participant.

(c) Except as provided in subsection (b) above, reports, notices, claims, and all applicable supporting data shall be accurate, complete, and typed or legibly handwritten in English using permanent ink. Errors shall be voided only by using a single line through the error. Correction fluid, correction tape or erasures shall not be used for correcting errors on any documentation required by or submitted to the Department.

(d) All reports and claims to support payments to or from the Division shall contain all of the following information:

(1) The full name, address, and identification number of the entity preparing the report; and

(A) For recycling centers, dropoff or collection programs, community service programs and processors, the identification number shall be the certification number designated by the Division.

(B) For all other persons, the identification number shall be the Seller's Permit Number as designated by the state pursuant to Revenue and Taxation Code sections 6066 and 6067.

(C) If an entity preparing the report has no certification number or Seller's Permit Number, an identification number shall be obtained from the Division upon written request.

(2) The name and phone number of a contact person for purposes of the report; and

(3) The reporting period and date of preparation of the report; and

(4) The signature and title of the representative of the entity authorized to prepare the report. The signature block shall state that the information in the report or claim is correct to the best knowledge of the person submitting the report or claim; and

(5) The date and place of the signing of the claim or report.

(e) Failure to comply with any provision of this section, or other reporting requirements of this chapter, shall be grounds for the Division to reject or deny the report, notice or claim or take disciplinary action

against the certificate holder pursuant to Section 14591.2(c) of the Act. Any such rejection shall not extend any applicable time period.

(f) In lieu of submitting multiple shipping reports to document transactions between affiliated recycling centers or the receipt of material by a recycling center or processor from a dropoff or collection program, community service program, or curbside program, certified processors and certified recycling centers may apply in writing to the Division for permission to file consolidated shipping reports.

(1) The Division shall approve or deny such requests within 45 days of receipt of the application; and, if the request is approved, a consolidated reporting number shall be issued to the applicant.

(2) The Division shall deny an application to file consolidated shipping reports if the recycling center or processor is not operating in compliance with Section 14538 or Section 14539 of the Act, as applicable.

(3) Upon obtaining written authorization from the Division, processors and recycling centers may consolidate their reporting records onto one shipping report for each delivery to another recycling center or processor and attach a detailed listing of each location's recycling activity for transactions from the effective date of the authorization forward.

(A) Processors and recycling centers shall retain copies of consolidated shipping reports and all supporting documentation.

(B) Consolidated shipping reports shall consist of the following general information, delivery–specific information and information related to totals (see Figure 8 for example):

1. Name and address of the receiving certified administrative office,
2. Certification number,
3. Material type,
4. Shipping report (DR–6) number,
5. Number of shipments,
6. Shipper's certification number,
7. Receipt and log dates, if applicable,
8. Received weight, excluding line breakage, rejected and out–of–state containers.
9. Redemption weight;
10. Adjusted redemption weight,
11. Refund value,
12. The redemption weight; and, for plastic, aluminum, and glass, collected by a curbside program, or a dropoff or collection program that meets the requirements of Section 2850, the registered curbside program or certified entity eligible for the quality incentive payment shall be identified as either the Shipper (S), or the Receiver (R) in the QIP (Quality Incentive Payment) Box.
13. Total payments,
14. Total received weight, excluding line breakage, rejected and out–of–state containers.
15. Total redemption weight claimed,
16. Total adjusted redemption weight,
17. Total refund value,
18. Total payments.

(4) The Division shall revoke authorization to file consolidated shipping reports if the recycling center or processor is not operating in compliance with Section 14538 or Section 14539 of the Act, as applicable.

EXAMPLE EXAMPLE

CONSOLIDATED SHIPPING REPORT (Detail Form)

RECEIVING CERTIFIED ADMINISTRATIVE OFFICE

NAME: 1

ADDRESS: _____

_____

_____

CERT.#: 2

MATERIAL TYPE: 3

SHIP REPORT #: 4

OF SHIPMENTS: 5

SHIPPER CERT #	RECEIPT & LOG DATES	RECEIVED WEIGHT	REDEMPTION WEIGHT	ADJUSTED REDEMPTION WEIGHT	REFUND VALUE	QIP	TOTAL PAYMENTS
6	7	8	9	10	11	12	13
TOTALS:		14	15	16	17		18

NOTE: If payments made to recyclers were reduced due to the redemption weight exceeding the received weight by more than 2.5%, indicate the received weight as the adjusted redemption weight and record the corresponding reduced refund value.

Figure 8.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7, 14518.5, 14538, 14539, 14541, 14549.1, 14550, 14551, 14552 and 14553, Public Resources Code; and Sections 6066 and 6067, Revenue and Taxation Code.

HISTORY

1. *Renumbering and amendment* of former section 2090 to section 2510, and renumbering and amendment of former section 2604 to section 2090 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a), (d)(1)(A) and (e) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. New subsection (f) filed 2–7–95; operative 2–7–95 pursuant to Government Code section 11343.4(d) (Register 95, No. 6).
4. Change without regulatory effect amending subsections (f)(3)(B)12. and (f)(3)(B)18. and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).

5. Amendment of subsection (f)(3)(B)9. and NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
6. Amendment of subsection (f)(3)(B)9. and NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
7. Certificate of Compliance as to 7–6–2000 order, including further amendment of subsection (f)(3)(B), transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).
8. Amendment of subsections (c) and (e) filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).
9. Amendment of subsection (f)(3)(B)14. filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsection (f)(3)(B)14. refiled 7–17–2002 as an emergency; operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (f)(3)(B)14. refiled 11–18–2002 as an emergency, with additional amendment of subsection (e); operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
13. Amendment of subsections (f)(3)(B)2., 8., 12. and 14.–18. and repealer and new Consolidated Shipping Report Form (within subsection (f)(4)) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).
14. Amendment of subsection (f)(3)(B)12. and repealer and new shipping report form filed 6–21–2007 as an emergency; operative 6–21–2007. This regulatory action meets the emergency standard and is mandated to remain in effect until revised by the Director of the Department of Conservation pursuant to Public Resources Code section 14536(b)(2) (Register 2007, No. 25).

§ 2095. Payments.

Payments to consumers shall be in cash or by check or by voucher, which is immediately redeemable for cash. All financial transactions shall be reported and recorded in currency of the United States of America ("dollars"). Where the actual transaction is made in foreign currency it shall be converted to dollars for reporting and recording at the prevailing exchange rate at the time of the payment. All payments to the Division shall be in dollars and made by either check, draft, money order or cashier's check payable to the State of California, Department of Conservation.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14553, 14574 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2095 to section 2515, and renumbering and amendment of former section 2605 to section 2095 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2100. Penalties and Interest Charges.

(a) For violations of subchapters 1, 6, 7 and 9 and sections 2010, 2015, 2020, 2025, 2030, 2035, 2040, 2045, 2050, 2055, 2060, 2065, 2125, 2130, 2400, 2405, 2415, 2420, 2425, 2430 of chapter 5, division 2, title 14 of the California Code of Regulations and sections 14560.5(a), 14561(c), 14561(d), 14570, 14571.6 and 14572 of the Act, the Division shall issue a Notice of Violation. The Notice of Violation shall be issued to a responsible party (i.e., the manager or other person in authority) at the site of the violation and shall contain the information in subsections (1) and (4) below. A copy shall be served upon the legal owner of the entity, (respondent), within ten (10) working days. The Notice of Violation served upon the legal owner shall contain all of the following:

(1) A brief statement of the violation(s) alleged.

(2) A statement to the effect that the respondent has the right to a formal hearing, upon request, at which they may be represented by counsel.

(3) A statement that the respondent's right to a hearing will be deemed waived if respondent fails to respond in writing within 15 days from the date service of the Notice of Violation was received by the respondent, or respondent's agent for service, stating that he/she wishes to assert that right and that, in the event of such failure to respond, the Department may assess the maximum civil penalty permitted by law without a hearing.

(4) A sworn statement, signed by the Division inspector issuing the violation(s), verifying the acts or omissions which form the basis of the violation(s).

(b) For civil penalties sought by the Department pursuant to sections 14591.1, 14591.2, 14593, or 14594 of the Act, the Division shall provide for notice and a hearing regarding such penalties in accordance with the provisions of chapter 5 of the Administrative Procedure Act (Government Code Section 11500 et seq.); except that notice for violations of the Act, and the regulations enacted thereunder, enumerated in subdivision (a) shall be effected pursuant to the procedures in subdivision (a).

(c) Interest shall accrue from the date the payment was due.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14591.1, 14591.2, 14593 and 14594, Public Resources Code; and Section 11500 et seq., Government Code.

HISTORY

1. Renumbering and amendment of former section 2100 to section 2400, and renumbering and amendment of former section 2606 to section 2100 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of subsections (a) and (b), repealer of subsection (c) and subsection redesignation and amendment of NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2105. Persons Certified as Both Processors and Recycling Centers (Dual Certified Entities).

(a) All persons certified as both a processor and a recycling center ("dual certified entities") shall receive material from other recycling centers, curbside programs, dropoff or collection programs and community service programs as a processor. All receipts or reports of such transactions requiring the certification number shall be filled out with the processor certification number.

(b) For the purpose of complying with section 2420(b) of these regulations, a dual certified entity may summarize the total weight purchased at its recycling center for each shipping report period and record the information in the received weight section of the shipping report (DR–6 (11/05)). If this method is used, the dual certified entity shall use its daily summaries to summarize the total refund value from each reporting period and record that information on the DR–6. The total redemption weight will be then calculated, based on the refund value, and recorded on the DR–6. Out–of–state material, rejected material, and line–breakage material shall not be included in the summarized received weight.

(c) For the purpose of complying with section 2425(d) of these regulations, a dual certified entity may prepare more than one shipping report (DR–6 (11/05)) for transfers of material between its recycling center and its processor for each processor reporting period. If refund values, processing fees, administrative fees, or if any rate changes during a processor reporting period, a separate shipping (DR–6 (11/05)) report shall be prepared for each rate or fee change within that processor reporting period. The received date recorded on each shipping report shall be the last day of the receipt and log period.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14540, 14549.1, 14572 and 14573.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2105 to section 2405, and renumbering and amendment of former section 2607 to section 2105 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) and repealer of subsection (b) filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of subsection (a) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsection (a) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. New subsections (b) and (c) filed 6–24–99; operative 7–24–99 (Register 99, No. 26).
6. Amendment of section and NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certifi-

cate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
7. Amendment of section and NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
8. Certificate of Compliance as to 7–6–2000 order, including further amendment of subsections (b)–(c), transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).
9. Amendment filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
10. Amendment refiled 7–17–2002 as an emergency, including further amendment of subsections (b) and (c); operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
11. Editorial correction implementing 7–17–2002 amendment of subsections (b) and (c) and adding HISTORY 10 (Register 2002, No. 47).
12. Amendment refiled 11–18–2002 as an emergency; operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
14. Amendment of subsections (b) and (c) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

§ 2110. Canceled Materials and Rejected Containers.

(a) Except as specified in subsection (b) of this section, no person shall pay or receive a refund value, processing payment, administrative fee, handling fee or other payment mandated by the Act or this chapter for any material that has been canceled, any rejected containers, or any line breakage containers.

(b) The Division shall pay applicable payments or fees to a processor for material canceled by the processor and reported pursuant to section 2425 of these regulations.

(1) A processor may issue a written authorization, for a period not to exceed one year, to a recycling center or another processor to cancel material.

(2) The processor shall submit a copy of the authorization in (b)(1) above to the Division at least 12 days prior to its effective date. The Division shall modify the beginning or ending dates, if the authorization is not submitted 12 days prior to its effective date or exceeds the one year limitation in 2110(b)(1) above. The Division shall have the authority to deny the authorization and must notify the parties of such denial, in writing, prior to the date the authorization would have become effective. If the Division does not deny the authorization, in writing, prior to the effective date the authorization shall be deemed approved.

(A) The Division may deny an authorization to cancel only upon the grounds enumerated as follows:

1. If aluminum beverage containers, the recycling center or another processor does not have the capability to shred the material or densify the material to at least 15 pounds per cubic foot.

2. If, for any beverage container type, the recycling center or another processor has been found to be in violation of sections 14538(b) or 14539(b) of the Act within the prior two year period of the requested date of the authorization to cancel and the violation(s) has (have) not been corrected.

(3) Notwithstanding (1), above, a processor shall not issue an authorization to a recycling center or another processor to cancel aluminum beverage containers unless such recycling center or processor either shreds the material or densifies the material to no less than 15 pounds per cubic foot prior to cancellation by shipment to a location of end use or shipment out–of–state and the processor has verified that the recycling center or processor has the equipment to densify, or shred, and that the equipment is properly functioning at the time the authorization is given.

(4) The authorization in (b)(1) above shall contain all of the following information:

(A) The dates during which it shall be in effect.

(B) The certification numbers of both the recycling center or other processor and the authorizing processor.

(C) The material type which the recycling center or other processor is being authorized to cancel and the method of cancellation.

(D) The manufacturer and model number of the equipment being utilized to cancel the material, if applicable, and the manner by which the processor verified that the equipment is properly functioning.

(5) The Division shall have the authority to immediately revoke, effective upon written notification to both parties, any authorization to cancel aluminum beverage containers if the authorized recycling center or other processor is no longer capable of shredding or densifying to at least 15 pounds per cubic foot, or does not do so.

(6) The Division shall have the authority to immediately revoke, effective upon written notification to both parties, an authorization to cancel for any beverage container type, if the recycling center or other processor is found to be in violation of sections 14538(b) or 14539(b) of the Act.

(7) Notwithstanding section 2000(a)(4), material disposed of pursuant to section 2410 shall be deemed canceled.

(c) For material not physically delivered to a processor pursuant to this section and section 2430(a)(3) of these regulations for which the processor paid, or will pay, the refund value, the Division shall have the authority to inspect the load or loads of material, and examine the records pertaining to such loads, at the location of end use or any other location where the material was physically delivered.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14518, 14518.5, 14538, 14539, 14552.51, 14553, 14573 and 14573.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2110 to section 2600, and renumbering and amendment of former section 2608 to section 2110 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Editorial correction of printing error in subsection (a) (Register 92, No. 13).
3. Amendment filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
4. Repealer and new subsections (b)(1) and amendment of subsections (b)(1)(A)–(3)(B), (b)(4)(B)–(C) and (b)(5) filed 9–28–94; operative 9–28–94 (Register 94, No. 39).
5. Amendment of subsections (a), (b), (b)(2)(A)2 and (b)(5) and new subsection (c) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
6. Change without regulatory effect amending subsections (a) and (b)(1) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
7. Editorial correction (Register 96, No. 10).
8. Amendment of section heading, section and NOTE filed 9–27–96; operative 9–27–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
9. Amendment of subsections (a) and (b)(7) filed 6–24–99; operative 7–24–99 (Register 99, No. 26).
10. Editorial correction restoring inadvertently deleted subsection (b)(1) (Register 2004, No. 20).
11. Amendment of subsection (c) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

§ 2111. Mobile Buyback Pilot Study.

HISTORY

1. Renumbering and amendment of former section 2111 to section 2700 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2112. Load Inspection Requirements.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14538, 14539 and 14553, Public Resources Code.

HISTORY

1. New section filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
2. Amendment of subsection (a)(2) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
3. Provisions previously contained in section 2112 have been amended and relocated to sections 2401 and 2501, filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2115. Computation of Time and Weight.

(a) Time shall be computed or determined in accordance with California Code of Civil Procedure section 12.

(b) Weight shall be measured, recorded and reported in short tons, pounds and fractions thereof. All weighing in this state shall be done on a scale or other device approved, tested and sealed in accordance with division 5 of the Business and Professions Code (Weights and Measures) and any applicable regulations thereunder.

(c) For redemption of empty beverage containers by count, weight shall be determined and noticed as provided in subchapter 12 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14551(b) and 14552, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2115 to section 2705, and renumbering and amendment of former section 2610 to section 2115 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2120. Dates.

(a) The date of any sale or transfer of material shall be deemed to be the date of delivery to the person receiving it.

(b) Reports, complaints, notices and other information submitted to the Division shall be deemed to be submitted on the date of the postmark or the date received by the Division, whichever is earlier.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14551(b) and 14552, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2120 to section 2000, and renumbering and amendment of former section 2611 to section 2120 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Article 5. Administrative Actions

§ 2125. Inspection Authority.

(a) An applicant, certified operator, or curbside program shall provide access to the operator's facility or program to staff authorized by the Division for any one or all of the following purposes:

(1) To determine compliance with the Division's regulations and with the provisions of the Act, or

(2) To determine the accuracy of the information provided in the application for certification, or

(3) To determine the accuracy of the information provided in the application for curbside registration, or

(4) For the investigation of complaints related to compliance with the Division's regulations and with the provisions of the Act, or

(5) To obtain allowable cost survey data required for the Division to carry out its responsibilities pursuant to sections 14575 and 14585 of the Act, or

(6) To inspect all records, required by section 2420(h), upon which the scrap value surveys are based.

(b) Failure to submit to inspections described in subsection (a) above shall result in either:

(1) Denial of an application if the application is pending, or

(2) Revocation of a certification, or registration, or

(3) Suspension of a certification, or registration.

(4) Imposition of civil penalties pursuant to Section 14591.1 of the Act.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14537, 14538, 14539, 14540, 14549.1, 14575 and 14585, Public Resources Code.

HISTORY

1. Repealer of former section 2125, and renumbering and amendment of former section 2070 to section 2125 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) and new subsections (a)(4), (a)(5) and (b)(4), and amendment of NOTE filed 4–9–92 as an emergency; operative 4–9–92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–7–92 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) and new subsections (a)(4), (a)(5) and (b)(4), and amendment of NOTE refiled 10–5–92; operative 10–5–92 (Register 92, No. 41). A Certificate of Compliance must be transmitted to OAL 2–2–93 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (a) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
5. Certificate of Compliance as to 10–5–92 order including amendments transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
6. Amendment of subsections (a)–(a)(3), (a)(5) and (b) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
7. Amendment of subsections (a), (b)(2) and (b)(3) and amendment of NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
8. Amendment of subsections (a), (b)(2) and (b)(3) and amendment of NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
9. Amendment filed 7–20–2000; operative 8–19–2000 (Register 2000, No. 29).
10. Amendment of subsection (a)(5) and NOTE filed 2–5–2007 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–5–2007 (Register 2007, No. 6). Pursuant to Public Resources Code section 14536(b)(2), the emergency amendments remain in effect until revised by the director of the Department of Conservation.
11. Certificate of Compliance as to 2–5–2007 order transmitted to OAL 11–21–2007 and filed 12–26–2007 (Register 2007, No. 52).

§ 2130. Hearings.

(a) Notice shall be given to the operator of record pursuant to chapter 5 (Administrative Adjudication) of division 3 of title 2 of the Government Code, commencing with Section 11500, of the Division's intent to hold adjudication proceedings to consider any or all of the following:

(1) Revocation of a certificate;

(2) Suspension of a certificate;

(3) Nonrenewal of a certificate; or

(4) Imposition of civil penalties on the certificate holder.

(b) Hearings concerning proceedings in (a) above shall be held in accordance with the provisions of chapter 5 (Administrative Adjudication) of division 3 of title 2 of the Government Code, commencing with Section 11500.

(c) Upon receiving notification of the Division's decision denying a certification application or notification to revoke a certificate issued to a dropoff or collection program or community service program, the operator shall have the right to request a hearing with the Department of Conservation.

(1) The operator shall submit directly to the director of the Department of Conservation, within ten (10) calendar days of receipt of the notification from the Division, a written request for a hearing. Such request shall include, at a minimum, all of the following:

(A) The operator's name, mailing address, and daytime telephone number; and

(B) The requested certification category, as defined in section 2000(a)(5) of these regulations, or current certification number; and

(C) The facility name and street address, if applicable; and

(D) The date on the notification from the Division and the stated reasons for denial or revocation; and

(E) A clear and concise statement of the basis for objecting to denial of the certification application or revocation of the certificate.

(2) The director of the Department of Conservation shall schedule the hearing within twenty (20) working days of receipt of the written request for a hearing.

(3) The director shall make a determination to sustain or reverse the Division's denial of a certification application or revocation of a certificate issued to a dropoff or collection program or community service program based on the Division's preliminary review findings and any additional information submitted at the time of the hearing by the operator.

(4) The operator shall be notified of the determination by the director in writing within seven (7) working days from the date the hearing is conducted.

NOTE: Authority cited: Section 14536, Public Resources Code. Reference: Sections 14511.7, 14538, 14539, 14541 and 14591, Public Resources Code; and Sections 11500–11528, Government Code.

HISTORY

1. Repealer of former section 2130, and renumbering and amendment of former section 2075 to section 2130 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (c) and (c)(3) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).

3. Amendment of subsections (a)–(a)(3), (b) and (c)(1)(B) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2135. Unfair and Predatory Pricing.

(a) Complaints submitted pursuant to Section 14588.2 of the Act shall be filed on the Predatory Pricing Complaint Form, DOR 51 (Rev. 01/02) and shall contain all of the following information:

(1) The complainant's name, address, telephone number, facility or business name, and certification number. The complainant shall meet the requirements of Section 2000(a)(36.5) of these regulations.

(2) The name and address and, if known, the telephone number, certification number, and the owner/representative of the supermarket site recycling center alleged to have engaged in unfair and predatory pricing (hereinafter "respondent").

(3) A summary of the facts and allegations which form the basis of the complaint, including, but not limited to, all of the following:

(A) The date on which the alleged unfair and predatory pricing took place.

(B) The type of beverage container(s) in question.

(C) The amount paid for the beverage containers in question.

(4) A statement declaring the truth of the information and allegations contained in the complaint and the complainant's dated signature, signed under penalty of perjury.

(b) A complaint must be submitted within 60 days of the alleged occurrence that forms the basis of the complaint.

(c) A complaint will be deemed "received" by the Division, within the meaning of Section 14588.2 of the Act, only if it is submitted on the form prescribed by the Division and is determined by the Division to be complete.

(1) To be complete, a complaint shall contain all of the information required in subsection (a) above and shall comply with the requirements of Section 14588.2(a) of the Act.

(2) Once a complaint is deemed received, the Division shall mail copies of the received complaint to the complainant and the respondent. Each copy shall be clearly marked with the date that the complaint was deemed received.

(3) Upon notification by the Division that a complaint is incomplete pursuant to paragraph (c)(1) above, the complainant shall have ten calendar days in which to provide the information needed to complete the complaint. Any complaint that remains incomplete for more than ten calendar days after the complainant has been notified shall be rejected by the Division and may not be resubmitted by the complainant.

(d) The subject of a complaint submitted pursuant to Section 14588.1 of the Act must be a supermarket site that receives handling fees.

(1) A supermarket site is a "supermarket site that receives handling fees," as that term is used in Section 14588.1, if the Division determines that a handling fee payment was disbursed to the supermarket site within sixty days before the date of the alleged unfair and predatory pricing.

(2) A compliant will be deficient on its face and rejected without further investigation, if the Division determines that the condition described in paragraph (d)(1) has not been satisfied.

(e) Upon the Division's receipt of a completed complaint regarding a supermarket site that receives handling fees, the Division shall conduct an audit as required by Section 14588.2 of the Act. The Division may conduct field visits and inspect recycler records in conducting the audit.

(1) The Division shall audit a three–day period, including the date of the alleged occurrence, the day before the alleged occurrence, and the day after the alleged occurrence.

(A) No later than five days after being notified of the Division's audit, each recycling center subject to the audit shall provide the Division with the records necessary to complete the audit. The necessary records include, but are not limited to, receipts, logs, and daily summaries. The records may be submitted to the Division via mail or facsimile, or made available to Division staff conducting a field visit to the recycling center.

(B) A recycling center's failure to provide timely or accurate information pursuant to paragraph (e)(1)(A) above is grounds for discipline pursuant to Sections 14591.1 and 14591.2 of the Act.

(2) The Division shall use the data compiled pursuant to paragraph (e)(1)(A) to calculate the average scrap value paid per pound by specified recycling centers.

(3) For purposes of this section, "average scrap value paid" is the per–pound average paid by all specified recycling centers over the three–day period in question, for the material or materials listed in the complaint, exclusive of the refund value. This is calculated by dividing the total amount paid for all audited transactions ($sum) less the total refund value paid for all audited transactions (CRV sum) by the total weight purchased for all audited transactions (#sum) as follows:

$$\frac{\$\text{sum} - \text{CRV sum}}{\#\text{ sum}} = \text{average scrap value paid}$$

(4) Per Section 14588.1(b) of the Act, and for purposes of this section, "specified recycling centers" are those that did not receive handling fees in three or more of the 12 whole months immediately preceding the date of the alleged violation.

(5) The audit will be limited to recycling centers located within either a five–mile or a ten–mile radius of the respondent as specified by Section 14588.1(a)(2) of the Act.

(f) Upon completing the audit required in Section 14588.2 of the Act, the Director, or the Director's designee, shall determine whether there is probable cause to believe that the respondent has engaged in unfair and predatory pricing.

(1) If the Director/designee determines that such probable cause exists, the Department shall convene an informal hearing pursuant to subsection (c) of Section 14588.2. The informal hearing shall be conducted pursuant to Chapter 4.5 (commencing with Section 11445.10) of Part 1 of Division 3 of Title 2 of the Government Code.

(2) If the Director/designee determines that probable cause does not exist, the Division shall notify both the complainant and the respondent of this finding and the complaint shall be dismissed pursuant to paragraph (c)(5)(A) of Section 14588.2 of the Act. The Division shall also resume payment of handling fees to the respondent, including payment of handling fees withheld pending resolution of the pending complaint, if the respondent is otherwise eligible to receive those handling fees.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14588, 14588.1, 14588.2, 14591.1 and 14591.2, Public Resources Code.

HISTORY

1. New section filed 3–9–2000 as an emergency; operative 3–9–2000 (Register 2000, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–7–2000 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–3–2000 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 7–6–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).
4. Amendment of section and NOTE filed 2–22–2002 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–22–2002 (Register 2002, No. 8). Pursuant to Public Resources Code section 14536(b)(2) the emergency amendments remain in effect until revised by the director of the Department of Conservation.
5. Amendment of section and NOTE refiled 6–19–2002 as an emergency pursuant to Public Resources Code section 14536(b); operative 6–21–2002 (Register 2002, No. 25). Pursuant to Public Resources Code section 14536(b)(2) the emergency amendments remain in effect until revised by the director of the Department of Conservation.
6. Certificate of Compliance as to 6–19–2002 order, including further amendment of subsection (f)(2), transmitted to OAL 8–28–2002 and filed 10–8–2002 (Register 2002, No. 41).
7. Editorial correction of subsections (a)(3)(B) and (c)(2) (Register 2004, No. 20).

§ 2140. Unfair and Predatory Pricing Determination Hearing.

NOTE: Authority cited: Section 14536, Public Resources Code. Reference: Section 14585(f), Public Resources Code, and Section 11505(c), Government Code.

HISTORY

1. New section filed 12–22–95 as an emergency; operative 1–1–96 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–29–96 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 4–29–96 as an emergency; operative 4–30–96 (Register 96, No. 18). A Certificate of Compliance must be transmitted to OAL by 8–28–96 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–22–95 order including amendment of subsections (a)(1)–(3), new subsection (c) and subsection relettering transmitted to OAL 8–26–96 and filed 10–7–96 (Register 96, No. 41).
4. Repealer filed 3–9–2000 as an emergency; operative 3–9–2000 (Register 2000, No. 10). A Certificate of Compliance must be transmitted to OAL by 7–7–2000 or emergency language will be repealed by operation of law on the following day.
5. Repealer refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). A Certificate of Compliance must be transmitted to OAL by 11–3–2000 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 7–6–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).

Subchapter 3. Manufacturers

Article 1. Labeling

§ 2200. Labeling Required.

(a) A beverage manufacturer shall indicate on every nonrefillable beverage container sold or offered for sale in the state by the beverage manufacturer the message as required in Section 14561 of the Act.

(1) All nonrefillable beverage containers sold, on and after the effective date of inclusion under the Act, by any person to a distributor, dealer, or consumer shall be labeled in accordance with this section.

(b) Beverage containers shall be clearly, prominently, and indelibly marked as indicated in subsection (a) by painting, printing, scratch embossing, raised letter embossing, or permanent ink jetting, in the specific manner indicated in paragraphs (1), (2), (3) or (4):

(1) Metal containers, excluding metal bottles, shall be marked on the top end of the container in minimum lettering size at least 3/16 inch in height. Metal containers, excluding metal bottles, with a top lid of two inches or less in diameter shall have a minimum lettering size of at least 1/8 inch in height.

(A) Scratch embossed lettering shall be of a minimum width of 0.004 inch of disturbed surface metal.

(2) Glass containers and plastic containers shall be free of notations resembling "No Deposit–No Return," and shall be marked either:

(A) Along the bottom edge of the container body label in minimum lettering size at least 3/16 inch in height;

(B) On or in a secondary label in minimum lettering size at least 3/16 inch in height; or

(C) On a container body label or secondary label with contrasting colors with legible lettering in minimum lettering size at least 1/8 inch in height. Contrasting colors shall direct the reader to the message required in subsection (a).

(3) Plastic portion controlled cups that have peelable, heat sealed lids that are not resealable, shall be marked in a minimum lettering size of at least 1/8 inch in height on either the side of the container only, or on the lid and bottom of the container.

(4) Metal bottles shall be marked on the side of the bottle in minimum lettering size at least 3/16 inch in height.

NOTE: Authority: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14504(c), 14561, 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2502 to section 2200 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a)–(b) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
4. New subsection (b)(3) filed 11–20–2000 as an emergency; operative 11–20–2000 (Register 2000, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2001 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (b)(1) and NOTE filed 1–11–2001; operative 2–10–2001 (Register 2001, No. 2).
6. New subsection (b)(3) refiled 3–12–2001 as an emergency; operative 3–12–2001 (Register 2001, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–10–2001 or emergency language will be repealed by operation of law on the following day.
7. Change without regulatory effect amending subsection (a) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
8. Certificate of Compliance as to 3–12–2001 order transmitted to OAL 5–3–2001 and filed 6–11–2001 (Register 2001, No. 24).
9. Amendment of subsections (b)–(b)(1) and new subsection (b)(4) filed 12–3–2002; operative 1–2–2003 (Register 2002, No. 49).
10. Change without regulatory effect amending subsection (a) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
11. Editorial correction of subsection (b)(2)(C) (Register 2004, No. 20).

Article 2. Accounting and Reporting Requirements for Container Manufacturers

§ 2220. Applicability.

In addition to the general requirements of subchapter 2 of these regulations, container manufacturers in this state shall comply with the provisions of this article. Persons other than container manufacturers in this state need not comply with this article.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2700 to section 2220 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2225. Recordkeeping.

A container manufacturer shall maintain records of any recycling, processing, or other transfer of containers rejected and any payments therefor. These records shall include receipts from the recycling center, processor, or other recipient. Such receipts shall be signed by the recycling center, processor, or other recipient and shall state the weight by material type of rejected containers and any payments made or credit granted therefor. Such records shall be maintained in accordance with the general requirements set forth in section 2085 of subchapter 2 of these regulations.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14541(d), 14552 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2701 to section 2225 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).

Article 3. Accounting and Reporting Requirements for Beverage Manufacturers

§ 2230. Applicability.

(a) Except where other persons are responsible as provided in subsections (b) and (c), in addition to the general requirements of subchapter 2 of these regulations, a beverage manufacturer shall be responsible for the recordkeeping, reporting, and processing fee payments of this article.

(b) Out–of–state vendors, holding a certificate of compliance with the Department of Alcoholic Beverage Control, of beer and other malt beverages located outside of California which sell or transfer filled beverage containers to California shall, pursuant to Public Resources Code Section 14575(g)(2), be deemed to be the beverage manufacturer for payment of processing fees and shall be responsible for the recordkeeping, reporting, and payment responsibilities described in sections 2235(d), 2240, and 2245.

(c) Beverage manufacturers shall notify the Division in writing if another entity has agreed to report and make payments on the beverage manufacturer's behalf. The beverage manufacturer shall submit to the Division a copy of the written agreement between the beverage manufacturer and the entity, which has agreed to report and make payments on the beverage manufacturer's behalf. A copy of the written agreement shall be submitted to the Division within 10 working days of the initial agreement and any subsequent changes or termination of the agreement. The agreement shall include but is not limited to:

(1) The name of each company involved in the agreement.

(2) The beverage manufacturer identification number of each company.

(3) The business and mailing address of each company.

(4) A statement signed and dated by an authorized representative from each company indicating one company has agreed to report and pay for another company.

(d) Nothing in this article shall be construed to require the Division to transfer any of the responsibilities set forth in this article, nor shall the Division be prohibited from holding the in-state beverage manufacturer, distributor, dealer, and/or consumer liable for any due and unpaid processing fees.

NOTE: Authority cited: Sections 14506, 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5, 14536 and 14575(g), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2710 to section 2230 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10-15-91; operative 10-15-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment filed 12-6-96; operative 12-6-96 (Register 96, No. 49).
4. Amendment of subsection (a), repealer and new subsection (c), and new subsections (c)(1)-(4) filed 6-3-99; operative 6-3-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 23).

§ 2235. Recordkeeping.

A beverage manufacturer shall maintain the following records in accordance with the general requirements set forth in section 2085 of subchapter 2 of these regulations.

(a) Transactions with a Container Manufacturer. A beverage manufacturer shall maintain the following records evidencing the receipt of beverage containers or components thereof. Such records shall include all bills of lading, other shipping documents, and the following information:

(1) Date of receipt of shipment;

(2) Quantity, material type, size, and component type, if applicable, of beverage containers or components in shipment;

(3) Full name and address of shipper; and

(4) Cancelled checks or other proof of payment (receipts), invoices, and statements regarding container manufacturers' payment or credit for processing fees pursuant to the Act.

(b) Rejected Containers. A beverage manufacturer shall maintain records of any recycling, processing, or other disposition of rejected containers and any payments therefor. These records shall include receipts or statements signed by the recycling center, processor, or other recipient. Such receipts or statements shall state the weight by material type of rejected containers and any payment made or credit granted therefor.

(c) Sales and Transfers of Beverage Containers by a Beverage Manufacturer. A beverage manufacturer shall maintain records, by individual sale or transfer, of all sales or transfers of beverage containers to distributors, dealers, or consumers, and any payments made therefor. The records shall include all of the following:

(1) The number, by material type, of beverage containers sold or transferred to dealers, distributors, or consumers;

(2) The date of the sale or transfer;

(3) The full name and address of the buyer or other transferee, and shipping name and address if different; and

(4) Proof of payment for the beverage containers sold or transferred, such as invoices and statements.

(d) Processing Fee Report Records. A beverage manufacturer shall retain a copy of the Beverage Manufacturer Report, DR-4 (1/00) submitted to the Division pursuant to section 2240 of this subchapter, and proof of payment and receipts for processing fee payments made to the Division.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14537, 14541(c) and (d), 14552 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2711 to section 2235 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (d) filed 10-15-91; operative 10-15-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment filed 12-6-96; operative 12-6-96 (Register 96, No. 49).
4. Amendment of first paragraph and subsections (a), (b) and (c) filed 6-3-99; operative 6-3-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 23).
5. Amendment of subsection (d) filed 1-24-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1-24-2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5-23-2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (d) refiled 4-17-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4-17-2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8-15-2000 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (d) refiled 8-11-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8-16-2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12-14-2000 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8-11-2000 order transmitted to OAL 11-28-2000 and filed 1-11-2001 (Register 2001, No. 2).

§ 2240. Reporting.

For each month during which a processing fee applies to any beverage container material type sold or transferred by a beverage manufacturer, the appropriate beverage manufacturer, as determined by section 2230, shall prepare and submit to the Division the Beverage Manufacturer Report, DR-4 (1/00). The DR-4 (1/00) shall contain the following information in accordance with the general requirements for reporting as contained in section 2090 of these regulations.

(a) Sales and Transfers of Beverage Containers Subject to a Processing Fee. Each report shall contain all of the following information:

(1) The beverage manufacturer's name, address, manufacturer identification number, contact person, and telephone number of contact person;

(2) The reporting period;

(3) The number of beverage containers, by material type, sold or transferred in or into this state during the reporting period which are subject to a processing fee;

(4) The amount of the processing fee per beverage container and material type ("unit fee");

(5) The amount of the processing fee payment for each material type, calculated by multiplying the beverage container count for each material type by the applicable processing fee per container;

(6) The amount of the total processing fee payment due, which is equal to the sum of the processing fee payments by material type pursuant to subsection (5); and

(7) The signature of an authorized representative and date signed.

(b) The DR-4 (1/00) shall be submitted no later than the tenth day of the second month following the month of sales. For example, sales of January 2000 shall be reported on March 10th, 2000, sales of February 2000 shall be reported on April 10th, 2000, sales of March 2000 shall be reported on May 10th, 2000, etc.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14552 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2712 to section 2240 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of first paragraph and subsection (a)(1) filed 10-15-91; operative 10-15-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of opening paragraph, new subsection (a)(1) and subsection redesignation, amendment of subsection (a)(6) and new subsection (a)(7) filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Amendment filed 12-6-96; operative 12-6-96 (Register 96, No. 49).
5. Amendment of first paragraph filed 6-3-99; operative 6-3-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 23).
6. Amendment of first paragraph and subsection (b) filed 1-24-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1-24-2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5-23-2000 or emergency language will be repealed by operation of law on the following day.

7. Amendment of first paragraph and subsection (b) refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
8. Amendment of first paragraph and subsection (b) refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 8–11–2000 order transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).

§ 2245. Payments.

Each beverage manufacturer, except as provided in section 2230(b), shall pay to the Division all applicable processing fees for the beverage containers that the beverage manufacturer sells or transfers to the following entities located in California: distributors, dealers, or consumers.

(a) Timing of payment. The payment is due on the same date as the report.

(b) Calculation of payment. A beverage manufacturer shall pay to the Division for each month the processing fee reported for that month pursuant to section 2240(a).

(c) Documentation. A beverage manufacturer shall submit a report as required by section 2240 with each payment.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14506, 14530.5, and 14575(h), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2713 to section 2245 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of opening paragraph, subsection (a) and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Amendment of subsections (b) and (c) filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
5. Amendment of first paragraph filed 6–3–99; operative 6–3–99 pursuant to Government Code section 11343.4(d) (Register 99, No. 23).

Subchapter 4. Distributors

Article 1. Distributor Requirements

§ 2300. Applicability.

In addition to the general requirements of subchapter 2 of these regulations, distributors shall comply with the provisions of this article. Persons other than distributors need not comply with this article.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2720 to section 2300 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2305. Recordkeeping.

A distributor shall maintain the following records by individual sale or transfer and in accordance with the general requirements set forth in section 2085 of subchapter 2 of these regulations.

(a) Receipt of Beverage Containers. A distributor shall maintain records, by individual sale or transfer, of all beverage containers received, including all containers which bear the message as required in Section 14561 of the Act. The records shall contain all of the following information:

(1) The quantity received by material type, of beverage containers, including all containers which bear the message as required in Section 14561 of the Act;

(2) The full name and address of the beverage manufacturer or other originating person; and

(3) The date the beverage containers, including all containers which bear the message as required in Section 14561 of the Act, were received by the distributor.

(b) Sale or Transfer of Beverage Containers. A distributor shall maintain records, by individual sale or transfer, of all beverage containers, including all containers which bear the message as required in Section 14561 of the Act on all CRV beverage containers, and refillable beverage containers sold or transferred to other distributors, dealers, or consumers. The records shall contain all of the following information:

(1) The quantity by material type of all beverage containers, including all containers which bear the message as required in Section 14561 of the Act, and refillable beverage containers;

(2) The full name and address (and the shipping or destination name and address, if different) of the dealer, consumer, or other distributor to whom the beverage containers, including refillable beverage containers and containers which bear the message as required in Section 14561 of the Act, were sold or transferred; and

(3) The date(s) the beverage containers, including all the containers which bear the message as required in Section 14561 of the Act, and refillable beverage containers, were sold or transferred.

(c) The Distributor Report, DR–3 (7/07) and Payments to the Division. A distributor shall maintain the DR–3 (7/07) and payment records prepared pursuant to sections 2310 and 2320 of this subchapter.

(d) Rejected Containers. A distributor shall maintain records of any recycling, processing, or other disposition of rejected containers and any payments therefor. These records shall include receipts or statements signed by the recycling center, processor, or other recipient. Such receipts shall state the weight by material type of the rejected containers and any payment made or credit granted therefor.

NOTE: Authority cited: Sections 14530.5 and 14536. Public Resources Code. Reference: Sections 14530.5, 14537, 14550(b) and (c), 14561 and 14572.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2721 to section 2305 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
3. Amendment of subsection (c) filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
4. Amendment of subsection (c) refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (c) refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 8–11–2000 order transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).
7. Change without regulatory effect amending subsections (a)–(a)(1) and (a)(3)–(b)(3) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
8. Change without regulatory effect amending section filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
9. Change without regulatory effect amending NOTE filed 4–13–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).
10. Amendment of subsection (c) filed 12–5–2006 as an emergency; operative 12–5–2006 (Register 2006, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2007 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (c) refiled 3–26–2007 as an emergency; operative 4–4–2007 (Register 2007, No. 13). A Certificate of Compliance must be transmitted to OAL by 8–2–2007 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 3–26–2007 order, including further amendment of subsection (c), transmitted to OAL 6–5–2007 and filed 7–17–2007 (Register 2007, No. 29).

§ 2310. Reporting.

(a) A distributor shall prepare and submit to the Division the Distributor Report, DR–3 (7/07) in accordance with the general requirements for reporting contained in section 2090 of these regulations.

(1) The DR–3 (7/07) for sales or transfers of beverage containers shall be submitted no later than the last day of the third month following the month of sales. For example, sales of January 2000 shall be reported on April 30, 2000; sales of February 2000 shall be reported on May 31, 2000; sales of March 2000 shall be reported on June 30, 2000; etc.

(2) The DR–3 (7/07) shall contain all of the following information:

(A) The distributor's name, address, contact person, and telephone number of the contact person;

(B) The distributor's assigned identification number beginning with the prefix "DS".

(C) The reporting period;

(D) The total number and total empty weight of beverage containers, by material type and size, including all containers which bear the message as required in Section 14561 of the Act, sold or transferred;

(E) The total number of beverage containers identified in subparagraph (C);

(F) Redemption payment and administrative fee:

1. The redemption payment for each material type by size, and
2. The total redemption payment,
3. The administrative fee deducted, and
4. The total due to the Division;

(G) The total number and total empty weight of refillable beverage containers sold, transferred, and returned to the distributor. Each of these items shall be reported by material type; and

(H) The signature of an authorized representative and date signed.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5, 14550(b) and (c), 14560, 14561 and 14574, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2722 to section 2310 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
4. Amendment of section and NOTE filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of section and NOTE refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of section and NOTE refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 8–11–2000 order transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).
8. Change without regulatory effect amending subsection (a)(3)(D) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
9. Change without regulatory effect amending section filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
10. Editorial correction of subsection (a)(1) (Register 2004, No. 20).
11. Change without regulatory effect amending NOTE filed 4–13–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).
12. Change without regulatory effect repealing subsection (a)(1), renumbering subsections and amending newly designated subsections (a)(1) and (a)(2)(A)–(B) filed 2–8–2006 pursuant to section 100, title 1, California Code of Regulations (Register 2006, No. 6).
13. Amendment of subsections (a)–(a)(2) and (a)(2)(B) filed 12–5–2006 as an emergency; operative 12–5–2006 (Register 2006, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2007 or emergency language will be repealed by operation of law on the following day.
14. Amendment of subsections (a)–(a)(2) and (a)(2)(B) refiled 3–26–2007 as an emergency; operative 4–4–2007 (Register 2007, No. 13). A Certificate of Compliance must be transmitted to OAL by 8–2–2007 or emergency language will be repealed by operation of law on the following day.
15. Certificate of Compliance as to 3–26–2007 order, including further amendment of subsections (a)–(a)(2) and (a)(2)(B), transmitted to OAL 6–5–2007 and filed 7–17–2007 (Register 2007, No. 29).

§ 2315. Reporting Additional Information.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5, 14560, 14561 and 14571.9, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2722.1 to section 2315 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2320. Payments.

(a) The distributor shall pay to the Division the total redemption payment for all beverage containers, including all containers which bear the message as required in Section 14561 of the Act, sold or transferred to dealers or consumers, less the administrative fee authorized in Section 14574 of the Act. Notwithstanding any other provisions of this subchapter, this administrative fee shall not be deducted from the calculated redemption payment, if the Division calculates the redemption payment owed by the distributor to the Division.

(b) Redemption Payments. The distributor shall compute the total redemption payment, by material type, by multiplying the number of beverage containers, including all containers which bear the message as required in Section 14561 of the Act, reported pursuant to section 2310(a), by the currently effective redemption payment per container for that material type. The currently effective redemption payment shall also be applicable for all containers which bear the message as required in Section 14561 of the Act.

(c) The redemption payment per container is determined by the Division pursuant to section 14560 of the Act and section 2900(b) of subchapter 12 of these regulations.

(d) The sum of the individual redemption payments by material type computed pursuant to subsection (b), shall equal the total redemption payment for the reporting period.

(e) Total Payment Due. The total payment due to the Division for each reporting period is calculated by subtracting the administrative fee computed pursuant to subsection (e) from the total redemption payment computed pursuant to subsection (b). The distributor shall submit to the Division the total payment due, accompanied by the reports required pursuant to section 2310.

(f) Recycling Center Handling Fee. The distributor shall negotiate a handling fee with each recycling center which returns or causes to be returned empty refillable beer or other refillable malt containers.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14561, 14572.5 and 14574, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2723 to section 2320 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) filed 9–27–96; operative 9–27–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
3. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
4. Amendment of subsections (a) and (e) filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a) and (e) refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a) and (e) refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certif-

icate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.

7. Certificate of Compliance as to 8–11–2000 order transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).
8. Change without regulatory effect amending subsections (a)–(b) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
9. Editorial correction of subsection (b) (Register 2001, No. 40).
10. Amendment of subsection (b) filed 12–3–2002; operative 1–2–2003 (Register 2002, No. 49).
11. Change without regulatory effect amending subsections (a) and (b) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
12. Amendment of subsection (a), repealer of subsection (e) and subsection relettering filed 12–5–2006 as an emergency; operative 12–5–2006 (Register 2006, No. 49). A Certificate of Compliance must be transmitted to OAL by 4–4–2007 or emergency language will be repealed by operation of law on the following day.
13. Amendment of subsection (a), repealer of subsection (e) and subsection relettering refiled 3–26–2007 as an emergency; operative 4–4–2007 (Register 2007, No. 13). A Certificate of Compliance must be transmitted to OAL by 8–2–2007 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 3–26–2007 order transmitted to OAL 6–5–2007 and filed 7–17–2007 (Register 2007, No. 29).

Subchapter 5. Processors

Article 1. Requirements for Processors

§ 2400. Operation Standards.

(a) All certified processors shall operate in accordance with all of the following requirements:

(1) Processors certified by the Division shall begin operation within sixty (60) calendar days of approval of the certification. Failure to begin operation within sixty (60) calendar days shall result in invalidation of the certification by the Division.

(2) The processor shall accept one or more type(s) of redeemable beverage container(s).

(3) Certified processors shall redeem empty beverage containers from any certified operators of recycling centers, dropoff or collection programs, or community service programs and operators of curbside programs which have been issued an identification number in accordance with these regulations. Payments shall be made in accordance with section 2430 of these regulations.

(4) Certified processors shall make payments and invoice the Division within the time periods specified in article 3 of this subchapter.

(5) Certified processors shall cancel redeemable beverage containers in any one or more of the manners prescribed in section 2000(a)(4) of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14539, 14573, 14573.5 and 14573.6, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2100 to section 2400 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a)(1), (a)(2), and (a)(6), new subsection (a)(3), and subsection renumbering filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsections (c) and (c)(3) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of article heading and subsection (a)(3), repealer of subsections (a)(5)–(8) and subsection renumbering, and amendment of new subsection (a)(5) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. Editorial correction of NOTE (Register 96, No. 10).

§ 2401. Load Inspection Requirements.

(a) Certified processors shall inspect each load of containers, subject to the Act, delivered to the processor, for which refund value is claimed, to determine whether the load is eligible for any refund value and, if so, to determine whether the load is segregated or commingled, as follows:

(1) For any load delivered to a processor from a dropoff or collection program, community service program, curbside program or recycling center, each processor taking delivery of the material shall visually inspect each load of material by monitoring the unloading and/or conveyor process to determine eligibility and whether the load is segregated or commingled.

(b) In addition to the requirements of section 2110 of these regulations, a load of aluminum material shall be deemed not eligible for any refund value if there are pieces of broken, densified bales or biscuits of aluminum beverage containers within the load. This does not include cans which have merely been flattened. A load of plastic material shall be deemed not eligible for any refund value, if pieces of bales of plastic are found in the load.

(c) Once eligibility is determined, payment shall be calculated pursuant to section 2430 of these regulations.

(d) All out–of–state material, whether labeled with the message required in Section 14561 of the Act or not, and all rejected and line breakage containers are not eligible for any refund value payments.

(e) Notwithstanding Section 2530(b)(1) of these regulations, a certified processor shall not inspect, weigh or receive a load of material subject to the Act from a recycling center unless and until the shipper's section of the shipping report is completed and accompanies the load of material delivered to the certified processor's site.

(f) All rejected, line breakage or out–of–state containers in the load, whether labeled or not with the message required in Section 1451 of the Act, must be excluded from the received weight of the load.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14539 and 14553, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2112 to new section 2401 filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
2. Amendment of subsection (b) filed 6–24–99; operative 7–24–99 (Register 99, No. 26).
3. Change without regulatory effect amending subsection (d) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
4. Change without regulatory effect amending subsection (d) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
5. Amendment of subsection (d) and new subsections (e) and (f) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

Article 2. Notification Requirements

§ 2405. Notification Requirements.

(a) Notwithstanding the requirements of section 2040 of these regulations, certified processors shall notify the Division in writing ten (10) calendar days prior to any of the following events:

(1) Change of name under which the processing facility is doing business,

(2) Change of business or mailing address or phone number of operator,

(3) Separation from parent company, if applicable,

(4) Merger with another company,

(5) Dissolution of the organization type identified in the application for certification,

(6) Change in the type of redeemable beverage containers accepted,

(7) A change in the method a processor is using to cancel containers,

(8) Any change in a processor's status as a beneficiator as defined in section 2000(a)(3.1) of these regulations and Section 14503.6 of the Act.

(9) A change in the agent for service of process, if applicable,

(10) Any change in hours of operation, as presented in the application for certification or subsequent notification to the Division, during which certified operators and curbside programs can deliver beverage containers to the processing facility. Processors who do not maintain regular hours are exempt from this subsection, and nothing in this subsection shall result in processors being subject to the fine and penalty provisions of the Act,

(11) A change in the type of organization,

(12) Change in the name of the contact person for the operator,

(13) Change in corporate officers, if applicable,

(14) Change in the name of organization,

(15) Any change in business ownership.

(b) A processor who intends to be decertified shall submit a written notification to the Division, which includes the proposed effective date.

NOTE: Authority cited: Section 14536(b), Public Resources Code. Reference: Sections 14503.6, 14539 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2105 to section 2405 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (b), repealer and new subsection (a)(7) and new subsections (a)(8) and (a)(9) filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. New subsection (a)(7)(A) and amendment of NOTE filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.

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4. Amendment of subsections (a)(8) and (a)(10) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
5. Amendment of subsection (a)(2), new subsection (a)(8) and subsection redesignation, amendment of subsections (a)(9)–(10), new subsections (a)(12)–(14) and amendment of NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
6. Amendment of subsections (a), (a)(5) and (a)(14) and new subsection (a)(15) filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).

§ 2410. Notice of Disposal.

(a) Except as provided at Sections 14552.5 and 14552.51 of the Act, no processor shall dispose, have disposed, or authorize a recycling center operator to dispose of any empty beverage containers without written notice submitted to the Division at least ten days prior to disposal. For purposes of this section, disposal shall include burning, landfilling, or any other method of handling or processing material that is not consistent with recycling.

(1) Such notice shall clearly identify the place of disposal.

(2) The notice shall state the weight of the material, by material type, to be disposed.

(3) The notice shall be signed by an authorized representative of the processor and state the date and place of the signing.

(4) The signature block shall state that the information in the notice is correct to the best knowledge of the person signing the notice.

(5) For a specific load, or loads, authorization to dispose granted to a recycling center operator shall satisfy the requirement for authorization to cancel, pursuant to section 2110 of these regulations.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14501(h), 14518, 14519, 14538, 14539, 14552.5 and 14552.51, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2609 to section 2410 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of subsection (a), new subsection (a)(5) and amendment of NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

Article 3. Accounting and Reporting Requirements

§ 2415. Applicability.

In addition to the general accounting requirements of subchapter 2, processors shall comply with the accounting and reporting provisions of this article. Persons other than processors need not comply with this article.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2740 to section 2415 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2420. Recordkeeping.

Processors shall maintain the following records in accordance with the general requirements set forth in section 2085 of these regulations.

(a) Shipping reports. Processors shall obtain shipping reports from each recycling center and also prepare shipping reports for material received from all other persons. Processors shall retain copies of all shipping reports.

(b) Weight tickets. Processors shall prepare and retain weight tickets indicating material and weight of individual loads of beverage containers by material type received from recycling centers and other persons. A copy of any weight ticket prepared pursuant to this section shall be provided to the shipper unless the receiving processor and the shipper are the same person and located at the same physical address or location.

(c) Processor reports to the Division. Processors shall retain copies of reports to the Division pursuant to section 2425 of these regulations.

(d) Verification of cancellation. Processors shall retain proof that the processor canceled or had canceled in accordance with section 2000(a)(4) of these regulations all empty beverage containers received. The verification shall include:

(1) For shipments by sea, the proof of cancellation by export from the state shall be the on–board bill of lading.

(2) For other shipments out of the State or to a location of end use, the proof of cancellation shall include a receipt issued by the person receiving the shipment and any applicable bill of lading.

(3) For other forms of cancellation defined in section 2000(a)(4) of these regulations, proof shall be a certification prepared in accordance with subsection 2090(d) of these regulations and signed by the person performing the cancellation. The certification shall identify the cancelled materials, the date of cancellation, and the method of cancellation, pursuant to subsections 2000(a)(4)(A), (B), (C), (D), (E), or (F) of these regulations.

(e) Records of processor to processor transactions. Processors shall prepare and retain a record of all exchanges of materials subject to the Act. Such records shall identify:

(1) The shipping processor and receiving processor(s):

(2) The date of the shipment, material type, and the weight of the material; and

(3) The amount of mixed–color glass collected by curbside program(s).

(f) Notices of Disposal. Processors shall retain copies of written notices of disposal sent to the Division pursuant to section 2410 of these regulations.

(g) The processor shall prepare and retain a receipt setting forth the weight and type of material delivered to the processor and payment made or credit granted for all scrap transactions. In addition, the receipt shall indicate if the load consisted of rejected containers, line–breakage containers, or out–of–state beverage containers.

(h) Records of scrap value survey data. Processors shall maintain records to support all of the information provided to the Division on the Scrap Value Purchases Survey Form DOR – SV (10/00) required by Section 2425(f) of this subchapter.

NOTE: Authority cited: Sections 14530.5, 14536 and 14536.1, Public Resources Code. Reference: Sections 14504, 14537, 14539, 14550, 14552 and 14575, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2741 to section 2420 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (a)(1)–(3) and (b) and adoption of subsection (h) filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. New subsections (i) and (j) and amendment of NOTE filed 4–9–92 as an emergency; operative 4–9–92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–7–92 or emergency language will be repealed by operation of law on the following day.
4. New subsections (i) and (j) and amendment of NOTE refiled 10–5–92; operative 10–5–92 (Register 92, No. 41). A Certificate of Compliance must be transmitted to OAL 2–2–93 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 10–5–92 order including amendment of subsection (i) transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
6. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
7. Amendment of subsection (h) and NOTE filed 2–27–95 as an emergency; operative 2–27–95. A Certificate of Compliance must be transmitted to OAL by 8–26–95 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsection (h) and NOTE refiled 8–14–95 as an emergency; operative 8–26–95 (Register 95, No. 33). A Certificate of Compliance must be transmitted to OAL by 2–22–96 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsection (h) and NOTE filed 12–22–95 as an emergency pursuant to Public Resources Code section 14536.1; operative 1–1–96 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 7–1–96 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of HISTORY 9 (Register 96, No. 10).
11. Amendment of subsection (h) and NOTE refiled 6–26–96 as an emergency pursuant to Public Resources Code section 14536.1; operative 6–30–96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 12–27–96 or emergency language will be repealed by operation of law on the following day.

12. Amendment of subsections (d) and (d)(3) filed 9–27–96; operative 9–27–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
13. Certificate of Compliance as to 6–26–96 order, including amendment of subsection (h), transmitted to OAL 10–22–96 and filed 12–6–96 (Register 96, No. 49).
14. Amendment of subsection (h) and amendment of NOTE filed 4–12–99 as an emergency; operative 4–12–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–9–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
15. Strikeout version of DOR 7/95 2 (Rev. 11/95), and a copy of DOR 6/98 2 (Rev. 11/98) filed with the Secretary of State 4–19–99 (Register 99, No. 17).
16. Reinstatement of section as it existed prior to 4–12–99 action by operation of Government Code section 11346.1(f) (Register 99, No. 43).
17. Amendment of subsection (h) and NOTE filed 12–21–99 as an emergency; operative 1–1–2000 (Register 99, No. 52). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 6–29–2000 or emergency language will be repealed by operation of law on the following day.
18. Editorial correction of HISTORY 17 (Register 2000, No. 27).
19. Reinstatement of section as it existed prior to 12–21–99 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2000, No. 27).
20. Amendment of subsection (h) and NOTE filed 7–5–2000 as an emergency; operative 7–5–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 1–2–2001 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 7–5–2000 order, including further amendment of subsection (h) and NOTE, transmitted to OAL 12–19–2000 and filed 1–30–2001 (Register 2001, No. 5).
22. Amendment of subsection (b) filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).
23. Amendment of subsection (e) and new subsections (e)(1)–(3) filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
24. Amendment of subsection (e) and new subsections (e)(1)–(3) refiled 7–17–2002 as an emergency; operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
25. Amendment of subsection (e) and new subsections (e)(1)–(3) refiled 11–18–2002 as an emergency; operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
26. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
27. Amendment of subsection (b) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

§ 2425. Reporting.

The processor initially receiving material from recycling centers, curbside programs, dropoff or collection programs, or community service programs shall prepare and submit to the Division the report described in this section.

(a) The report shall be submitted monthly or, at the option of the processor, up to eight times per calendar month. The reporting periods for the month must cover from the beginning to the end of the calendar month and not overlap any days.

(1) All reports shall be submitted no later than the 10th day after the last day of the reporting period.

(2) Processors shall be allowed to submit no more than four supplemental processor invoices per material type, per original processor invoice, provided each is submitted no later than forty–five (45) days from the following events:

(A) The due date of the original processor invoice that the supplemental processor invoice covers, if it is for new shipping reports not previously submitted with the original processor invoice being supplemented; or

(B) The date appearing on the Notice of Denial (NOD) if the reports were previously denied or if the reports are a combination of new shipping reports not previously submitted with the original processor invoice and previously denied shipping reports.

(3) Processors shall be allowed to submit no more than two amended processor invoices per material type, per original processor invoice, provided each is submitted no later than ninety (90) days after the due date of the original processor invoice being amended.

(4) Nothing herein shall limit the Division's authority to accept an amended processor invoice which will result in money being owed to the State of California.

(b) The report shall contain the following information, by material type, in addition to the general requirements for reporting contained in section 2090 of these regulations.

(c) A summary of the processor's transactions during the period covered by the report, including all of the following information:

(1) The total weight of all material, including empty beverage containers received by the processor; and

(2) The total weight of empty beverage containers received, and the refund value, and applicable administrative and processing payments paid for such material by material type; and

(3) The computation and amount of the total processing payment due for the reporting period; and

(4) The computation and amount of the total administrative fee due for the period; and

(5) Total payments requested from the Division for the period. These payments are computed as the sum of the total reported refund value, the administrative fees due, and the processing payments due; and

(6) A statement indicating whether the materials which are the subject matter of the report are "for recycling" or "not for recycling."

(d) Each report shall also include copies of the shipping reports for the period of the report. The total number of shipping reports included shall be specified.

(e) Each report shall also contain a shipping report prepared by the processor for each shipment of materials received from any curbside program, dropoff or collection program, or community service program, and a shipping report for each shipment of materials received from a recycling center that has been prepared by the recycling center and completed by the processor. Each report shall include all of the following information:

(1) The name, address, and identification number or certification number, of the entity shipping the material to the processor, as well as the name and telephone number of a contact person; and

(2) The name and the certification number of the processor receiving the material; and

(3) The date the material was received and the material type covered by the report; and

(4) The received weight, excluding line breakage, rejected containers, and out–of–state containers; and

(5) The redemption weight; and, for plastic, aluminum, and glass, collected by a curbside program, or a dropoff or collection program that meets the requirements of Section 2850, the registered curbside program or certified entity eligible for the quality incentive payment shall be identified as either the Shipper (S), or the Receiver (R) in the QIP (Quality Incentive Payment) Box.

(6) The refund value paid; and

(7) The total administrative fees paid, when applicable; and

(8) The processing payments paid; and

(9) The printed name, title and signature of the shipper or an authorized representative of the shipper and date signed; and

(10) The weight ticket number; and

(11) The shrinkage deduction taken, if any; and

(12) The printed name, title and signature of an authorized representative of the processor and the date signed.

(f) Additionally each certified processor shall submit a Scrap Value Purchases Survey Form DOR – SV (10/00) report for purchases of beverage container material types every month. The DOR – SV (10/00) Scrap Value Purchases Survey Form shall be submitted to the Division no later than the 10th day of the month following the month of the report. The DOR – SV (10/00) Scrap Value Purchases Survey Form must be submitted regardless of whether or not purchases occurred in the applicable time period. In addition to the general requirements for reporting contained in section 2090 of these regulations, the DOR – SV (10/00) Scrap Value Purchases Survey Form shall contain all of the following information, if applicable:

(1) The processor's name, address and certification number, physical address, including city, phone number and date prepared; and,

(2) The month covered by the report; and

(3) The total weight, in tons, of each beverage container material type purchased, even if zero, from nonaffiliated sellers, excluding beverage container material types received in a form mixed with other beverage material types or material types not covered by the Act, in each of the following categories: certified recycling centers, dropoff or collection programs, community service programs, processors, registered curbside programs, any certified and non–certified entities; in the case of glass, beneficiating and nonbeneficiating processors shall be reported separately; and

(4) The total weight, in tons, of each beverage container material type received from affiliates and/or subsidiaries. Beverage container material that processors receive in a form mixed with other beverage container material types and/or material types not covered by the Act, whether from affiliates or nonaffiliates, shall be reported with the affiliated transaction after the material has been sorted and the received weight determined.

(5) The total net payment for the reported total monthly weight, in tons, for each beverage container material type purchased, by the reporting processor from nonaffiliated sellers in each of the categories listed in item 3 above; and

(6) For glass only, the monthly total weight, in tons, of purchased beverage container material types by color; and the monthly total weight of color sorted or mixed glass purchased from any non–affiliated beneficiating or nonbeneficiating processor; and

(7) For plastic, the monthly total weight, in tons, of purchased beverage container material types, by each plastic resin code type (1 through 7); and

(8) The printed name and signature of an authorized representative of the reporting processor.

(g) Processors purchasing materials directly from more than one curbside program, dropoff or collection program, or community service program may apply to the Division to request the use of alternative methods for preparing the corresponding shipping reports. The Division shall consider each proposed alternative method and issue a written approval or denial within forty–five (45) calendar days.

(1) In order for alternative methods to be accepted, they must be based on reasonable allocation methods.

(2) An application for an alternative allocation method shall be denied if:

(A) The received weight of the material purchased by an entity from the processor is not used to calculate allocations to the curbside programs, dropoff or collection programs, or community service programs; or

(B) The processor does not ensure that the weight of rejected containers, line breakage, and out–of–state containers is not included in the allocated weight (this does not require a physical separation); or

(C) The processor does not account for each incoming load of material; or

(D) The processor does not inspect incoming material to verify that it is eligible for refund value payments, as specified in section 2401.

(3) Processors may file a formal appeal by writing the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a notice denying an application requesting an alternative method for shipping report preparation. Appeals submitted after this time period shall be rejected. All written appeals shall include:

(A) A copy of the notice denying the allocation method;

(B) A detailed explanation of why the determination was in error; and,

(C) Any other documentation that supports the appeal.

(4) A written decision on the appeal shall be sent to the processor within seven (7) calendar days of the receipt of the appeal.

(h) Processors purchasing commingled glass from a certified dropoff or collection program including a "waste reduction facility", a certified community service program, or a registered curbside program, shall visually inspect every load delivered to determine eligibility for refund value and the level of contamination in the load. If a load presented to a processor is eligible for refund value and has residual or other contamination, the processor shall reduce the load for shrinkage. If a load has a residual or other contamination level of greater than 10% by weight, and the load is otherwise eligible for refund value, the receiving processor shall request an alternative method of preparing the shipping report for payment. The Division shall consider each proposed alternative method and issue a written approval or denial within forty–five (45) calendar days.

(1) In order for the alternative method to be accepted, it must:

(A) Be based on a recycled glass cleaning process that produces cullet which meets the American Society for Testing and Materials standard specification for waste glass as a raw material for the manufacture of glass as specified in Section 2000(a)(3.1)(A).

(B) Clearly state:

1. That the received weight, for beverage container redemption purposes, shall be determined from the cullet produced in (A) above.

2. That the redemption weight shall be determined using the applicable commingled rates and the received weight from 1.

3. That, if a sampling procedure will be used to determine the received weight of contaminated loads from each entity, the sampling procedure must be included with the request for an alternative method of preparing the shipping report.

(2) An application for an alternate method will be denied if:

(A) The total weight of all contaminated materials received at the facility is not recorded.

(B) All material received at this facility is not inspected for the presence of out–of–state, rejected, or line breakage containers and this weight excluded from shipping reports.

(C) Records accurately supporting both cullet sold and residual or contaminated material disposed of or used for an alternative market is not made available to Department staff upon request.

(D) The method does not clearly account for the weight of empty beverage containers for each certified dropoff or collection program including a "waste reduction facility", certified community service program, or registered curbside program from which the processor receives this material.

(3) When used in this subsection, "waste reduction facility" means a dropoff or collection program certified by the Department, which separates beverage container material types from mixed waste.

NOTE: Authority cited: Sections 14530.5, 14536 and 14536.1, Public Resources Code. Reference: Sections 14504, 14515.5, 14518.5, 14519.5, 14537, 14539, 14549.1, 14550, 14552, 14552.51, 14575 and 18015, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2742 to section 2425 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of first paragraph and subsections (c)(1), (e)(1)–(2) and adoption of subsection (e)(7) filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. New subsections (f)–(f)(3)(H) and amendment of NOTE filed 4–9–92 as an emergency; operative 4–9–92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 8–7–92 or emergency language will be repealed by operation of law on the following day.
4. New subsections (f)–(f)(3)(H) and amendment of NOTE refiled 10–5–92; operative 10–5–92 (Register 92, No. 41). A Certificate of Compliance must be transmitted to OAL 2–2–93 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (f) and amendment of NOTE filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.
6. Amendment of first paragraph and subsection (e) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
7. Certificate of Compliance as to 12–30–92 order including amendment of subsections (f)–(f)(7) transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
8. Amendment of section and NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
9. Amendment of subsections (f), (f)(4), and (f)(6) and NOTE filed 2–27–95 as an emergency; operative 2–27–95. A Certificate of Compliance must be transmitted to OAL by 8–26–95 or emergency language will be repealed by operation of law on the following day.
10. Amendment of subsections (f), (f)(4), (f)(6) and NOTE refiled 8–14–95 as an emergency; operative 8–26–95 (Register 95, No. 33). A Certificate of Compliance must be transmitted to OAL by 2–22–96 or emergency language will be repealed by operation of law on the following day.
11. Amendment of subsection (f), repealer of subsection (f)(3), subsection renumbering, amendment of newly designated subsection (f)(5) and amendment of

NOTE filed 12–22–95 as an emergency pursuant to Public Resources Code section 14536.1; operative 1–1–96 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 7–1–96 or emergency language will be repealed by operation of law on the following day.
12. Change without regulatory effect amending subsections (c)(2), (c)(3), (c)(5) and (e)(6) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
13. Editorial correction of subsection (f)(1) and HISTORY 11 (Register 96, No. 10).
14. Amendment of subsection (f), repealer of subsection (f)(3), subsection renumbering, amendment of newly designated subsection (f)(5) and amendment of NOTE refiled 6–26–96 as an emergency pursuant to Public Resources Code section 14536.1; operative 6–30–96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 12–27–96 or emergency language will be repealed by operation of law on the following day.
15. Certificate of Compliance as to 6–26–96 order, including amendment of subsections (a)(4) and (f), transmitted to OAL 10–22–96 and filed 12–6–96 (Register 96, No. 49).
16. Amendment of subsections (f), (f)(1) and (f)(3), new subsections (g)–(k) and subsection relettering filed 7–24–98 as an emergency; operative 7–24–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 1–22–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
17. Editorial correction of HISTORY 16 (Register 98, No. 43).
18. Reinstatement of section as it existed prior to 7–24–98 emergency amendment by operation of Government Code section 11346.1(f) (Register 99, No. 13).
19. Amendment of subsection (f), repealer of subsections (f)(1)–(7), new subsections (g)–(g)(4), subsection relettering and amendment of NOTE filed 4–12–99 as an emergency; operative 4–12–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–9–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
20. Strikeout version of DOR 7/95 2 (Rev. 11/95), and a copy of DOR 6/98 2 (Rev. 11/98) filed with the Secretary of State 4–19–99 (Register 99, No. 17).
21. Reinstatement of section as it existed prior to 4–12–99 action by operation of Government Code section 11346.1(f) (Register 99, No. 43).
22. New subsections (h)–(h)(3) and amendment of NOTE filed 10–18–99; operative 11–17–99 (Register 99, No. 43).
23. Amendment of subsection (f), new subsections (f)(7) and (f)(8) and amendment of NOTE filed 12–21–99 as an emergency; operative 1–1–2000 (Register 99, No. 52). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 6–29–2000 or emergency language will be repealed by operation of law on the following day.
24. Amendment of subsection (e)(3), new subsections (e)(3)(A)–(B), redesignation of former subsections (h)(1)(B)(i)–(iii) to subsections (h)(1)(B)1.–3. and amendment of NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
25. Editorial correction of HISTORY 23 (Register 2000, No. 27).
26. Reinstatement of section as it existed prior to 12–21–99 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2000, No. 27).
27. Amendment of subsection (f), new subsections (f)(7) and (f)(8) and amendment of NOTE filed 7–5–2000 as an emergency; operative 7–5–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 1–2–2001 or emergency language will be repealed by operation of law on the following day.
28. Amendment of subsection (e)(3), new subsections (e)(3)(A)–(B), redesignation of former subsections (h)(1)(B)(i)–(iii) to subsections (h)(1)(B)1.–3. and amendment of NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
29. Certificate of Compliance as to 7–6–2000 order, including further amendment of subsections (e)(3)(A)–(B), transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).
30. Certificate of Compliance as to 7–5–2000 order, including further amendment of subsections (f), (f)(3)–(4) and (f)(6)–(7), repealer of subsection (f)(8), and subsection renumbering, transmitted to OAL 12–19–2000 and filed 1–30–2001 (Register 2001, No. 5).
31. New subsections (a)(3) and (a)(5) and subsection renumbering filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).
32. Editorial correction of subsection (f)(6) (Register 2002, No. 13).
33. Amendment of subsection (e)(3) and repealer of subsections (e)(3)(A)–(B) filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
34. Amendment of subsection (e)(3) and repealer of subsections (e)(3)(A)–(B) refiled 7–17–2002 as an emergency; operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
35. Amendment of subsection (e)(3) and repealer of subsections (e)(3)(A)–(B) refiled 11–18–2002 as an emergency; operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
36. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
37. Editorial correction of subsections (f) and (h)(1)(B)2. (Register 2004, No. 20).
38. Amendment of subsections (a)–(a)(2)(A) and (a)(3), repealer of subsections (a)(4)–(5), subsection renumbering, amendment of subsection (e), new subsections (e)(2)–(3), repealer of subsections (e)(8) and (e)(10), subsection renumbering, and amendment of newly designated subsections (e)(5) and (e)(9) and subsection (e)(12) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).
39. Amendment of subsection (e)(5) filed 6–21–2007 as an emergency; operative 6–21–2007. This regulatory action meets the emergency standard and is mandated to remain in effect until revised by the Director of the Department of Conservation pursuant to Public Resources Code section 14536(b)(2) (Register 2007, No. 25).

§ 2430. Payments.

(a) Payments to recycling centers.

(1) Substantiation of payment. The processor shall weigh, and pursuant to section 2401, inspect all loads received from recycling centers before completing the receiver's section of the shipping reports. The processor shall do all of the following for materials received from recycling centers:

(A) Verify all calculations are accurate and that all other pieces of information shown on the shipping report, including signatures, are filled in.

(B) Record the received weight, excluding the weight of rejected containers, line breakage and out–of–state containers provided by the shipping recycler, onto the shipping report.

(C) Sign and date the shipping report to verify the receipt of the materials as indicated on the report.

(D) Calculate the refund value payment. If the redemption weight does not exceed the received weight by more than 2.5 percent, then the processor shall reimburse the recycler the refund value claimed. Otherwise, the processor shall multiply the received weight by the segregated rate per pound and record that amount as the refund value paid.

(E) Calculate the processing payment. If the redemption weight does not exceed the received weight by more than 2.5 percent, then the processor shall multiply the redemption weight claimed by the processing payment in effect on the date the material was received and pay that amount. Otherwise, the processor shall multiply the received weight by the processing payment in effect on the date the material was received and pay that amount.

(F) Calculate the administrative fee. The processor shall multiply the refund value paid from (D) by the administrative fee rate in effect on the date the material was received and pay that amount.

(2) In addition to the provisions of this section, processors shall not make any payments pursuant to the Act for materials which have not been delivered to the processor unless the following conditions are met:

(A) The shipper is a certified recycling center to which the processor has given authorization to cancel pursuant to section 2110 of these regulations; and

(B) The delivery to a location of end use and cancellation are verified in accordance with section 2420(d) of these regulations.

(3) In the case of processors that do not take delivery of the material, the weight shall mean the weight received by the entity to whom the material is physically delivered.

(4) In no case shall a processor make any payments pursuant to the Act for any material which the processor has rejected for any reason.

(b) Payments to curbside programs. Processors shall pay the refund value, administrative fees and any applicable processing payments for materials delivered to the processor from curbside programs. Processors shall adjust the refund value rate to account for shrinkage in the same manner as set forth in subsection 2535(e) of these regulations.

(1) Substantiation of payment. The processor shall compute the refund value, administrative fees and applicable processing payments based upon the materials delivered on the shipping report prepared pursuant to subsection 2425(c) of these regulations. The processor shall provide a duplicate copy of the shipping report to the shipper. Notwithstanding any other provision of this subchapter, curbside programs may not be paid at

more than the applicable statewide average commingled rate, or the Division's approved individual commingled rate.

(2) Calculation of payment and fee.

(A) The processor shall pay based on the received weight of the material, excluded the weight of rejected, line breakage and out-of-state containers, multiplied by:

1. the statewide commingled rate, or the Division's approved individual commingled rate in effect on the date received; and

2. the per pound processing payment in effect on the date received, when applicable.

(B) In addition, administrative fees shall be calculated as three-fourths of one percent (3/4%) of the total refund value.

(c) Payments to dropoff or collection programs and community service programs. Processors shall adjust the refund value rate to account for shrinkage in the same manner as set forth in subsection 2535(e) of subchapter 6 these regulations. Notwithstanding any other provision of this subchapter, dropoff or collection, and community service programs may not be paid at more than the applicable statewide average commingled rate, or the Division's approved individual commingled rate.

(1) Substantiation of payment. Based upon materials received, the processor shall prepare a shipping report which states the refund value and applicable processing payments paid. The shipping report shall be prepared pursuant to subsection 2425(c) of these regulations. The processor shall provide a copy of the shipping report to the shipper.

(2) Calculation of payment and fee.

(A) The processor shall pay based on the received weight of the material, excluding the weight of rejected, line breakage and out-of-state containers, multiplied by:

1. the statewide commingled rate, or the Division's approved individual commingled rate in effect on the date received; and

2. the per pound processing payment in effect on the date received, when applicable.

(d) Payments for canceled material. The authorizing processor shall make payment in accordance with Section 14573.5 of the Act, to recycling centers for canceled material provided the material is shipped to the authorizing processor or to a location designated by the authorizing processor. For such transactions, program payments will be issued by the Division to processors issuing the written authorization to cancel. Program payments will not be issued by the Division to processors for loads for which they have received authorization to cancel.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14518.5, 14539, 14552(a), 14572 and 14573.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2743 to section 2430 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10-15-91; operative 10-15-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of subsection (c) filed 5-21-93; operative 5-21-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsections (b)(2)(B)1 and (c)(2)(B)-(B)1 and NOTE filed 9-27-93 as an emergency; operative 9-27-93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1-25-94 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (b)(2)(B)1, (c)(2)(B)-(B)1 and NOTE refiled 1-24-94 as an emergency; operative 2-3-94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 6-3-94 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of section as it existed prior to emergency amendment filed 1-24-94 by operation of Government Code section 11346.1(f) (Register 94, No. 39).
7. Amendment filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
8. Amendment of subsections (b), (b)(1), (b)(2)(A), (c), (c)(2)(A), (c)(2)(B) and NOTE filed 10-27-94 as an emergency; operative 10-27-94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2-24-95 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 10-27-94 order including amendment of section transmitted to OAL 2-24-95 and filed 4-7-95 (Register 95, No. 14).
10. Change without regulatory effect amending section and NOTE filed 12-28-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
11. Amendment of subsection (a)(1)(D) and new subsection (d) filed 9-27-96; operative 9-27-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
12. Amendment of subsections (a)(5)-(a)(5)(B) filed 12-6-96; operative 12-6-96 (Register 96, No. 49).
13. Amendment of subsections (a)(3) and (b)(2)(B) filed 1-24-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1-24-2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5-23-2000 or emergency language will be repealed by operation of law on the following day.
14. Amendment of subsections (a)(3) and (b)(2)(B) refiled 4-17-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4-17-2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8-15-2000 or emergency language will be repealed by operation of law on the following day.
15. Amendment of subsections (a)(3) and (b)(2)(B) refiled 8-11-2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8-16-2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12-14-2000 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 8-11-2000 order transmitted to OAL 11-28-2000 and filed 1-11-2001 (Register 2001, No. 2).
17. Amendment of subsection (a)(1) filed 7-10-2001; operative 8-9-2001 (Register 2001, No. 28).
18. Editorial correction of subsection (c) (Register 2004, No. 20).
19. Amendment of subsections (b) and (c) filed 6-28-2004; operative 7-28-2004 (Register 2004, No. 27).
20. Amendment filed 2-23-2006; operative 3-25-2006 (Register 2006, No. 8).

Subchapter 6. Recycling Centers

Article 1. Requirements for Recycling Centers

§ 2500. Operation Standards.

(a) With the exception of recycling centers which meet the criteria for grandfathering, all certified recycling centers shall operate in accordance with all of the following requirements:

(1) Recycling centers certified by the Division shall begin operation within sixty (60) calendar days of approval of the certification. Failure to begin operating within sixty (60) calendar days shall result in invalidation of the certification by the Division.

(2) The recycling center shall accept from customers all of the following:

(A) All types of redeemable beverage containers; and

(B) With the exception of reverse vending machines, refillable beer and malt beverage containers.

(3) The recycling center shall make all payments in accordance with section 2535 of these regulations.

(4) Unless an exception is provided for elsewhere in this Chapter, each certified recycling center shall be open for business during the following hours:

(A) At least thirty (30) hours per week, and

(B) At least five (5) hours per week shall be other than 9:00 a.m. to 5:00 p.m. on Monday through Friday; and

(C) Up to fifteen (15) hours each week shall be other than 9:00 a.m. to 5:00 p.m. on Monday through Friday if the Division, subsequent to a public hearing, determines that it is necessary to further the recycling goals specified in Section 14501 of the Act. In making its determination, the Division shall consider, but not be limited to, the following:

1. Convenience to the public,

2. Alternative recycling opportunities available to the public, and

3. If the Division has received three or more complaints against the certified recycling center regarding its operating hours outside of 9:00 a.m. to 5:00 p.m., Monday through Friday.

(b) A recycling center which is staffed and is not a reverse vending machine shall have an employee present during its posted hours and shall

display a sign having a minimum size of two feet by two feet (576 square inches) informing the public that the recycling center is open for business. Where local zoning or ordinance restricts the size of the sign to less than two feet by two feet, the sign shall be the maximum size allowable. Where the physical location of the posted sign restricts the size of the sign, a sign varying from the specifications contained in this section may be posted if requested in writing and approved in writing by the Division. The sign shall contain, at a minimum, the word "OPEN" in lettering at least 10 inches in height.

(1) If the recycling center consists of dropoff receptacles with refund value payment occurring elsewhere on the property, the operator of the recycling center shall take the following actions:

(A) A sign shall be placed on or at the front of the receptacles with lettering of at least 3/8 inch in height which informs the customer that all types of empty beverage containers will be accepted and redeemed at all open check–out stands, or exactly where on the property the customer may redeem the beverage containers.

(B) A person shall be present during the hours posted at the recycling center to inspect the empty beverage containers pursuant to Article 3 of this subchapter and pay customers the refund value.

(C) A sign shall be posted during the hours open for business at the designated area where the public may redeem beverage containers. The sign shall contain, at a minimum, the words "OPEN" and "RECYCLING CENTER." The word "OPEN" shall consist of lettering at least 10 inches in height. The words "RECYCLING CENTER" shall be on a separate line and consist of lettering at least 3 1/2 inches in height.

(c) An operator of a recycling center who does not accept all types of redeemable beverage containers may continue to do so and shall be certified as a recycling center, provided all of the following conditions are met:

(1) The recycling center was operating in the same location on January 1, 1986, or if it is a reverse vending machine, the machine was operational on January 1, 1986;

(2) The recycling center did not accept all types of redeemable beverage containers at the same location as of January 1, 1986;

(3) The recycling center continues to redeem, at a minimum, those beverage containers it accepted at the same location as of January 1, 1986; and

(d) A recycling center which meets the criteria to be grandfathered shall make payments in accordance with section 2535 of these regulations.

(e) Each certified recycling center which does not utilize a reverse vending machine shall post the following near the certification sign provided by the Division and in a conspicuous location which can be easily seen by the public:

(1) A legible sign indicating its hours of operation; and

(2) A refund price sign indicating the prices paid by weight or per container and by material type (i.e. aluminum, glass, plastic or bimetal). A refund price sign shall meet the following specifications:

(A) Dimensions. The sign shall be two feet by two feet (576 square inches).

(B) Content. In addition to the prices paid as required in subsection (e)(2) above, the sign shall contain, at a minimum, the statements as indicated in Figure 9. A refund price sign varying from the specifications of this section may be posted if requested in writing and approved in writing by the Division.

*Refund is not paid for packaging, contamination such as dirt or moisture, nor beverage containers not properly labeled with the California redemption value message.

*This recycler will discount the refund value, and may discount scrap value for loads of containers which include nonredemption material.

*The consumer has the right to:

a. Accept a discounted refund and/or scrap price.

b. Separate refund from nonrefund material.

c. Take material back.

Figure 9.

(f) Each certified recycling center utilizing a reverse vending machine shall post the following on each machine near the certification sign provided by the Division:

(1) A legible sign indicating its hours of operation, and

(2) A refund price sign or decal indicating the prices paid by weight or per container for each material type accepted by that reverse vending machine. The refund price sign or decal shall be at a minimum 15 square inches with lettering of at least 3/8 inch in height. A refund price sign or decal not meeting the requirements of this section may be posted if requested in writing and approved in writing by the Division.

(3) A sign which specifies the method approved by the Division for redeeming empty beverage containers which are odd–sized, made of materials other than aluminum, glass or plastic, or otherwise not accepted by the reverse vending machine or if the reverse vending machine is out of order. If in–store redemption is the alternative method, a sign which is at a minimum 120 square inches with lettering of at least 1/2 inch in height shall be posted which specifies that containers will be redeemed at all open cash registers or the sign must designate exactly where redemption will occur.

(A) If beverage containers are not redeemed at all open registers, a sign shall be posted where refund value payment occurs within the store. The sign shall contain, at a minimum, the words "Redeem CA beverage containers here", and consist of lettering at least 3 inches in height.

(g) The operator of a certified recycling center shall maintain records and submit reports regarding redemption activities in compliance with Article 3 of this subchapter.

(h) Notwithstanding section 2060(e) of these regulations, if all of the requirements of section 2525(k) are met, a certified recycling center may collect, and pay refund value for, empty beverage containers at a church, school, business where beverages are consumed, or other community service organization.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14501(i), 14515.6, 14538, 14571, 14571.3, 14572(a), (b) and (c) and 14572.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2500 to section 2000, and renumbering and amendment of former section 2080 to section 2500 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of subsections (a), (d) and (f)(2)(B) and new subsection (h) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsection (a)(4), repealer of subsections (c)(4) and (d) and subsection relettering, and amendment of newly designated subsection (e)(2)(B) filed 10–19–93; operative 10–19–93 (Register 93, No. 43).
5. Amendment of subchapter heading and section filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
6. Amendment of subsection (f)(3) filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).
7. Amendment of Figure 9. filed 12–3–2002; operative 1–2–2003 (Register 2002, No. 49).
8. Change without regulatory effect amending subsection (e)(2)(B) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).

§ 2501. Load Inspection Requirements.

(a) Certified recycling centers shall inspect each load of containers, subject to the Act, delivered to the recycling center, for which refund value is claimed, to determine whether the load is eligible for any refund value and, if so, to determine whether the load is segregated or commingled, as follows:

(1) For transactions with consumers, the recycling center shall remove the containers from any bag, box or other receptacle used to deliver the material to the recycling center and visually inspect the containers prior to determining the basis for payment and paying the seller. In no case shall a certified recycling center pay or claim the refund value for any material not inspected by the recycling center.

(2) For any load delivered to a recycling center, from a dropoff or collection program, community service program, curbside program or other recycling center, each recycling center taking delivery of the material

shall visually inspect each load of material by monitoring the unloading and/or conveyor process to determine eligibility and whether the load is segregated or commingled.

(b) In addition to the requirements of section 2110 of these regulations, a load of material shall be deemed not eligible for any refund value if any one of the following conditions exist:

(1) There are pieces of broken, densified bales or biscuits of aluminum beverage containers within the load. This does not include cans which have merely been flattened.

(2) Pieces of bales of plastic are found in the load.

(3) The motor vehicle, if any, used to deliver the load has a license plate from any foreign country, or any state other than California, unless all of the following conditions are met:

(A) The person delivering the load is not a noncertified recycler, as defined at Section 14520.6 of the Act; and,

(B) The total refund value of material delivered by any one person per day does not exceed fifty dollars ($50.00); and,

(C) The load is not ineligible pursuant to subsection (b)(1), above.

(c) Once eligibility is determined payment shall be calculated pursuant to section 2535(d), of these regulations.

(d) All out-of-state material, whether labeled with the message required in Section 14561 of the Act or not, and all rejected and line breakage containers are not eligible for any refund value payments.

(e) All rejected, line breakage or out-of-state containers in a load delivered from another recycling center, dropoff or collection program, community service program or curbside program, whether labeled or not with the message required in Section 14561 of the Act, must be excluded from the received weight of the load.

(f) All loads containing out-of-state material received from consumers are not eligible for any refund value payments.

(g) Loads received from consumers shall have rejected or line breakage containers removed from the load or the load is not eligible for any refund value payments.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14538 and 14553, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2112 to new section 2501 filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
2. New subsection (b)(2) and subsection renumbering filed 6-24-99; operative 7-24-99 (Register 99, No. 26).
3. Change without regulatory effect amending subsection (d) filed 4-16-2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).
4. Change without regulatory effect amending subsection (d) filed 3-29-2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
5. Amendment of subsection (d) and new subsections (e)-(g) filed 2-23-2006; operative 3-25-2006 (Register 2006, No. 8).

§ 2502. Labeling Required.

HISTORY

1. Renumbering and amendment of former section 2502 to section 2200 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2505. Notification Requirements.

(a) Notwithstanding the requirements of section 2040 of these regulations, certified recycling centers shall notify the Division in writing ten (10) calendar days prior to any of the following events:

(1) Change of name under which the recycling center is doing business,

(2) Change of business address, mailing address or phone number of operator,

(3) Separation from parent company, if applicable,

(4) Merger with another company,

(5) Discontinuance of operation,

(6) Dissolution of the organization type identified in the application for certification,

(7) Change in the type of redeemable beverage containers accepted,

(8) Any change in the hours of operation as presented in the application for certification or by subsequent notification to the Division,

(9) For recycling centers which consist of reverse vending machines, a change in the method approved by the Division for redeeming empty beverage containers which are odd-sized, made of materials other than aluminum, glass, and plastic, or otherwise not accepted by the reverse vending machine, or

(10) Change in the agent for service of process, if applicable,

(11) Change in the type of organization,

(12) Change in the name of the contact person for the operator,

(13) Change in corporate officers, if applicable,

(14) Change in the name of the organization,

(15) Any change in business ownership.

(b) Within five (5) calendar days of the date the recycling center began redeeming empty beverage containers, the operator of the recycling center shall notify the Division in writing of the actual date the recycling center began redeeming. Failure to do so or to provide an accurate date will result in denial of handling fee payments for the months the operator failed to notify, or provide an accurate date to, the Division.

(c) The operator of a supermarket site shall notify the Division in writing, within ten (10) working days, of the closure of the supermarket or dealer where the recycling center is located.

(d) The operator of a certified recycling center who intends to be decertified shall submit a written notification to the Division, which includes the proposed effective date.

(e) The operator of a supermarket site shall notify the Division in writing, within five (5) calendar days, if the recycling center is moved within the supermarket or dealer parking lot. Nothing in this section is intended to require a recycling center to report to the Division movement related to the emptying of recycling equipment.

NOTE: Authority cited: Section 14536(b), Public Resources Code. Reference: Sections 14515.6, 14526.6, 14538, 14571(d) and 14585, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2085 to section 2505 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer of subsection (a)(7), subsection renumbering, amendment of newly renumbered subsections (a)(7) and (a)(8), new subsection (a)(9), and amendment of subsection (b) filed 12-9-91; operative 1-8-92 (Register 92, No. 25).
3. New subsection (b), subsection relettering and amendment of NOTE filed 1-6-93 as an emergency; operative 1-6-93 (Register 93, No. 2). A Certificate of Compliance must be filed 5-6-93 or emergency language will be repealed by operation of law on the following day.
4. New subsection (b), subsection relettering and amendment of NOTE refiled 5-6-93 as an emergency; operative 5-6-93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9-3-93 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a)(9) and (d) and new subsection (a)(10) filed 5-21-93; operative 5-21-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
6. Certificate of Compliance as to 5-6-93 order, including amendments to subsection (b), new subsections (c) and (f) and subsection relettering, and amendment of newly designated subsection (e) transmitted to OAL 9-3-93 and filed 10-19-93 (Register 93, No. 43).
7. Amendment of subsections (a)(2), (9) and (10), new subsections (a)(11)-(13), amendment of subsection (d), repealer of subsection (e) and subsection redesignation filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
8. Change without regulatory effect amending subsections (c) and (e) filed 12-28-95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
9. Amendment of subsection (a), new subsections (a)(6) and (a)(15), subsection renumbering and amendment of newly designated subsections (a)(13)-(14) filed 7-10-2001; operative 8-9-2001 (Register 2001, No. 28).
10. Editorial correction of subsection (b) (Register 2004, No. 20).
11. Change without regulatory effect amending NOTE filed 4-13-2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).

Article 1.5. Requirements for Nonprofit Dropoff Programs

§ 2510. Operation Standards.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14514.5, 14538, 14541.5, 14571 and 14572(a) and (b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2510 to section 2070, and renumbering and amendment of former section 2090 to section 2510 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer of subsection (a)(1), amendment of former subsection (a)(1)(A) including redesignation to (a)(1), filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of article heading and repealer of section filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2515. Notification Requirements.

NOTE: Authority cited: Sections 14530.5 and 14536(b), Public Resources Code. Reference: Sections 14538, 14541.5, 14542(c) and 14571.9, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2095 to section 2515 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer of subsection (a)(8), subsection renumbering, amendment of newly designated subsection (a)(8), new subsection (a)(9) and amendment of subsection (b) filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Repealer filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

Article 2. Handling Fees

§ 2516. Eligibility Criteria.

(a) In addition to meeting the requirements of Section 14585 of the Act, a recycling center shall meet all of the following criteria for handling fees eligibility on the first day of the calendar month for which they are claimed. A recycling center must be:

(1) certified, operational, and accepting and paying refund value to consumers for all empty beverage container material types; and

(2) located within a convenience zone; and

(3) a "supermarket–site" recycling center as defined in Section 14526.6 of the Act, or a nonprofit convenience zone recycler as defined in Section 14514.7 of the Act, or a rural region recycler as defined in Section 14525.5.1 of the Act; and

(4) the only certified, non–grandfathered recycling center in the convenience zone.

(b) The Division shall inspect each supermarket site, nonprofit convenience zone recycler, or rural region recycler to determine whether such sites satisfy the requirements of this section.

(c) Commencing January 1, 1993, a recycling center, which locates within a convenience zone, thereby causing a preexisting recycling center to become ineligible to receive handling fees, shall never be eligible to receive handling fees in that convenience zone. Such ineligibility shall apply to the parent company, its subsidiaries and affiliates even if the preexisting recycling center ceases to operate within the convenience zone. Such ineligibility shall also apply to the parent, the subsidiaries and the affiliates of any grandfathered recycling center which elects to begin accepting all material types.

(d) A rural region recycler may combine total monthly beverage container purchases from two or more of its convenience zone sites to establish eligibility for a single handling fee payment by submitting the following information monthly in writing:

(1) The certification numbers and addresses of the locations where receipt and/or log transactions are to be combined;

(2) The month and year of the transactions to be combined;

(3) The company name, address, contact person and business phone number, signed and dated by the contact person.

(e) The additional information required in subsection (d) shall be postmarked no later than the fifth day of the first month following the reporting month. A rural region recycler that fails to provide this information by the date specified in this subsection shall not be eligible for a single handling fee payment based on combined monthly beverage container purchases from two or more of its convenience zone sites.

(f) A rural region recycler shall submit a separate Handling Fee Application Form (Form DR–14 (1/00)) for each convenience zone site which is combined with one or more convenience zone sites to establish eligibility for a single handling fee payment.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14513.4, 14514.7, 14525.5.1, 14526.6, 14552, 14571.8(b), 14572 and 14585, Public Resources Code.

HISTORY

1. New section filed 1–6–93 as an emergency; operative 1–6–93 (Register 93, No. 2). A Certificate of Compliance must be filed 5–6–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–6–93 order, including amendments to subsections (a), (a)(3), (a)(4), (b) and (c) transmitted to OAL 9–3–93 and filed 10–19–93 (Register 93, No. 43).
4. Amendment of article heading filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
5. Amendment of subsections (a)(3) and (b), new subsections (d)–(f), and amendment of NOTE filed 1–21–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–21–2000 (Register 2000, No. 3). This regulatory action is not a statutorily deemed emergency as provided for in Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–22–2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a)(3) and (b), new subsections (d)–(f), and amendment of NOTE refiled 5–16–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 5–16–2000 (Register 2000, No. 3). A Certificate of Compliance must be transmitted to OAL by 9–13–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 5–16–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).
8. Editorial correction of subsection (d)(1) (Register 2004, No. 20).
9. Amendment of subsection (a)(2) filed 10–26–2005; operative 11–25–2005 (Register 2005, No. 43).

§ 2517. Termination of Eligibility.

(a) A recycling center's eligibility for handling fees shall terminate if that supermarket–site recycling center, nonprofit convenience zone recycler, or rural region recycler, fails to meet the criteria established in Section 2516 of this subchapter or any other criteria established in Section 14585 of the Act or if, commencing January 1, 1993:

(1) Another recycling center certifies and begins operation, or a grandfathered recycling center amends their certification application to begin accepting all beverage container types, within the convenience zone in which a recycling center is eligible to receive handling fees. Eligibility will terminate sixty (60) days from the effective date of the second recycling center's certification and operational date; or,

(2) The convenience zone served by a recycling center is deleted due to the closure of a supermarket, or exempted by the Department pursuant to Section 14571.8 of the Act, or the dealer where the supermarket site is located closes. Eligibility will terminate at the end of the month in which the supermarket or dealer closes or a convenience zone exemption is granted.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14513.4, 14525.5.1, 14526.6, 14552, 14571.8(b), 14572 and 14585, Public Resources Code.

HISTORY

1. New section filed 1–6–93 as an emergency; operative 1–6–93 (Register 93, No. 2). A Certificate of Compliance must be filed 5–6–93 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 5–6–93 order, including repealer and new subsection (a) and amendment of subsections (a)(1) and (a)(2) transmitted to OAL 9–3–93 and filed 10–19–93 (Register 93, No. 43).
4. Change without regulatory effect amending subsection (a)(2) filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
5. Amendment of subsection (a) and NOTE filed 1–21–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–21–2000 (Register 2000, No. 3). This regulatory action is not a statutorily deemed emergency

as provided for in Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–22–2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (a) and NOTE refiled 5–16–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 5–16–2000 (Register 2000, No. 3). A Certificate of Compliance must be transmitted to OAL by 9–13–2000 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 5–16–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).

§ 2518. Calculations and Payments.

(a) The Division shall determine handling fee payments for a recycling center meeting the requirements of Section 14585 of the Act and Section 2516, above, based on data contained in the Handling Fee Application Form (Form DR–14 (1/00)) by performing the following calculations:

(1) The reported redemption weights shall be converted to number of empty beverage containers using the Division's statewide average containers–per–pound rate for each material type, and pursuant to Subsection 14585(e) of the Act.

(2) The total number of empty beverage containers for the calendar month shall be calculated by summing the number of empty aluminum, glass, plastic and bimetal beverage containers. If the total number of empty beverage containers is less than the minimum number required by Section 14585(a)(2)(A) of the Act, the recycling center is not eligible for handling fees for that calendar month.

(3) The Division shall determine the number of empty beverage containers eligible for handling fees pursuant to Subsection 14585(a)(4) of the Act.

(4) On and after July 1, 2008, the Department shall pay a handling fee per eligible beverage container as determined by the handling fee cost survey required by Section 14585(f) of the Act.

(b) Prior to release of handling fees for each month during which a recycling center is eligible, the Division may determine that such fees should be withheld for any of the following reasons:

(1) The Division has prevailed against the recycler in a civil or administrative action and money is owed to the Division as a result of the action.

(2) The Division determines, based on information contained in the shipping reports filed pursuant to Section 2530 of Article 3 of Subchapter 6, that the recycler has received handling fees for materials which were not redeemed for refund value and such discrepancies between reported redemption weights and shipping weights are more than two and one–half percent.

NOTE: Authority cited: Sections 14530.5, 14536 and 14552(e), Public Resources Code. Reference: Sections 14504, 14526.6 and 14585, Public Resources Code.

HISTORY

1. New section filed 10–19–93; operative 10–19–93 (Register 93, No. 43).
2. Change without regulatory effect amending section and NOTE filed 7–13–94 pursuant to section 100, title 1, California Code of Regulations (Register 94, No. 28).
3. Change without regulatory effect amending subsections (a)–(a)(3) and (a)(4)(A) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
4. Amendment of subsections (a), (a)(2) and (a)(4)(A)–(B) and amendment of NOTE filed 1–21–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–21–2000 (Register 2000, No. 3). This regulatory action is not a statutorily deemed emergency as provided for in Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–22–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsections (a) and (a)(4)(A)–(B) and amendment of NOTE refiled 5–16–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 5–16–2000 (Register 2000, No. 3). A Certificate of Compliance must be transmitted to OAL by 9–13–2000 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 5–16–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).
7. Change without regulatory effect amending subsection (a)(2) filed 3–29–2004 pursuant to section 100, title 1, California Code of Regulations (Register 2004, No. 14).
8. Amendment of subsections (a)(1)–(2), repealer and new subsection (a)(4) and repealer of subsections (a)(4)(A)–(B) filed 2–5–2007 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–5–2007 (Register 2007, No. 6). Pursuant to Public Resources Code section 14536(b)(2), the emergency amendments remain in effect until revised by the director of the Department of Conservation.
9. Certificate of Compliance as to 2–5–2007 order transmitted to OAL 11–21–2007 and filed 12–26–2007 (Register 2007, No. 52).

§ 2519. Handling Fee Appeals.

(a) Recycling centers may file a formal appeal by writing to the Division within thirty (30) calendar days of the warrant date of the payment or the date of the Notice of Denial (NOD). Appeals submitted after this time period will be rejected. All written appeals must include:

(1) A list of applicable certification numbers and corresponding facility addresses; and,

(2) the month(s) and year(s) in question; and,

(3) the canceled, original Form(s) DR–14 (1/00) and NOD(s), if this is an appeal of a denial; and,

(4) a copy of the remittance advice, if this is an appeal of a payment determination; and,

(5) a short explanation of why you believe the determination was in error; and,

(6) any other documentation that supports your appeal.

(b) A decision on the appeal will be sent, in writing, within fifteen (15) working days of receipt of the appeal.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14526.6 and 14585, Public Resources Code.

HISTORY

1. New section filed 10–19–93; operative 10–19–93 (Register 93, No. 43).
2. Amendment of subsection (a)(4) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Change without regulatory effect repealing subsection (a)(2), subsection renumbering, and amendment of subsection (a)(3) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
4. Amendment of subsection (a)(3) and NOTE filed 1–21–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–21–2000 (Register 2000, No. 3). This regulatory action is not a statutorily deemed emergency as provided for in Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–22–2000 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (a)(3) and NOTE refiled 5–16–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 5–16–2000 (Register 2000, No. 3). A Certificate of Compliance must be transmitted to OAL by 9–13–2000 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 5–16–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).

Article 3. Accounting and Reporting Requirements

§ 2520. Applicability.

In addition to the general accounting requirements of subchapter 2, recycling centers shall comply with the accounting and reporting provisions of this article.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5 and 14536, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2730 to section 2520 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Editorial correction restoring article 4 heading (Register 93, No. 19).
3. Amendment of article heading and section filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2525. Recordkeeping.

Recycling centers shall maintain the following records in accordance with the general requirements set forth in section 2085 of these regulations.

(a) Except for reverse vending machines as provided in subsection 2525(c) below, the recycling centers shall prepare and maintain a copy of a press pre–numbered receipt or a receipt produced by an automatic computer–generated numbering system that cannot be altered by the participant, for any purchase or donation of empty beverage containers in the amount of one hundred dollars ($100.00) or more in refund value. A copy

of the receipt shall be provided to the person selling or donating the material, and shall include all of the following information:

(1) The total weight or count of materials by material type (the recycling center shall comply with section 2535(f) but may treat different colors of glass as different material types only for recordkeeping purposes pursuant to this section); and

(2) The total payment made by the recycling center or the amount paid for each material type; and

(3) The basis for the refund value payment (e.g., segregated and counted, segregated and weighed, commingled, or, if no refund value is paid, indicate scrap only); and

(4) The certification number of the recycling center; and

(5) The date of the sale or donation; and

(6) The printed name and signature of the person selling or donating the material, or a statement explaining why such could not be obtained; and

(7) Additional information identifying the person selling or donating the material. The additional information shall be either: the person's valid driver license number and state of issuance or vehicle license number and state of issuance. If neither identifying item is available, a California Identification Card number may be substituted. In the absence of any of these items of identification, a statement shall be required explaining why the additional information could not be obtained.

(b) Except for reverse vending machines as provided in subsection 2525(c) below, for all purchases or donations with a total refund value of less than one hundred dollars ($100.00), the recycling center shall either prepare a receipt pursuant to subsection 2525(a), or shall maintain a log setting forth the information required by subsections (a)(1) through (a)(6) above. Any item of additional identifying information specified in subsection 2525(a)(7) above may be substituted for the printed name of the person selling or donating the material.

(c) For all material received from a reverse vending machine owned or operated by the recycling center, the recycling center shall prepare a receipt or log each time material is removed from the reverse vending machine, or if material is removed more than once a day, on a daily basis. The receipt or log shall set forth the meter reading, date, total weight, and certification number. Recycling centers shall retain such receipts or logs in their records along with the copies of any receipts issued by the machine. For redemption transactions other than machine transactions, receipt and log requirements pursuant to 2525(a) or (b) shall be followed.

(d) For all donations made anonymously, such as those left at the recycling center when the recycling center is not open for business, the recycling center shall prepare a receipt or log setting forth the information required by subsections 2525(a)(1) through (a)(5) above. The refund value stated on such a receipt shall be based on the applicable commingled rate. Such receipts or log entries shall be prepared on at least a daily basis for all days when the recycling center receives anonymous donations.

(e) The recycling center shall retain a copy of any shipping report which the recycling center prepares or receives from another recycling center pursuant to section 2530 of these regulations.

(f) The recycling center shall retain a copy of the weight ticket prepared by the recycling center, or provided by the person receiving material from the recycling center, describing the weight of shipped material by material type.

(g) The recycling center shall retain a copy of any report to the Division for handling fee prepared pursuant to section 2530 of these regulations.

(h) The recycling center shall prepare and retain a receipt setting forth the information required by subsection (b) of this section for all scrap transactions. In addition, the receipt shall indicate whether the load consisted of rejected containers, line-breakage containers, or out-of-state beverage containers.

(i) The recycling center shall prepare and retain daily summaries of all receipt and log transactions, including donations, for each shipping report. The summaries shall contain the total weight and the corresponding refund value for each day of the shipping report period.

(j) Records of allowable cost. Recycling centers shall maintain records containing the information specified at section 2960(b)(1) through (12), inclusive.

(k) Certified recycling centers collecting materials pursuant to section 2500(h) shall, in addition to subsections (a) through (j) of this section, do both of the following:

(1) Maintain a written agreement at the recycling center which is between the recycling center and the church, school, business where beverages are consumed, or other community service organization. The agreement must include, at a minimum, the following:

(A) The name, address, and certification number of the recycling center, as well as the name and phone number of a contact person at the recycling center; and

(B) The name and address of the organization to be served by the recycling center, as well as the name and phone number of a contact person at the organization; and

(C) Language, typed or legibly handwritten in English, which states the agreement between the recycling center and the organization and includes the material type of beverage containers to be picked up and the method of determining the weight of beverage containers picked up.

(2) Prepare, issue and maintain a receipt for the transaction, regardless of the amount of the transaction. The receipt shall be in the form of a press pre-numbered receipt and shall include all of the information specified in section 2525(a)(1) through (a)(6) and section 2525(k)(1)(B) of these regulations.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14537, 14538, 14552, 14575 and 14585, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2731 to section 2525 filed 6-12-91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10-15-91; operative 10-15-91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. New subsection (j) and amendment of NOTE filed 4-9-92 as an emergency; operative 4-9-92 (Register 92, No. 25). A Certificate of Compliance must be transmitted to OAL by 8-7-92 or emergency language will be repealed by operation of law on the following day.
4. New subsection (j) and amendment of NOTE refiled 10-5-92; operative 10-5-92 (Register 92, No. 41). A Certificate of Compliance must be transmitted to OAL 2-2-93 or emergency language will be repealed by operation of law on the following day.
5. New subsections (k)-(k)(2) filed 5-21-93; operative 5-21-93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
6. Amendment of subsection (g) and NOTE filed 10-19-93; operative 10-19-93 (Register 93, No. 43).
7. Amendment filed 10-7-94; operative 10-7-94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
8. Editorial correction of subsection (k)(1)(C) (Register 96, No. 10).
9. Amendment of subsection (a)(1) filed 9-27-96; operative 9-27-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
10. Amendment of subsection (a)(1) filed 6-28-2004; operative 7-28-2004 (Register 2004, No. 27).
11. Editorial correction of subsection (k) (Register 2004, No. 39).
12. Amendment of subsections (a) and (b) and amendment of NOTE filed 11-2-2004; operative 12-2-2004 (Register 2004, No. 45).

§ 2530. Reporting.

Recycling centers shall prepare and submit all of the following reports in accordance with the general requirements for reporting of section 2090 of these regulations.

(a) A shipping report for each delivery (of material subject to the Act) between:

(1) the recycling center and any other recycling center; or

(2) the recycling center and the processor; or

(3) the recycling center and a dropoff or collection program, community service program, or curbside program, as provided in subdivision (f), below.

(b) The shipping recycling center shall indicate on the shipping report all information listed under subsection 2530(e)(1) through (6), provide the shipping report containing this information to the person receiving the shipment and shall retain a completed copy; the shipping report shall accompany the material shipped, except as noted in (1) below. For shipments to processors, the recycling center shall receive a copy of the completed shipping report from the processor upon payment, pursuant to section 2430(a)(1) of these regulations.

(1) In the case of glass, recyclers may add up the daily summaries until total weight is equal to received weight and claim the corresponding redemption weight and refund value. In such cases, a shipping report need not accompany the load.

(c) The shipping report shall be based upon any receipts or log entries prepared pursuant to section 2525 above, or any shipping reports for material received by recycling centers from other recycling centers.

(d) Copies of any shipping reports for material received by a recycling center from other recycling centers, dropoff or collection programs, community service programs, or curbside programs, shall be appended to the shipping report prepared pursuant to this section.

(e) Except as provided for in subsection (f) below, a separate shipping report shall be prepared for each material type and shall include all of the following information:

(1) The name, address, and certification number of the recycling center shipping the material as well as the name and telephone number of a contact person; and

(2) The name and certification number of the recycling center or processor receiving the material; and

(3) The period and the material type covered by the report; and

(4) The following information based upon the information contained in the receipts and logs and the received shipping reports:

(A) The redemption weight of the material.

(B) The total refund value.

(5) The number of attached shipping reports which pertain to material included in the shipment.

(6) The printed name, title and signature of an authorized representative of the recycling center and the date signed.

(f) For material received by the recycling center from a dropoff or collection program, community service program or curbside program, the recycling center shall prepare a separate shipping report for each material type and provide a copy of the completed shipping report to the shipping dropoff or collection program, community service program or curbside program. Shipping reports prepared pursuant to this subsection shall contain all of the following information:

(1) The name, address, certification or identification number for the entity shipping the material, as well as the name and telephone number of a contact person; and

(2) The name and certification number of the recycling center receiving the material; and

(3) The date the material was received and the material type covered by the report; and

(4) The received weight, excluding rejected containers, line breakage, and out–of–state containers; and

(5) The refund value paid; and

(6) The printed name, title and signature of the shipper or an authorized representative of the shipper and the date signed; and

(7) The printed name, title and signature of an authorized representative of the recycling center and the date signed; and

(8) The weight ticket number; and

(9) The shrinkage deduction taken, if any.

(10) The redemption weight; and, for plastic, aluminum, and glass, collected by a curbside program, or a dropoff or collection program that meets the requirements of Section 2850, the registered curbside program or certified entity eligible for the quality incentive payment shall be identified as either the Shipper (S), or the Receiver (R) in the QIP (Quality Incentive Payment) Box.

(g) For material received by a recycling center from another recycling center, the receiving recycling center shall ensure that all the information specified in subsection 2530(f)(1) through (8) is recorded on the report and provide a copy of the completed shipping report to the shipping recycling center.

(h) To obtain handling fees, only those recycling centers eligible for such fees, as described in section 2516, shall submit a Handling Fee Application Form (Form DR–14 (1/00)) to the Division for the calendar month for which handling fees are being claimed. The Form DR–14 (1/00) shall be postmarked no later than the first day of the second month following the reporting month. Forms postmarked after this date, and incorrectly completed forms, will be denied for payment and the handling fee will be forfeited for that calendar month. Forfeiture for that calendar month will not affect eligibility for subsequent months. There shall be a separate Form DR–14 (1/00) completed for each supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler which shall include all of the following information in addition to that required by section 2090 of these regulations:

(1) The calendar month and year covered by the report; and

(2) The name and mailing address of the recycling center; and

(3) The name and telephone number of a contact person; and

(4) The certification number of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and,

(5) A change of mailing address, ownership or a closing of the supermarket site recycling center, nonprofit convenience zone recycler, or rural region recycler; and

(6) The weight, to the nearest tenth of a pound, of empty beverage containers, by material type, redeemed by that recycling center, at that supermarket site, nonprofit convenience zone recycler, or rural region recycler, only from consumers delivering that material during the hours the recycling center was open for business. This weight shall be taken from the receipts and logs of that recycling center for that calendar month; and,

(7) The signature and title of an authorized representative of the recycling center in accordance with subsections 2090(d)(4) and (5) of subchapter 2 of these regulations; and

(8) The date the application was signed.

(i) Each recycling center shall maintain a separate list of all purchases of more than 250 pounds of aluminum beverage containers. Such list (or legible copies of the receipts) shall be sent to the Division weekly and shall contain all of the following information, taken from the receipt prepared pursuant to section 2525(a) of these regulations:

(1) The receipt number for the transaction; and

(2) The name of the person selling the material; and

(3) The additional identifying information of the person selling the material; and

(4) The name, address, and certification number of the recycling center submitting the list; and

(5) The transaction date; and

(6) The pounds purchased on the receipt; and

(7) The total amount paid.

(j) Recycling centers purchasing materials directly from more than one curbside program, dropoff or collection program, or community service program may apply to the Division to request the use of alternative methods for preparing the corresponding shipping reports. The Division shall consider each proposed alternative method and issue a written approval or denial within forty–five (45) calendar days.

(1) In order for alternative methods to be accepted, they must be based on reasonable allocation methods.

(2) An application for an alternative allocation method shall be denied if:

(A) The received weight of the material purchased by an entity from the recycling center is not used to calculate allocations to the curbside programs, dropoff or collection programs, or community service programs; or

(B) The recycling center does not ensure that the weight of rejected containers, line breakage, and out–of–state containers is not included in the allocated weight (this does not require a physical separation); or

(C) The recycling center does not account for each incoming load of material; or

(D) The recycling center does not inspect incoming material to verify that it is eligible for refund value payments, as specified in section 2501.

(3) Recycling centers may file a formal appeal by writing the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a notice denying an application requesting an alternative method for shipping report preparation. Appeals submitted after this time period shall be rejected. All written appeals shall include:

(A) A copy of the notice denying the allocation method;

(B) A detailed explanation of why the determination was in error; and,

(C) any other documentation that supports the appeal.

(4) A written decision on the appeal shall be sent to the recycling center within seven (7) calendar days of the receipt of the appeal.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14526.6, 14538, 14549.1, 14571.9 and 14585, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2732 to section 2530 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Editorial correction of printing errors in subsections (a)(6) and (c) (Register 92, No. 13).
3. Amendment filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
4. Amendment of subsection (g), repeal of subsections (g)(1)–(3) and new subsections (g)(1)–(5) filed 1–6–93 as an emergency; operative 1–6–93 (Register 93, No. 2). A Certificate of Compliance must be filed 5–6–93 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (g), repeal of subsections (g)(1)–(3) and new subsections (g)(1)–(5) refiled 5–6–93 as an emergency; operative 5–6–93 (Register 93, No. 19). A Certificate of Compliance must be transmitted to OAL 9–3–93 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsections (a)(6), (d) and (f) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
7. Certificate of Compliance as to 5–6–93 order, including amendment of subsection (g), new subsections (g)(1), (g)(3), (g)(4), (g)(6) and (g)(9) and subsection renumbering, and amendment of newly designated subsections (g)(2), (g)(5), (g)(7) and (g)(8) transmitted to OAL 9–3–93 and filed 10–19–93 (Register 93, No. 43).
8. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
9. Change without regulatory effect amending subsections (e)(1)(c), (h), (h)(5) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
10. Editorial corrections (Register 96, No. 10).
11. Amendment of subsections (h) and (h)(4), repealer of subsection (h)(5), subsection renumbering and amendment of newly designated subsections (h)(5) and (h)(6) filed 1–21–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–21–2000 (Register 2000, No. 3). This regulatory action is not a statutorily deemed emergency as provided for in Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–22–2000 or emergency language will be repealed by operation of law on the following day.
12. New subsections (f)(11)–(f)(11)(B) and amendment of NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
13. Amendment of subsections (h) and (h)(4), repealer of subsection (h)(5), subsection renumbering and amendment of newly designated subsections (h)(5) and (h)(6) refiled 5–16–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 5–16–2000 (Register 2000. No. 3). A Certificate of Compliance must be transmitted to OAL by 9–13–2000 or emergency language will be repealed by operation of law on the following day.
14. New subsections (f)(11)–(f)(11)(B) and amendment of NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
15. Certificate of Compliance as to 5–16–2000 order transmitted to OAL 8–4–2000 and filed 9–8–2000 (Register 2000, No. 36).
16. Certificate of Compliance as to 7–6–2000 order, including further amendment of subsections (f)(11)(A)–(B) transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).
17. Editorial correction of subsections (a)(1) and (f) (Register 2002, No. 13).
18. Amendment of subsection (f)(11) and repealer of subsections (f)(11)(A)–(B) filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
19. Amendment of subsection (f)(11) and repealer of subsections (f)(11)(A)–(B) refiled 7–17–2002 as an emergency; operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
20. Amendment of subsection (f)(11) and repealer of subsections (f)(11)(A)–(B) refiled 11–18–2002 as an emergency, with additional amendment of subsection (h)(5); operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
21. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
22. Repealer of subsections (e)(4)(C)–(D), amendment of subsections (e)(6) and (f)(5)–(7), repealer of subsection (f)(9), subsection renumbering and amendment of newly designated subsections (f)(10)–(11) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).
23. Amendment of subsection (f)(10) filed 6–21–2007 as an emergency; operative 6–21–2007. This regulatory action meets the emergency standard and is mandated to remain in effect until revised by the Director of the Department of Conservation pursuant to Public Resources Code section 14536(b)(2) (Register 2007, No. 25).

§ 2535. Payments to Consumers, Curbside Programs, Community Service Programs and Dropoff or Collection Programs.

(a) Recycling centers shall pay on delivery the refund value for every empty beverage container not donated to the recycling center.

(b) For deliveries to a recycling center, except reverse vending machines:

(1) The consumer has the option of being paid based on count for up to 50 empty beverage containers of each material type.

(2) The recycler may pay based on count for all deliveries of empty beverage containers received from consumers.

(c) Notwithstanding any other provision of this subchapter, recycling centers shall not pay dropoff or collection, community service, and curbside programs more than the relevant commingled rate.

(d) Calculation of Payment.

(1) If the material received from consumers is segregated, as determined by the load inspection required by section 2501 of these regulations, and payment is based upon weight, payment shall be calculated by multiplying the actual weight of the empty beverage containers, by the applicable segregated refund value per pound for the relevant material type.

(2) If the payment is based on the actual number of empty beverage containers, the payment shall be based upon the following:

(A) in the case of recycling centers other than a reverse vending machine, the number of the empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size; or,

(B) in the case of a reverse vending machine, the number of empty beverage containers, multiplied by the refund value per empty beverage container for the relevant material type and size. If the reverse vending machine accepts empty beverage containers in gross, rather than by individual containers, and pays based on weight, the payment shall be based on the applicable refund value per pound rate.

(3) For commingled materials delivered from a dropoff or collection program, community service program or curbside program, payment shall be based on the received weight of the commingled material, excluding the weight of line breakage, rejected and out–of–state material, multiplied by the applicable commingled rate, or the Division's approved individual commingled rate.

(4) For commingled materials delivered from another recycling center, payment shall be based on the received weight of the commingled material, excluding the weight of line breakage, rejected and out–of–state material, multiplied by the applicable commingled rate.

(5) For commingled materials delivered from consumers, payment shall be based on the received weight of the material, multiplied by the applicable commingled rate.

(e) Recycling centers shall have the option to refuse to accept empty beverage containers which, in the opinion of the recycling center, are excessively contaminated with dirt, moisture, or other foreign substances ("shrinkage"). Alternatively, recycling centers may adjust downward the refund value per pound used to calculate payment by the ratio of such substances to empty beverage containers.

(f) A certified recycler shall not pay the refund value to, or claim refund value for any material received from any person, operation or entity who is not certified by the Division, delivering a load of material in excess of 500 pounds of aluminum or plastic beverage containers, or 2,500 pounds of glass beverage containers, per day. This limitation is applica-

ble to all transactions, including those performed pursuant to section 2500(h) of these regulations.

(1) It is a violation of this Section for a recycling center to split loads in excess of the aforementioned weighs, or accept during any one day an aggregate total of material in excess of the aforementioned weighs from any person not certified by the Division.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14572 and 14572.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2733 to section 2535 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (e)(1), (e)(3) and (g) and repealer of subsections (g)(1) and (2) and new subsection (g)(1) filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment of section heading and subsection (g) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Amendment of subsection (e)(3) and NOTE filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–31–94 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (e)(3) and NOTE refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
6. Reinstatement of subsection (e)(3) and NOTE as they existed prior to emergency amendment filed 1–24–94 by operation of Government Code section 11346.1(f) (Register 94, No. 39).
7. Amendment of section heading and text filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
8. New subsection (d), subsection relettering and repealer and new subsections (e)(1) and (e)(3) filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 10–27–94 order including amendment of subsection (d) transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
10. Amendment of subsection (g) filed 9–27–96; operative 9–27–96 pursuant to Government Code section 11343.4(d) (Register 96, No. 39).
11. Repealer of subsections (b) and (c), new subsections (b)–(b)(2), subsection relettering and amendment of newly designated subsection (d)(2) filed 6–28–2004; operative 7–28–2004 (Register 2004, No. 27).
12. Amendment of subsection (d)(3) and new subsections (d)(4)–(5) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

§ 2540. Receipt of Funds.

(a) The recycling center shall receive from the processor the sum of the following amounts:

(1) total refund value; and

(2) three–fourths of one percent (3/4%) of the refund value for administrative costs; and

(3) any applicable processing payment pursuant to Section 14573.5 of the Act.

(b) Such payments in subsection (a) above shall be based upon the lesser of the shipping report total amount due as set forth in the shipping report, or the value appropriate for the received weight as determined by the processor in accordance with subsections 2430(a)(1)(D), (E), and (F) of these regulations.

(c) For reverse vending machines, the refund value pursuant to subsection 2540(a) above shall be based upon the applicable commingled rate, except as follows:

(1) The refund value shall be based upon the full refund value only where the reverse vending machine distinguishes 100% of the time between empty beverage containers and other containers.

(d) Except as provided in Section 14585(b)(4) of the Act, a recycling center shall receive handling fees directly from the Division based upon the weight of all empty beverage containers reported to the Division pursuant to subsection 2530(c) of these regulations.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14518.5, 14573.5, 14575(c) and 14585(b)(4), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2734 to section 2540 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (d) and NOTE filed 10–15–91; operative 10–15–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 19).
3. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Change without regulatory effect amending subsection (a)(3) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
5. Amendment of subsection (a)(2) filed 1–24–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 1–24–2000 (Register 2000, No. 4). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 5–23–2000 or emergency language will be repealed by operation of law on the following day.
6. Amendment of subsection (a)(2) refiled 4–17–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 4–17–2000 (Register 2000, No. 16). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 8–15–2000 or emergency language will be repealed by operation of law on the following day.
7. Amendment of subsection (a)(2) refiled 8–11–2000 as an emergency pursuant to Public Resources Code section 14536(a); operative 8–16–2000 (Register 2000, No. 32). This regulatory action was not automatically deemed an emergency pursuant to Public Resources Code section 14536(b)(2) and a Certificate of Compliance must be transmitted to OAL by 12–14–2000 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 8–11–2000 order, including amendment of subsection (a)(3), transmitted to OAL 11–28–2000 and filed 1–11–2001 (Register 2001, No. 2).
9. Amendment of subsection (b) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).

§ 2550. Additions and Clarifications.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14500, 14503, 14504, 14505, 14512.5, 14513, 14514, 14517, 14518, 14520.6, 14524, 14530.5, 14536, 14550, 14552, 14561, 14572, 14573, and 14573.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2550 to section 2000 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Subchapter 7. Dropoff or Collection Programs

Article 1. Requirements for Dropoff or Collection Programs

§ 2600. Operation Standards.

(a) All certified dropoff or collection programs shall meet the following requirements:

(1) Operate and maintain records in accordance with the category of certification as approved by the Division and defined in these regulations.

(2) In order to remain certified, a dropoff or collection program must collect or accept a minimum of 500 pounds of aluminum or plastic beverage containers, or 2,000 pounds of glass beverage containers every year after becoming certified.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2600 to section 2070, and renumbering and amendment of former section 2110 to section 2600 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (b)(3) filed 12–9–91; operative 1–8–92 (Register 92, No. 25).
3. Amendment of article heading and subsections (a) and (a)(1), new subsection (a)(2) and NOTE, and renumbering and amendment of subsections (b)–(b)(3) to new section 2605, subsections (a)–(a)(3) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).

§ 2601. Examinations.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14537, 14538(f), 14541(c) and (d), Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2601 to section 2075 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2602. Proprietary and Other Records Exempt from Disclosure.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14551(b), Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of NOTE transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2602 to section 2080 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2603. Records.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14537, 14538(e) and (f) and 14552, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of subsection (c) transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2603 to section 2085 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2604. Reports, Notices, and Claims Submitted to Division.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 1438, 14541, 14541.5, 14550, 14551, 14552, and 14553, Public Resources Code; and Sections 6066 and 6067, Revenue and Taxation Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of subsections (b) and (d) transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2604 to section 2090 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2605. Notification Requirements.

(a) In addition to the requirements contained in section 2600(a) above, the operator of a certified dropoff or collection program shall notify the Division prior to any of the following events:

(1) Any change in operation, including additional dropoff or collection sites and changes in location of dropoff sites.

(2) Any change in operator name or contact person, business or mailing address, or telephone number of the operator.

(3) Change in the name of the program.

(4) Change in the corporate officers, if applicable.

(5) Change in the agent for service of process, if applicable.

(b) The operator of a certified dropoff or collection program who intends to be decertified shall submit a written notification to the Division, which includes the proposed effective date.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of section 2600, subsections (b)–(b)(3) to new section 2605, subsections (a)–(a)(3), and new subsection (a)(4) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21). For prior history, see Register 91, No. 46.
2. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Editorial correction of NOTE (Register 96, No. 10).

§ 2606. Penalties and Interest Charges.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14541 and 14591(c), Public Resources Code; and Section 11500 et seq., Government Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Amendment filed 9–19–88 as an emergency; operative 9–19–88 (Register 88, No. 39). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–17–89.
6. Amendment filed 7–14–89; operative 8–13–89 (Register 89, No. 32).
7. Renumbering and amendment of former section 2606 to section 2100 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2607. Persons That Are Certified As Both Processors and Recycling Centers (Dual Certified Entities).

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14540, 14572 and 14573.5, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of subsection (a) transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2607 to section 2105 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2608. Cancelled Material and Rejected Containers.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14518, 14539 and 14573.5, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.

3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Amendment of subsection (b) filed 12–29–89 as an emergency; operative 12–29–89 (Register 90, No. 2). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 4–30–90.
6. Amendment of subsection (a) filed 2–15–90; operative 2–15–90 (Register 90, No. 8).
7. Reinstatement of subsection (b) as it existed prior to emergency amendment filed 12–29–89 by operation of Government Code section 11346.1(f) (Register 90, No. 27).
8. Amendment of subsection (b) filed 5–18–90 as an emergency; operative 5–18–90 (Register 90, No. 27). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 9–17–90.
9. Amendment of subsection (b) filed 9–14–90 as an emergency; operative 9–14–90 (Register 90, No. 43). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 1–14–91.
10. Editorial correction of HISTORY No. 9 correcting repeal date from 1–2– 91 to 1–14–91 (Register 91, No. 11).
11. Amendment of subsection (b) filed 1–31–91 as an emergency; operative 1–31–91 (Register 91, No. 11). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed by operation of law on 5–31–91.
12. Renumbering and amendment of former section 2608 to section 2110 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2609. Notice of Disposal.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14501(h), 14518 and 14519, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2609 to section 2410 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Article 2. Accounting and Reporting Requirements

§ 2610. Applicability.

In addition to the general accounting requirements of subchapter 2, dropoff or collection programs shall comply with the accounting and reporting provisions of this article.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7 and 14552, Public Resources Code.

HISTORY

1. New Article 2 (sections 2610 and 2615) and section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21). For prior history, see Register 91, No. 46.

§ 2611. Dates.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14551(b) and 14552, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2611 to section 2120 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2615. Recordkeeping.

(a) Dropoff or collection programs shall maintain the following records in accordance with the general requirements set forth in section 2085 of these regulations.

(1) Dropoff or collection programs shall prepare and maintain logs which contain all of the following information:

(A) The date and time of pickup or donation; and

(B) The name and address of the location of pickup or donation; and

(C) The material types picked up or donated; and

(D) An approximation of the weight of each material type picked up or donated; and

(E) The name and phone number of a contact person at the location of pickup; and

(F) Amount of scrap value paid for each material type.

(2) Dropoff or collection programs shall maintain a copy of the shipping report prepared by a recycling center or processor and a copy of the weight ticket prepared by a recycling center or processor.

(b) Dropoff or collection programs shall not claim refund value for empty beverage containers purchased from, or donated by, curbside programs. All scrap transactions between dropoff or collection programs and curbside programs shall be reported in the same manner as is required pursuant to section 2530 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7 and 14552, Public Resources Code.

HISTORY

1. New section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
2. Redesignation of subsections and amendment of subsections (a), (a)(1)(F), (a)(2) and (b) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2616. Obtaining Department Approval.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New article 3 and section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
2. New article 3 and section, including amendment of subsection (d), refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 39).

§ 2617. Alternative Methodology Procedures.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 39).

§ 2618. Permit Processing Times for Individual Commingled Rate Studies.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 15376, Government Code; Section 14552(a), Public Resources Code.

HISTORY

1. New section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.

2. New section refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 39).

§ 2619. Appeals.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 21).

Article 3. Individual Commingled Rate

§ 2620. Obtaining Division Approval.

Operators of dropoff or collection programs shall be paid the applicable statewide average commingled rate, determined by the Division, for commingled beverage container material types, unless the Division approves an individual commingled rate for their program. Individual commingled rates may be approved for one or more material–types which have an existing statewide commingled rate. Operators of dropoff or collection programs who wish to apply for an individual commingled rate shall submit a completed Individual Commingled Rate Application (ICRS–APP (07/00)) in the form and manner required by this section. The applicant shall request approval to conduct an individual commingled rate survey using either the Division's individual commingled rate methodology specified in subsection (c), or an alternative methodology submitted by the applicant. A total of six weekly surveys shall be conducted on a bimonthly basis beginning in October and ending no later than the second full week of the following September. Individual commingled rates that are approved by the Division, shall be effective from January 1 through December 31 of the year following the survey period.

(a) At least 60 days prior to the commencement of the surveys, which begin in October, the Division shall notify operators of dropoff or collection programs of the opportunity to perform an individual commingled rate survey. An operator of a dropoff or collection program wishing to conduct an individual commingled rate survey shall contact the Division to obtain the Individual Commingled Rate Application (ICRS–APP (07/00)).

(b) The Individual Commingled Rate Application (ICRS–APP (07/00)) must be completed and submitted to the Division no later than September 1st. To be considered complete, the survey application shall contain the following information:

(1) The organization name and, if applicable, a copy of any fictitious business name statement being used.

(2) The operator contact person's name, title, phone number, facsimile number, mailing address, and business address.

(3) The survey location address and city, and a brief site description.

(4) The survey technician's name and phone number.

(5) A selection of either the Division's survey methodology in subsection (c) or an alternative proposed methodology to be submitted by the applicant.

(6) The identification of material–types selected to be surveyed, the sample size, and daily sample size for each selected material.

(7) The dates of survey weeks and the number of days for specified sample periods.

(8) The specific time of the day in which surveys will be conducted.

(9) The program category of the certified program to be surveyed.

(10) The certification number of the program to be surveyed.

(11) The source of material for the certified program to be surveyed.

(12) The number of municipalities served by the certified program to be surveyed, if any.

(13) The number of customer sites from which survey material is to be collected by the certified program.

(14) The frequency that collected material is sold.

(15) A brief description of the certified program.

(16) Declarations and signatures of applicant.

(c) The Division's suggested methodology requires the following:

(1)The program shall determine the annual survey sample size for each material type based on the chart below.

	Annual Survey Sample Size
Aluminum	6600
Glass	4500
Plastic (all resins)	3000

(2) Upon determining the annual survey sample size, the program shall calculate the daily sample size by dividing the annual survey sample size, specified in the chart above, by the total number of days the survey will be conducted during the entire annual survey. Once the daily sample size is determined for each material type, this will remain the daily sample size throughout the entire annual survey period for that material type.

(3) Surveys shall be conducted for one regular workweek during each two–month sample period at pre–established dates, times, and places as indicated on the Individual Commingled Rate Application (ICRS–APP (07/00)) submitted to the Division. Surveys shall not be scheduled for weeks containing holidays or other days the program is not in operation, and shall be equally distributed throughout the survey period.

(4) Daily samples shall be collected on a random basis from the material which has been received exclusively from programs approved for the survey. Only whole containers may be surveyed.

(5) Upon selection and removal of containers for the daily sample, the applicant shall perform a complete sample analysis of counting, sorting, and weighing containers.

In performing a sample analysis, weight shall be measured, recorded, and reported in pounds and fractions thereof. All weighing in this state shall be done on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) and any applicable regulations thereunder.

(6) The results of the sample analysis shall be legibly, accurately, and completely recorded on the Daily Data Collection Sheet (DDCS (07/00)), which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period in which each one–week survey is conducted.

(C) The program name.

(D) The survey day and date.

(E) The certification and/or registration numbers.

(F) Identification of the material type surveyed.

(G) The total quantity of containers surveyed, and their total weight.

(H) The quantity and weight of CRV containers surveyed that have a volume less than 24 ounces.

(I) The quantity and weight of CRV containers surveyed that have a volume of 24 ounces or more.

(J) The quantity and weight of non–CRV containers surveyed.

(K) The daily totals for each column.

(7) At the conclusion of each weekly survey, the applicant shall complete a Weekly Summary Sheet (WSS (07/00)) which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period of the weekly survey

(C) The program name.

(D) The survey week by dates.

(E) The certification and/or registration numbers.

[The next page is 432.16(c).]

(F) Identification of the material type surveyed.

(G) The survey date summarized on that line.

(H) The total quantity of containers surveyed on that date, and their total weight.

(I) The quantity and weight of CRV containers surveyed on that date that have a volume less than 24 ounces.

(J) The quantity and weight of CRV containers surveyed on that date that have a volume of 24 ounces or more.

(K) The quantity and weight of non–CRV containers surveyed on that date.

(L) The weekly totals for each column.

(8) The completed original Daily Data Collection Sheet, and the Weekly Summary Sheet shall be confirmed to be complete, accurate, and consistent with the methodology approved for that program and shall be submitted to the Division for review, verification, and approval at the conclusion of each two–month survey period and must be postmarked no later than the 15th day of the month following the survey period.

(9) At the conclusion of the annual survey period, the applicant shall submit an Affidavit (AFD (07/00)) to confirm that all information is complete, accurate, and consistent with the methodology approved for that program.

(d) Dropoff or collection programs proposing to alter the Division's methodology or create their own alternative methodology must apply for Division approval, in advance, pursuant to section 2625 of these regulations. A proposed alternative methodology must equal the Division's methodology in the accuracy of estimation and level of confidence in the estimation. The alternative methodology must be described in adequate detail to determine the accuracy of estimation and level of confidence in the estimation.

(e) Determination by the Division that a program has deviated from an approved methodology, demonstrated a significant lack of quality control, or misrepresented their survey results shall result in the termination of the individual commingled rate survey and/or disapproval or revocation of the individual commingled rate and a reversion to the statewide average commingled rate. The Division's adverse action may be appealed pursuant to section 2645 of these regulations.

(1) A significant lack of quality control is demonstrated when five (5) percent or more of the sample data submitted by an applicant is found to be incorrect by the Division, and is deleted from the survey pursuant to Section 2620(e)(3) below because of the following:

(A) The cumulative weight of all components of a sample deviates by more than an acceptable range of accuracy , as defined in Section 2620(e)(2) below, from the total sample taken for that material type and/or

(B) The cumulative count of containers from all components of a sample does not equal the total sample count for that material type.

(2) An acceptable range of accuracy, applicable to Section 2620(e)(1)(A) above, is the smallest variance or increment of accuracy of the applicant's scale multiplied by 2.0.

(3) The Division, upon its sole discretion, may delete incorrect data samples.

(f) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such disapproval within thirty (30) calendar days of the determination that a program has deviated from an approved methodology, demonstrated a lack of quality control, or misrepresented survey results.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New article 3 (sections 2620–2635) and section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including amendment of section transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2625. Alternative Methodology Procedures.

(a) Dropoff or collection programs choosing to use an alternative survey methodology shall apply to the Division for approval. Operators shall complete and submit to the Division the following documents, in originals:

(1) A completed survey application as specified in section 2620(b);

(2) A written description of the alternative methodology procedure in detail, the steps necessary to perform the alternative survey methodology, including the equipment to be used, materials to be collected, how the materials will be analyzed, location where sampling will occur, time and dates of the survey, and any other relevant details that are necessary to arrive at the individual commingled rate. The proposed alternative methodology procedure must be as detailed and inclusive as the survey methodology provided by the Division.

(b) The Division shall review all completed proposed alternative methodology requests submitted.

(c) The Division shall notify the operator of its decision, after receipt of the documents requested in this subsection, if the methodology was approved or denied, pursuant to section 2630 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including amendment of subsections (a)(1)–(3) transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a)(1), repealer of subsection (a)(2), subsection renumbering, and amendment of newly designated subsection (a)(2) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2630. Survey Application Processing Time.

(a) Within fifteen (15) calendar days from the receipt of the survey application and alternative methodology procedure, if applicable, from an operator of a dropoff or collection program requesting approval to use the Division's methodology or an alternative methodology to determine their program's specific individual commingled rate, the Division shall inform the applicant, in writing, that the survey application and alternative methodology procedure, if applicable, are either complete and accepted for processing, or incomplete. If the survey application and/or alternative methodology procedure, if applicable, are incomplete, the Division shall indicate, in writing, to the applicant what information or documentation is required. The applicant shall submit the required additional information or documentation, to the Division, postmarked no later than ten (10) calendar days from the date indicated in the Division's letter requesting additional information or documentation. Material postmarked later than ten (10) calendar days will be rejected and the application will be denied.

(b) Within fifteen (15) calendar days after the Division informs the applicant of the receipt of a complete survey application and alternative methodology procedure, if applicable, as indicated in subsection 2630(a) above, the Division shall approve or disapprove the survey application and alternative methodology procedure, if applicable.

(c) If the application is disapproved, the applicant may request an appeal pursuant to subsection 2645 of these regulations.

(d) The applicant may begin using the approved survey methodology for the specified survey period, after receiving written notification from the Division that the survey application and alternative methodology procedure, if applicable, has been approved.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7 and 14552(a), Public Resources Code and Section 15376, Government Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 10–27–94 order including amendment of section and NOTE transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Editorial correction of NOTE (Register 96, No. 10).
4. Amendment of section heading and subsections (a), (b) and (d) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2635. Individual Commingled Rate Survey Audit and Results.

(a) The Division may audit any applicant's procedures and results of an approved individual commingled rate survey. The Division shall conduct its audit during the scheduled survey week for any applicant.

(b) The Division shall conduct audits. To enable the Division to conduct audits, applicants shall retain the pile of material from which the sample was taken, including the sample itself, until the completion of their daily survey. On the day of the audit, the applicant shall provide Division audit staff access to the material immediately after the applicant conducts the survey. If the applicant deviates from the approved survey time, they shall notify the Division immediately, but not less than 24 hours prior to the time of the deviation.

(c) If, in each of two separate audits, the Division determines, using standard statistical formulas, that the difference between the applicant's and the Division's proportion of California Redemption Value containers is statistically significant, the Division shall terminate the applicant's individual commingled rate survey. The difference shall be statistically significant, if the applicant's proportion is higher than the Division's, and the Division is 99% confident that the chances of the difference occurring under the applicant's approved study methodology is 5% or less.

(1) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such termination and disapproval within thirty (30) calendar days of the audit.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2635 to section 2645 and new section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
2. Amendment of subsections (b) and (c)(1) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2640. Receipt of Approval or Disapproval and Notification of Changes.

(a) Within sixty (60) calendar days after the Division receives the dropoff or collection program's final survey results, the Division shall approve or disapprove the program's individual commingled rate.

(b) The applicant shall notify the Division, in writing, within ten (10) working days, of the occurrence of either of the following for any material for which the operator has an approved individual commingled rate:

(1) Any increase or decrease of twenty (20) percent or more in the total monthly weight from the average weight of the previous three (3) month period; or

(2) Any increase or decrease of twenty (20) percent in the total monthly number of customer sites served by the applicant from the average number of customer sites of the previous three (3) month period.

(c) Failure to provide this notification may subject the applicant to immediate revocation of the individual commingled rate.

(d) Upon notification of operational changes, described in subsections (b)(1) or (b)(2) above, the Division may, upon its sole discretion, review and alter or revoke the individual commingled rate.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code; and Section 15376, Government Code.

HISTORY

1. New section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
2. Amendment of subsection (a) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2645. Individual Commingled Rate Appeals Process.

(a) In the event of the denial of a survey application, termination of an individual commingled rate survey and/or disapproval or revocation of an individual commingled rate, dropoff or collection programs may file a formal appeal by writing to the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a Letter of Denial (LED). Appeals submitted after this time period shall be rejected. All written appeals shall include:

(1) A copy of the (LED);

(2) A detailed explanation of why the determination was in error; and

(3) Any other documentation that supports the appeal.

(b) A decision on the appeal shall be sent to the program applicant, in writing, within fifteen (15) working days of receipt of the appeal.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including renumbering and amendment of former section 2635 to section 2645 transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
4. Change without regulatory effect amending subsection (a) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).

Subchapter 8. Curbside Programs

Article 1. Curbside Registration

§ 2650. Curbside Registration Application Review and Renewal.

(a) The Division will issue a registration number to all eligible curbside programs in order to facilitate the auditing of payments made to curbside programs, and proper payment of refund values, processing payments, supplemental payments, quality glass incentive payments and administrative fees. No curbside program may receive refund values, processing payments, supplemental payments, quality glass incentive payments or administrative fees without a valid registration number.

(b) The registration number issued shall be valid for a maximum of two years. All registration numbers expire on the anniversary of the original application approval date. The curbside program shall submit a completed Application for Curbside Registration, DOR 50 10/99, for renewal, at least 30 days prior to the expiration date of the registration number. The application may be obtained from the Division upon request. The renewal application shall be subject to the same standards and requirements as the original application.

(c) Upon receiving a request for a registration number from a curbside program, the Division shall furnish the curbside operator with an "Application for Curbside Registration" DOR 50 10/99, which shall be used to apply for a new registration number or for renewal of a current registration number. In addition to submitting the completed application, the curbside program operator shall supply to the Division the following information:

(1) A dated and signed copy of a contract or franchise agreement acknowledging the curbside program and the expiration date of the contract or franchise agreement, and identification of the public official responsible for oversight of the contract or franchise agreement, including the official's title, address, and phone number; or

(2) A letter prepared by the operator or the public official, and bearing the signature of the city, county or other public agency's chief administrative officer, or his or her designee, verifying that the program operates with the full knowledge and concurrence of the city, county, or public agency.

(d) The application (DOR 50 10/99) shall be completed by providing the following information:

(1) The operator's organization name; parent company name and fictitious business name statement, if applicable; business and mailing address; telephone number; federal employer identification number and the name and title of the individual responsible for completing the application.

(2) The date the program started, or proposes to start operation.

(3) The operator's type of organization, whether an individual, partnership, profit corporation, nonprofit corporation, limited liability company, husband and wife co–ownership, local government agency, federal agency, joint power of authority, or other type of organization.

(A) If the organization or individual is doing or proposing to do business under a different name, the applicant shall provide a copy of their fictitious business name statement.

(B) If the organization is a partnership, the applicant shall provide a copy of the current partnership agreement.

(C) If the organization is a corporation, the applicant shall provide the corporate number, the Articles of Incorporation, name and position of all current corporate officers as filed with the Secretary of State, and the agent for service of process.

(D) If the organization is a corporation from a state other than California, the applicant shall provide a copy of the approved certificate from the California Secretary of State qualifying and authorizing the corporation to transact business in California.

(E) If the organization is a husband and wife co–ownership, both names shall be provided.

(F) If the organization is a limited liability company (LLC), the applicant shall provide a copy of the Articles of Organization and Statement of Information as filed with the Secretary of State, any operating agreement, and the agent for service of process.

(G) If the organization is a limited liability company (LLC) from a state other than California, the applicant shall provide a copy of the Articles of Organization and Statement of Information as filed with the Secretary of State, any operating agreement, the agent for service of process and a copy of the certificate from the California Secretary of State authorizing the LLC to transact business in California.

(H) If the organization is a local government agency, federal agency or a joint power of authority, the applicant shall provide a copy of the authorizing resolution from the governing board.

(4) A map of the areas serviced by the program and the number of single and multiple family residences and apartment units served by the program.

(5) Whether the operator of the curbside program is currently certified by the Division and a list of valid certification numbers, if applicable.

(6) A description of the program including a listing of the types of residences and/or businesses served by the program.

(7) Whether recyclables are sorted or mixed at the point of collection.

(8) A description of the collection containers used by the program.

(9) If a separate company sorts the curbside materials after collection, the sorter company name, address, telephone number and contact person.

(10) The name and certification number of the recycling centers and/or processors to which materials collected by the curbside program are most often sold and the type(s) of material sold.

(11) The name and address of the public agency responsible for the oversight of the contract or franchise agreement and the name, title and telephone number of the public agency contact person as well as the community or communities served by this curbside program.

(12) The frequency that curbside materials are collected.

(13) The method of collection for materials in residential areas.

(14) The types of recyclable materials the curbside program accepts or collects.

(15) The name, residence address, including city and zip code, residence phone number, and driver license number of the applicant(s).

(e) The curbside program operator shall submit to the Division the local public agency authorization described in subsection (c) above and the completed application signed by the operator under penalty of perjury. The signature block shall contain an affidavit that the information in the application is true and that the operator agrees to operate in compliance with the Act and these regulations.

(1) If the operator is a partnership, each partner shall sign the application.

(2) If the operator is a firm, association, corporation, LLC, county, city, public agency or other governmental entity, the application shall be signed by the chief executive officer or the individual with the authority to legally bind the entity to a contract.

(3) If the operator is a husband and wife co–ownership, both husband and wife shall sign the application.

(f) All applications for curbside registration shall be reviewed by the Division for compliance with the Act and these regulations. Within 15 working days of receiving the Application for Curbside Registration, DOR 50 10/99 and local public agency authorization, the Division shall notify the curbside program, in writing, that the requested information is complete and accepted for filing with the Division, or incomplete and the reasons for the incompleteness. If incomplete, the Division shall specify the additional information necessary before a registration number will be issued. Upon determining that an application is complete, the Division shall notify the applicant in writing within forty–five (45) calendar days that the application is either approved, approved for probationary status or denied and the reason(s) for denial.

(g) A curbside program shall meet all standards and requirements for registration contained in section 14551.5 of the Act and in these regulations.

(h) Reasons for denial of an Application for Curbside Registration, DOR 50 10/99, are:

(1) Failure to provide information or documentation to complete the application as required in these regulations;

(2) The curbside program is unwilling to accept all beverage container types;

(3) The curbside operator, the curbside program or other individuals identified in the application have a history which demonstrates a pattern of operation in conflict with the requirements of the Act.

(i) The curbside program shall provide its registration number on all reports required by the Division and shall provide its registration number to certified recyclers and processors at the time it delivers recyclables.

(j) The operator of a curbside program shall notify the Division in writing ten (10) calendar days prior to any of the following events:

(1) Change of name under which the curbside program is doing business,

(2) Change of address or phone number of operator,

(3) Separation from parent company, if applicable,

(4) Merger with another company,

(5) Discontinuance of operation,

(6) Expiration of, or cancellation of, contract or franchise agreement with the city, county, or local public agency, or

(7) Change or retraction in the acknowledgment of the curbside program by the authorized public agency.

(k) Notification of any events listed in (j) above may result in cancellation of the registration number by the Division.

(*l*) Any curbside program information of a personal or proprietary nature that is retained by the Division shall be confidential. The data shall only be released on a cumulative basis, and without identification of any individual operator by name, number or location of operation.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5, 14549.1, 14551.5, 14554, 14571.8 and 14573.5, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2950 to section 2650 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsections (d) and (f) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Amendment of subsection (a) and NOTE filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code

section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.

4. Amendment of subsection (a) and NOTE refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
5. Amendment of article 1 heading, section heading, section and NOTE filed 7–20–2000; operative 8–19–2000 (Register 2000, No. 29).

§ 2655. Survey Form and Identification Number Renewal.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5, 14551.5, 14571.8 and 14554, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2955 to section 2655 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
3. Repealer filed 7–20–2000; operative 8–19–2000 (Register 2000, No. 29).

Article 2. Individual Commingled Rate

§ 2660. Obtaining Division Approval.

Operators of curbside programs shall be paid the applicable statewide average commingled rate, determined by the Division, for commingled beverage container material types, unless the Division approves an individual commingled rate for their program. Individual commingled rates may be approved for one or more material–types which have an existing statewide commingled rate. Operators of curbside programs who wish to apply for an individual commingled rate shall submit a completed Individual Commingled Rate Application (ICRS–APP (07/00)) in the form and manner required by this section. The applicant shall request approval to conduct an individual commingled rate survey using either the Division's individual commingled rate methodology, specified in subsection (c), or an alternative methodology submitted by the applicant. An operator of a curbside program shall conduct surveys on each day the program operates during a one week period. A total of six weekly surveys shall be conducted on a bimonthly basis beginning in October and ending no later than the second full week of the following September. Individual commingled rates that are approved by the Division, shall be effective from January 1 through December 31 of the year following the survey period.

(a) At least 60 days prior to the commencement of the surveys, which begin in October, the Division shall notify operators of curbside programs of the opportunity to perform an individual commingled rate survey. An operator of a curbside program wishing to conduct an individual commingled rate survey shall contact the Division to obtain the Individual Commingled Rate Application (ICRS–APP (07/00)).

(b) The Individual Commingled Rate Application (ICRS–APP (07/00)) must be completed and submitted to the Division no later than September 1st. To be considered complete, the survey application shall contain the following information:

(1) The organization name and, if applicable, a copy of any fictitious business name statement being used.

(2) The operator contact person's name, title, phone number, facsimile number, mailing address, and business address.

(3) The survey location address and city, and a brief site description.

(4) The survey technician's name and phone number.

(5) A selection of either the Division's survey methodology in subsection (c) or an alternative proposed methodology to be submitted by the applicant.

(6) The identification of material–types selected to be surveyed, the sample size, and daily sample size for each selected material.

(7) The dates of survey weeks and the number of days for specified sample periods.

(8) The specific time of the day in which surveys will be conducted.

(9) The program category of the certified program to be surveyed.

(10) For each curbside program to be surveyed under one application, the curbside registration number, the municipality served, and the operator contracted for collection and/or sorting, if any.

(11) Declarations and signatures of applicant.

(c) The Division's suggested methodology requires the following:

(1)The program shall determine the annual survey sample size for each material type based on the chart below.

	Annual Survey Sample Size
Aluminum	6600
Glass	4500
Plastic (all resins)	3000

(2) Upon determining the annual survey sample size, the program shall calculate the daily sample size by dividing the annual survey sample size, specified in the chart above, by the total number of days the survey will be conducted during the entire annual survey. Once the daily sample size is determined for each material type, this will remain the daily sample size throughout the entire annual survey period for that material type.

(3) Surveys shall be conducted for one regular workweek during each two–month sample period at pre–established dates, times, and places as indicated on the Individual Commingled Rate Application (ICRS–APP (07/00)) submitted to the Division. Surveys shall not be scheduled for weeks containing holidays or other days the program is not in operation, and shall be equally distributed throughout the survey period.

(4) Daily samples shall be collected on a random basis from the material which has been received exclusively from programs approved for the survey. Only whole containers may be surveyed.

(5) Upon selection and removal of containers for the daily sample, the applicant shall perform a complete sample analysis of counting, sorting, and weighing containers.

In performing a sample analysis, weight shall be measured, recorded, and reported in pounds and fractions thereof. All weighing in this state shall be done on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) and any applicable regulations thereunder.

(6) The results of the sample analysis shall be legibly, accurately, and completely recorded on the Daily Data Collection Sheet (DDCS (07/00)), which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period in which each one–week survey is conducted.

(C) The program name.

(D) The survey day and date.

(E) The certification and/or registration numbers.

(F) Identification of the material type surveyed.

(G) The total quantity of containers surveyed, and their total weight.

(H) The quantity and weight of CRV containers surveyed that have a volume less than 24 ounces.

(I) The quantity and weight of CRV containers surveyed that have a volume of 24 ounces or more.

(J) The quantity and weight of non–CRV containers surveyed.

(K) The daily totals for each column.

(7) At the conclusion of each weekly survey, the applicant shall complete a Weekly Summary Sheet (WSS (07/00)) which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period of the weekly survey

(C) The program name.

(D) The survey week by dates.

(E) The certification and/or registration numbers.

(F) Identification of the material type surveyed.

(G) The survey date summarized on that line.

(H) The total quantity of containers surveyed on that date, and their total weight.

(I) The quantity and weight of CRV containers surveyed on that date that have a volume less than 24 ounces.

(J) The quantity and weight of CRV containers surveyed on that date that have a volume of 24 ounces or more.

(K) The quantity and weight of non–CRV containers surveyed on that date.

(L) The weekly totals for each column.

(8) The completed original Daily Data Collection Sheet, and the Weekly Summary Sheet shall be confirmed to be complete, accurate, and consistent with the methodology approved for that program and shall be submitted to the Division for review, verification, and approval at the conclusion of each two–month survey period and must be postmarked no later than the 15th day of the month following the survey period.

(9) At the conclusion of the annual survey period, the applicant shall submit an Affidavit (AFD (07/00)) to confirm that all information is complete, accurate, and consistent with the methodology approved for that program.

(d) Curbside programs proposing to alter the Division's methodology or create their own alternative methodology must apply for Division approval, in advance, pursuant to section 2665 of these regulations. A proposed alternative methodology must equal the Division's methodology in the accuracy of estimation and level of confidence in the estimation. The alternative methodology must be described in adequate detail to determine the accuracy of estimation and level of confidence in the estimation.

(e) Curbside programs shall have the option of conducting their individual commingled rate survey at either their location where curbside trucks unload or the location of curbside collections(s).

(f) Determination by the Division that a program has deviated from an approved methodology, demonstrated a significant lack of quality control, or misrepresented their survey results shall result in the termination of the individual commingled rate survey and/or disapproval or revocation of the individual commingled rate and a reversion to the statewide average commingled rate. The Division's adverse action may be appealed pursuant to section 2685 of these regulations.

(1) A significant lack of quality control is demonstrated when five (5) percent or more of the sample data submitted by an applicant is found to be incorrect by the Division, and is deleted from the survey pursuant to Section 2660(f)(3) below because of the following:

(A) The cumulative weight of all components of a sample deviates by more than an acceptable range of accuracy ,as defined in Section 2660(f)(2) below, from the total sample taken for that material type and/or

(B) The cumulative count of containers from all components of a sample does not equal the total sample count for that material type.

(2) An acceptable range of accuracy, applicable to Section 2660(f)(1)(A) above, is the smallest variance or increment of accuracy of the applicant's scale multiplied by 2.0.

(3) The Division, upon its sole discretion, may delete incorrect data samples.

(g) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such disapproval within thirty (30) calendar days of the determination that a program has deviated from an approved methodology, demonstrated a lack of quality control, or misrepresented survey results.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5, 14552(a) and 14573.51, Public Resources Code.

HISTORY

1. New article 2 (sections 2660–2675) and section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including amendment of section transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2665. Alternative Methodology Procedures.

(a) Curbside programs choosing to use an alternative survey methodology shall apply to the Division for approval. Operators shall complete and submit to the Division the following documents, in originals:

(1) A completed survey application as specified in section 2660(b);

(2) A written description of the alternative methodology procedure in detail, the steps necessary to perform the alternative survey methodology, including the equipment to be used, materials to be collected, how the materials will be analyzed, location where sampling will occur, time and days of the survey, and any other relevant details that are necessary to arrive at the individual commingled rate. The proposed alternative methodology procedure must be as detailed and inclusive as the survey methodology provided by the Division.

(b) The Division shall review all completed proposed alternative methodology requests submitted.

(c) The Division shall notify the operator of its decision, after receipt of the documents requested in this subsection, if their methodology was approved or denied, pursuant to section 2670 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5, 14552(a) and 14573.51, Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including amendment of subsections (a)(1)–(3) transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a)(1), repealer of subsection (a)(2), subsection renumbering, and amendment of newly designated subsection (a)(2) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2670. Survey Application Processing Time.

(a) Within fifteen (15) calendar days from the receipt of the survey application and alternative methodology procedure, if applicable, from an operator of a curbside program requesting approval to use the Division's methodology or an alternative methodology to determine their program's specific individual commingled rate, the Division shall inform the applicant, in writing, that the survey application, and alternative methodology procedure, if applicable, are either complete and accepted for processing, or incomplete. If the survey application, and/or alternative methodology procedure, if applicable, are incomplete, the Division shall indicate, in writing, to the applicant what information or documentation is required. The applicant shall submit the required additional information or documentation, to the Division, postmarked no later than 10 calendar days from the date indicated in the Division's letter requesting additional information or documentation. Material postmarked later than ten (10) calendar days will be rejected and the application will be denied.

(b) Within fifteen (15) calendar days after the Division informs the applicant of the receipt of a complete survey application and alternative methodology procedure, if applicable, as indicated in subsection 2670(a) above, the Division shall approve or disapprove the survey application and alternative methodology procedure, if applicable.

(c) If the application is disapproved, the applicant may request an appeal pursuant to subsection 2685 of these regulations.

(d) The applicant may begin using the approved survey methodology for the specified survey period, after receiving written notification from the Division that the survey application and alternative methodology procedure, if applicable, has been approved.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5, 14552(a) and 14573.51, Public Resources Code; and Section 15376, Government Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.

2. Certificate of Compliance as to 10–27–94 order including amendment of section transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of section heading and subsections (a), (b) and (d) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2675. Individual Commingled Rate Survey Audit and Results.

(a) The Division may audit any applicant's procedures and results of an approved individual commingled rate survey. The Division shall conduct its audit during the scheduled survey week for any applicant.

(b) The Division shall conduct audits. To enable the Division to conduct audits, applicants shall retain the pile of material from which the sample was taken, including the sample itself, until the completion of their daily survey. On the day of the audit, the applicant shall provide Division audit staff access to the material immediately after the applicant conducts the survey. If the applicant deviates from the approved survey time, they shall notify the Division immediately, but not less than 24 hours prior to the time of the deviation.

(c) If, in each of two separate audits, the Division determines, using standard statistical formulas, that the difference between the applicant's and the Division's proportion of California Redemption Value containers is statistically significant, the Division shall terminate the applicant's individual commingled rate survey. The difference shall be statistically significant, if the applicant's proportion is higher than the Division's, and the Division is 99% confident that the chances of the difference occurring under the applicant's approved study methodology is 5% or less.

(1) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such termination and disapproval within thirty (30) calendar days of the audit.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5 and 14552(a), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2675 to section 2680 and new section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
2. Amendment of subsections (b) and (c)(1) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2680. Receipt of Approval or Disapproval and Notification of Changes.

(a) Within sixty (60) calendar days after the Division receives the curbside program's final survey results, the Division shall approve or disapprove the program's individual commingled rate.

(b) The applicant shall notify the Division, in writing, within ten (10) working days, of the occurrence of either of the following for any material for which the operator has an approved individual commingled rate:

(1) Any increase or decrease of twenty (20) percent or more in the total monthly weight from the average weight of the previous three (3) month period; or

(2) Any increase or decrease of twenty (20) percent in the total monthly number of customer sites served by the applicant from the average number of customer sites of the previous three (3) month period.

(c) Failure to provide this notification may subject the applicant to immediate revocation of the individual commingled rate.

(d) Upon notification of operational changes, described in subsections (b)(1) or (b)(2) above, the Division may, upon its sole discretion, review and alter or revoke the individual commingled rate.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code; and Section 15376, Government Code.

HISTORY

1. New section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
2. Amendment of subsection (a) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2685. Individual Commingled Rate Appeals Process.

(a) In the event of the denial of survey application, termination of an individual commingled rate survey, and/or disapproval or revocation of an individual commingled rate, curbside programs may file a formal appeal by writing to the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a Letter of Denial (LED). Appeals submitted after this time period shall be rejected. All written appeals shall include:

(1) A copy of the LED; and

(2) A detailed explanation of why the determination was in error; and

(3) Any other documentation that supports the appeal.

(b) A decision on the appeal shall be sent to the program applicant, in writing, within fifteen (15) working days of receipt of the appeal.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14509.5 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including renumbering and amendment of former section 2675 to section 2685 transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
4. Change without regulatory effect amending subsection (a) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).

Article 3. Quality Glass Incentive Payments

§ 2690. Quality Glass Incentive Payments.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14549.1, Public Resources Code.

HISTORY

1. New section filed 3–6–2000 as an emergency; operative 3–6–2000 (Register 2000, No. 10). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 7–5–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
2. New section refiled 7–6–2000 as an emergency; operative 7–6–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536, subdivision (b)(2), the Department of Conservation should file a Certificate of Compliance with OAL by 11–3–2000; however, this emergency regulation shall not be repealed by OAL, and shall remain in effect until revised by the Director of the Department of Conservation.
3. Certificate of Compliance as to 7–6–2000 order, including new article 3 heading and further amendment of section, transmitted to OAL 9–28–2000 and filed 11–13–2000 (Register 2000, No. 46).
4. Renumbering of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day.
5. Renumbering of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) refiled 7–17–2002 as an emergency; operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day.
6. Renumbering of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) refiled 11–18–2002 as an emergency; operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).

Subchapter 9. Community Service Programs

Article 1. Requirements for Community Service Programs

§ 2700. Operation Standards.

(a) All certified community service programs shall meet the following requirements:

(1) Operate in accordance with the category of certification as approved by the Division and defined in these regulations.

(2) In order to remain certified, a community service program must collect or accept a minimum of 500 pounds of aluminum or plastic beverage containers, or 2000 pounds of glass beverage containers every year after becoming certified.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Repealer and new subchapter 9, article 1 and section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
2. Editorial correction of NOTE (Register 96, No. 10).

§ 2701. Recordkeeping.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14541(d), 14552 and 14575, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 10 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Renumbering and amendment of former section 2701 to section 2225 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2705. Notification Requirements.

(a) In addition to the requirements contained in section 2700(a) above, a certified community service program shall notify the Division prior to any of the following events:

(1) Any change in operation.

(2) Any change in operator name or contact person, mailing or business address, or telephone number of the operator.

(3) Change in the name of the program.

(4) Change in the corporate officers, if applicable.

(5) Change in the agent for service of process, if applicable.

(b) The operator of a certified community service program who includes to be decertified shall submit a written notification to the Division, which includes the proposed effective date.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14511.7, Public Resources Code.

HISTORY

1. Repealer of article 2 heading and repealer and new section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
2. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

Article 2. Accounting and Reporting Requirements

§ 2710. Applicability.

In addition to the general accounting requirements of article 4 of subchapter 2, community service programs shall comply with the accounting and reporting provisions of this article.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7 and 14552, Public Resources Code.

HISTORY

1. New article 2 and section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).

§ 2711. Recordkeeping.

HISTORY

1. Renumbering and amendment of former section 2711 to section 2235 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2712. Reporting.

HISTORY

1. Renumbering and amendment of former section 2712 to section 2240 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2713. Payments.

HISTORY

1. Renumbering and amendment of former section 2713 to section 2245 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2715. Recordkeeping.

Community service programs shall maintain the following records in accordance with the general requirements set forth in section 2085 of subchapter 2 of these regulations.

(a) Community service programs which accept or collect empty beverage containers at a specific location or location(s) shall maintain all of the following:

(1) A copy of the shipping report prepared by a recycling center or processor; and

(2) A copy of the weight ticket prepared by a recycling center or processor; and

(3) A log containing a brief written description of any recycling drive or special event at which the program accepts or collects empty beverage containers, including the name of the event, the name and phone number of a contact person from the community service program, the date the event occurred, the material types collected, and an estimate of the weight of each material type collected.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14511.7 and 14552, Public Resources Code.

HISTORY

1. New section filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
2. Amendment of subsection (a)(1) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

Article 3. Individual Commingled Rate

§ 2716. Obtaining Department Approval.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New article 3 and section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
2. New article 3 and section, including amendment of subsection (d), refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate

of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.

3. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 21).

§ 2717. Alternative Methodology Procedures.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 39).

§ 2718. Permit Processing Times for Individual Commingled Rate Studies.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 15376, Government Code; Section 14552(a), Public Resources Code.

HISTORY

1. New section filed 9–27–93 as an emergency; operative 9–27–93 (Register 93, No. 40). A Certificate of Compliance must be transmitted to OAL by 1–25–94 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
3. Repealed by operation of Government Code section 11346.1(g) (Register 94, No. 39).

§ 2719. Appeals.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14511.7 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 1–24–94 as an emergency; operative 2–3–94 (Register 94, No. 4). A Certificate of Compliance must be transmitted to OAL 5–23–94 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 21).

§ 2720. Obtaining Division Approval.

Operators of community service programs shall be paid the applicable statewide average commingled rate, determined by the Division, for commingled beverage container material types, unless the Division approves an individual commingled rate for their program. Individual commingled rates may be approved for one or more material–types which have an existing statewide commingled rate. Operators of community service programs who wish to apply for an individual commingled rate shall submit a completed Individual Commingled Rate Application (ICRS–APP (07/00)) in the form and manner required by this section. The applicant shall request approval to conduct an individual commingled rate survey using either the Division's individual commingled rate methodology, specified in subsection (c), or an alternative methodology submitted by the applicant. An operator of a community service program shall conduct surveys on each day the program operates during a one week period. A total of six weekly surveys shall be conducted on a bimonthly basis beginning in October and ending no later than the second full week of the following September. Individual commingled rates that are approved by the Division, shall be effective from January 1 through December 31 of the year following the survey period.

(a) At least 60 days prior to the commencement of the surveys, which begin in October, the Division shall notify operators of community service programs of the opportunity to perform an individual commingled rate survey. An operator of a community service program wishing to conduct an individual commingled rate survey shall contact the Division to obtain the Individual Commingled Rate Application (ICRS–APP (07/00)).

(b) The Individual Commingled Rate Application (ICRS–APP (07/00)) must be completed and submitted to the Division no later than September 1st. To be considered complete, the survey application shall contain the following information:

(1) The organization name and, if applicable, a copy of any fictitious business name statement being used.

(2) The operator contact person's name, title, phone number, facsimile number, mailing address, and business address.

(3) The survey location address and city, and a brief site description.

(4) The survey technician's name and phone number.

(5) A selection of either the Division's survey methodology in subsection (c) or an alternative proposed methodology to be submitted by the applicant.

(6) The identification of material–types selected to be surveyed, the sample size, and daily sample size for each selected material.

(7) The dates of survey weeks and the number of days for specified sample periods.

(8) The specific time of the day in which surveys will be conducted.

(9) The program category of the certified program to be surveyed.

(10) The certification number of the program to be surveyed.

(11) The source of material for the certified program to be surveyed.

(12) The number of municipalities served by the certified program to be surveyed, if any.

(13) The number of customer sites from which survey material is to be collected by the certified program.

(14) The frequency that collected material is sold.

(15) A brief description of the certified program.

(16) Declarations and signatures of applicant.

(c) The Division's suggested methodology requires the following:

(1)The program shall determine the annual survey sample size for each material type based on the chart below.

	Annual Survey Sample Size
Aluminum	6600
Glass	4500
Plastic (all resins)	3000

(2) Upon determining the annual survey sample size, the program shall calculate the daily sample size by dividing the annual survey sample size, specified in the chart above, by the total number of days the survey will be conducted during the entire annual survey. Once the daily sample size is determined for each material type, this will remain the daily sample size throughout the entire annual survey period for that material type.

(3) Surveys shall be conducted for one regular workweek during each two–month sample period at pre–established dates, times, and places as indicated on the Individual Commingled Rate Application (ICRS–APP (07/00)) submitted to the Division. Surveys shall not be scheduled for weeks containing holidays or other days the program is not in operation, and shall be equally distributed throughout the survey period.

(4) Daily samples shall be collected on a random basis from the material which has been received exclusively from programs approved for the survey. Only whole containers may be surveyed.

(5) Upon selection and removal of containers for the daily sample, the applicant shall perform a complete sample analysis of counting, sorting, and weighing containers.

In performing a sample analysis, weight shall be measured, recorded, and reported in pounds and fractions thereof. All weighing in this state shall be done on a scale or other device approved, tested and sealed in accordance with Division 5 of the Business and Professions Code (Weights and Measures) and any applicable regulations thereunder.

(6) The results of the sample analysis shall be legibly, accurately, and completely recorded on the Daily Data Collection Sheet (DDCS (07/00)), which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period in which each one–week survey is conducted.

(C) The program name.

(D) The survey day and date.

(E) The certification and/or registration numbers.

(F) Identification of the material type surveyed.

(G) The total quantity of containers surveyed, and their total weight.

(H) The quantity and weight of CRV containers surveyed that have a volume less than 24 ounces.

(I) The quantity and weight of CRV containers surveyed that have a volume of 24 ounces or more.

(J) The quantity and weight of non–CRV containers surveyed.

(K) The daily totals for each column.

(7) At the conclusion of each weekly survey, the applicant shall complete a Weekly Summary Sheet (WSS (07/00)) which shall contain the following information:

(A) The year the rate will be effective.

(B) The two–month sample period of the weekly survey

(C) The program name.

(D) The survey week by dates.

(E) The certification and/or registration numbers.

(F) Identification of the material type surveyed.

(G) The survey date summarized on that line.

(H) The total quantity of containers surveyed on that date, and their total weight.

(I) The quantity and weight of CRV containers surveyed on that date that have a volume less than 24 ounces.

(J) The quantity and weight of CRV containers surveyed on that date that have a volume of 24 ounces or more.

(K) The quantity and weight of non–CRV containers surveyed on that date.

(L) The weekly totals for each column.

(8) The completed original Daily Data Collection Sheet, and the Weekly Summary Sheet shall be confirmed to be complete, accurate, and consistent with the methodology approved for that program and shall be submitted to the Division for review, verification, and approval at the conclusion of each two–month survey period and must be postmarked no later than the 15th day of the month following the survey period.

(9) At the conclusion of the annual survey period, the applicant shall submit an Affidavit (AFD (07/00)) to confirm that all information is complete, accurate, and consistent with the methodology approved for that program.

(d) Community service programs proposing to alter the Division's methodology or create their own alternative methodology must apply for Division approval, in advance, pursuant to section 2725 of these regulations. A proposed alternative methodology must equal the Division's methodology in the accuracy of estimation and level of confidence in the estimation. The alternative methodology must be described in adequate detail to determine the accuracy of estimation and level of confidence in the estimation.

(e) Determination by the Division that a program has deviated from an approved methodology, demonstrated a significant lack of quality control, or misrepresented their survey results shall result in the termination of the individual commingled rate survey and/or disapproval or revocation of the individual commingled rate and a reversion to the statewide average commingled rate. The Division's adverse action may be appealed pursuant to section 2745 of these regulations.

(1) A significant lack of quality control is demonstrated when five (5) percent or more of the sample data submitted by an applicant is found to be incorrect by the Division, and is deleted from the survey pursuant to Section 2720(e)(3) below because of the following:

(A) The cumulative weight of all components of a sample deviates by more than an acceptable range of accuracy, as defined in Section 2720(e)(2) below, from the total sample taken for that material type and/or

(B) The cumulative count of containers from all components of a sample does not equal the total sample count for that material type.

(2) An acceptable range of accuracy, applicable to Section 2720(e)(1)(A) above, is the smallest variance or increment of accuracy of the applicant's scale multiplied by 2.0.

(3) The Division, upon its sole discretion, may delete incorrect data samples.

(f) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such disapproval within thirty (30) calendar days of the determination that a program has deviated from an approved methodology, demonstrated a lack of quality control, or misrepresented survey results.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14520 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 91, No. 46.
2. Certificate of Compliance as to 10–27–94 order including amendment of section transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2721. Recordkeeping.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14530.5, 14537, 14550(b) and (c), 14561, 14571.9 and 14572.5, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. New section filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. New section filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance including amendment of subsection (a) and NOTE transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).
5. Amendment filed 7–19–89; operative 7–19–89 (Register 89, No. 29).
6. Renumbering and amendment of former section 2721 to section 2305 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2722. Reporting.

HISTORY

1. Renumbering and amendment of former section 2722 to section 2310 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2722.1. Reporting Additional Information.

HISTORY

1. Renumbering and amendment of former section 2722.1 to section 2315 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2723. Payments.

HISTORY

1. Renumbering and amendment of former section 2723 to section 2320 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2725. Alternative Methodology Procedures.

(a) Community service programs choosing to use an alternative survey methodology shall apply to the Division for approval. Operators shall complete and submit to the Division the following documents, in originals:

(1) A completed survey application as specified in Section 2720(b);

(2) A written description of the alternative methodology procedure in detail, the steps necessary to perform the alternative survey methodology, including the equipment to be used, materials to be collected, how the materials will be analyzed, location where sampling will occur, time and days of the survey, and any other relevant details that are necessary to ar-

rive at the individual commingled rate. The proposed alternative methodology procedure must be as detailed and inclusive as the survey methodology provided by the Division.

(b) The Division shall review all completed proposed alternative methodology requests submitted.

(c) The Division shall notify the operator of its decision, after receipt of the documents requested in this subsection, if their methodology was approved or denied, pursuant to section 2730 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14520 and 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 10–27–94 order including amendment of subsections (a)(1)–(3) transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a)(1), repealer of subsection (a)(2), subsection renumbering, and amendment of newly designated subsection (a)(2) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2730. Survey Application Processing Time.

(a) Within fifteen (15) calendar days from the receipt of the survey application, and alternative methodology procedure, if applicable, from an operator of a community service program requesting approval to use the Division's methodology or an alternative methodology to determine their program's specific individual commingled rate, the Division shall inform the applicant, in writing, that the survey application, and alternative methodology procedure, if applicable, are either complete and accepted for processing, or incomplete. If the survey application, and/or alternative methodology procedure, if applicable, are incomplete, the Division shall indicate, in writing, to the applicant what information or documentation is required. The applicant shall submit the required additional information or documentation, to the Division, postmarked no later than ten (10) calendar days from the date indicated in the Division's letter requesting additional information or documentation. Material postmarked later than ten (10) calendar days will be rejected and the application will be denied.

(b) Within fifteen (15) calendar days after the Division informs the applicant of the receipt of a complete survey application and alternative methodology procedure, if applicable, as indicated in subsection 2730(a) above, the Division shall approve or disapprove the survey application and alternative methodology procedure, if applicable.

(c) If the application is disapproved, the applicant may request an appeal pursuant to section 2745 of these regulations.

(d) The applicant may begin using the approved survey methodology for the specified survey period, after receiving written notification from the Division that the survey application and alternative methodology procedure, if applicable, has been approved.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14520 and 14552(a), Public Resources Code; and Section 15376, Government Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 91, No. 46.
2. Certificate of Compliance as to 10–27–94 order including amendment of section and NOTE transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of section heading and subsections (a), (b) and (d) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2731. Recordkeeping.

HISTORY

1. Renumbering and amendment of former section 2731 to section 2525 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2732. Reporting.

HISTORY

1. Renumbering and amendment of former section 2732 to section 2530 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2733. Payments to Consumers, Curbside Programs, Nonprofit Dropoff Programs, and Dropoff or Collection Programs.

HISTORY

1. Renumbering and amendment of former section 2733 to section 2535 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2734. Receipt of Funds.

HISTORY

1. Renumbering and amendment of former section 2734 to section 2540 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2735. Individual Commingled Rate Survey Audit and Results.

(a) The Division may audit any applicant's procedures and results of an approved individual commingled rate survey. The Division shall conduct its audit during the scheduled survey week for any applicant.

(b) The Division shall conduct audits. To enable the Division to conduct audits, applicants shall retain the pile of material from which the sample was taken, including the sample itself, until the completion of their daily survey. On the day of the audit, the applicant shall provide Division audit staff access to the material immediately after the applicant conducts the survey. If the applicant deviates from the approved survey time, they shall notify the Division immediately, but not less than 24 hours prior to the time of the deviation.

(c) If, in each of two separate audits, the Division determines, using standard statistical formulas, that the difference between the applicant's and the Division's proportion of California Redemption Value containers is statistically significant, the Division shall terminate the applicant's individual commingled rate survey. The difference shall be statistically significant, if the applicant's proportion is higher than the Division's, and the Division is 99% confident that the chances of the difference occurring under the applicant's approved study methodology is 5% or less.

(1) The Division shall disapprove individual commingled rates that are based on terminated surveys. The Division shall notify the applicant of such termination and disapproval within thirty (30) calendar days of the audit.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2735 to section 2745 and new section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
2. Amendment of subsections (b) and (c)(1) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2740. Receipt of Approval or Disapproval and Notification of Changes.

(a) Within sixty (60) calendar days after the Division receives the community service program's final survey results, the Division shall approve or disapprove the program's individual commingled rate.

(b) The applicant shall notify the Division,in writing, within ten (10) working days, of the occurrence of either of the following for any material for which the operator has an approved individual commingled rate:

(1) Any increase or decrease of twenty (20) percent or more in the total monthly weight from the average weight of the previous three (3) month period; or,

(2) Any increase or decrease of twenty (20) percent in the total monthly number of customer sites served by the applicant from the average number of customer sites of the previous three (3) month period.

(c) Failure to provide this notification may subject the applicant to immediate revocation of the individual commingled rate.

(d) Upon notification of operational changes, described in subsections (b)(1) or (b)(2) above, the Division may, upon its sole discretion, review and alter or revoke the individual commingled rate.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code; and Section 15376, Government Code.

HISTORY

1. Renumbering and amendment of former section 2740 to section 2415 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. New section filed 4–7–95; operative 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).

§ 2741. Recordkeeping.

HISTORY

1. Renumbering and amendment of former section 2741 to section 2420 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2742. Reporting.

HISTORY

1. Renumbering and amendment of former section 2742 to section 2425 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2743. Payments.

HISTORY

1. Renumbering and amendment of former section 2743 to section 2430 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2744. Cancellation.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Sections 14572 and 14573.5, Public Resources Code.

HISTORY

1. New section filed 5–7–87 as an emergency; operative 5–7–87 (Register 87, No. 19). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 9–4–87.
2. Repealer filed 9–2–87 as an emergency; operative 9–5–87 (Register 87, No. 37). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 1–3–88.
3. Repealer filed 12–29–87 as an emergency; operative 1–3–88 (Register 88, No. 3). A Certificate of Compliance must be transmitted to OAL within 120 days or emergency language will be repealed on 5–3–88.
4. Certificate of Compliance transmitted to OAL 4–22–88 and filed 5–24–88 (Register 88, No. 23).

§ 2745. Individual Commingled Rate Appeals Process.

(a) In the event of the denial of a survey application, termination of an individual commingled rate survey, and/or disapproval or revocation of an individual commingled rate, community service programs may file a formal appeal by writing to the Assistant Director for Recycling within thirty (30) calendar days after the receipt of a Letter of Denial (LED). Appeals submitted after this time period shall be rejected. All written appeals shall include:

(1) A copy of the LED; and

(2) A detailed explanation of why the determination was in error; and

(3) Any other documentation that supports the appeal.

(b) A decision on the appeal shall be sent to the program applicant, in writing, within fifteen (15) working days of receipt of the appeal.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14552(a), Public Resources Code.

HISTORY

1. New section filed 10–27–94 as an emergency; operative 10–27–94 (Register 94, No. 43). A Certificate of Compliance must be transmitted to OAL by 2–24–95 or emergency language will be repealed by operation of law on the following day. For prior history, see Register 88, No. 23.
2. Certificate of Compliance as to 10–27–94 order including renumbering and amendment of former section 2735 to section 2745 transmitted to OAL 2–24–95 and filed 4–7–95 (Register 95, No. 14).
3. Amendment of subsection (a) and new Forms ICRS–APP (07/00), DDCS (01/01), WSS (01/01) and AFD (01/01) filed 1–26–2001; operative 1–26–2001 pursuant to Government Code section 11343.4(c) (Register 2001, No. 4).
4. Change without regulatory effect amending subsection (a) filed 4–16–2001 pursuant to section 100, title 1, California Code of Regulations (Register 2001, No. 16).

INDIVIDUAL COMMINGLED RATE APPLICATION

(ICRS-APP (07/00))

(Survey period is October through September)

(Rates effective January 1st of the year following the survey period)

Submit the Application by September 1st

OPERATOR INFORMATION

Organization Name	DBA
Contact Person	Title
Phone Number	Fax Number
Mailing Address	City/State/Zip
Business Address	City/State/Zip

SURVEY INFORMATION

Survey location address	City
Survey technician's name	Phone number ( )
Brief survey location description	

Will you conduct the Survey using the Division's survey methodology, ☐ , or submit an alternate methodology, ☐

MATERIALS & SAMPLE SIZE

Select materials that will be surveyed. ✓	**Aluminum** ☐	**Glass** ☐	**Plastic** ☐ (Circle one or more) #1, #2, #3, #4, #5, #6, #7
What is your Sample size for that material?			
What is your daily sample size for that material?			

DATES & TIMES

Sample Periods	Dates of Survey Week	Number of Days
October / November		
December / January		
February / March		
April / May		
June / July		
August / September		

What time of day will you conduct the survey? ☐

PROGRAM INFORMATION

Which program category is this application for? ✓

☐ Curbside ☐ Dropoff or Collection ☐ Community Service

CURBSIDE PROGRAMS

List the curbside numbers you will survey with their associated public agency (municipality) and hauling and/or sorting operator. Use additional sheets if necessary.

Curbside #	Municipality	Operator
1.		
2.		

INDIVIDUAL COMMINGLED RATE APPLICATION

DROPOFF OR COLLECTION & COMMUNITY SERVICE PROGRAMS

Certification Number_____

Source of the material? ✓

☐ mixed solid waste ☐ bar & restaurant ☐ business's ☐ school ☐ club ☐ other _____

How many municipalities does the program serve? _____

How many customer sites are materials collected from? _____

How often are collected materials sold? _____

Give a brief description of your program _____

_____

DECLARATIONS AND SIGNATURES

By signing and submitting this form, I certify that:

I will perform this survey in accordance with the approved survey methodology.

I understand it is my responsibility to **notify** the Division, in advance, of any deviation from the timeline or survey location indicated in the approved Application.

I understand it is my responsibility to **notify** the Division regarding changes of volume or customers sites pursuant to California Code of Regulations Sections 2640, 2680 and 2740.

Upon completion of each two-month sample period and no later than the 15th of the following month, I will forward **original** Daily Data Collection Sheets and Weekly Summary Sheets to the Department and retain a copy for my records.

Upon completion of the annual survey, I will forward original documentation, calculations and the signed affidavit to the Department, by October 15th.

I agree to perform the Individual Commingled Rate Survey in compliance with the California Beverage Container Recycling and Litter Reduction Act, including all relevant regulations contained in Chapter 5 of Division 2 of the California Code of Regulations.

To the best of my knowledge, the information provided on this application is current and accurate.

_____ _____

Print Name Signature

_____ _____

Title Date

Send Application to:
Department of Conservation
Division of Recycling
c/o ICRS Coordinator
Market Expansion and Rate Determinations Branch
801 "K" Street, MS 20-50
Sacramento, CA 95814

Phone Inquiries:
Individual Commingled Rate Survey Coordinator
or
Field Surveys Supervisor at (916) 323-5778

Program operators whose Application for Individual Commingled Rate Surveys has been disapproved may appeal pursuant to California Code of Regulations, Sections 2645 for dropoff or collection, 2685 for curbside and 2745 for community service programs.

DAILY DATA COLLECTION SHEET
For the 20___ Individual Commingled Rate
(DDCS (01/01))

Two-Month Sample Period: Circle One Oct/Nov Dec/Jan Feb/Mar Apr/May Jun/Jul Aug/Sep

Program Name: _____ Survey Date: _____
Circle One M TU W TH F SA SU

Certification/Registration Number(s) _____

MATERIAL TYPE: Circle One Aluminum Glass PET Plastic							
	SAMPLE TOTALS		CRV				TOTAL NON-CRV
	Quantity of Containers	Weight	< 24 oz.		≥ 24 oz.		
			Quantity	Weight	Quantity	Weight	Quantity / Weight
1							
2							
3							
4							
5							
6							
7							
8							
TOTALS							

Comments: _____

Register 2001, No. 4; 1–26–2001

WEEKLY SUMMARY SHEET

For the 20___ Individual Commingled Rate

(WSS (01/01))

Two-Month Sample Period: Circle One Oct/Nov Dec/Jan Feb/Mar Apr/May Jun/Jul Aug/Sep

Program Name: _____ Survey Date: _____

Certification/Registration Number(s): _____

MATERIAL TYPE: Circle One	Aluminum	Glass	PET Plastic					
Survey Dates	SAMPLE TOTALS		CRV				TOTAL NON-CRV	
	Quantity of Containers	Weight	< 24 oz.		≥ 24 oz.			
			Quantity	Weight	Quantity	Weight	Quantity	Weight
TOTALS								

INSTRUCTIONS: Complete this Weekly Summary Sheet (WSS) using data from the "TOTALS" line of each Daily Data Collection Sheet (DDCS). The survey date in the first column should be taken from the top portion of each DDCS. Complete a separate WSS for each material type. Each DDSS form must be submitted to the Division of Recycling with all original supporting DDCS's attached.

AFFIDAVIT
for the
Individual Commingled Rate Survey 20 ____
(AFD (01/01))

Program Name: _____

Certification/Registration Number(s): _____

To the best of my knowledge, this Individual Commingled Rate Survey data and information is complete, accurate, and consistent with the Application approved by the Department of Conservation's Division of Recycling (Division). I also verify that all information provided on all Daily Data Collection Sheets and Weekly Summary Sheets submitted during the annual survey period was obtained through the survey methodology approved by the Division.

Name: _____

Signature: _____

Title: _____

City, County: _____

Date: _____

Subchapter 10. Exemptions

Article 1. Exemption Standards

§ 2750. Exemption Guidelines.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14571.8, Public Resources Code.

HISTORY

1. New subchapter 10 and section filed 2–24–93; operative 3–26–93 (Register 93, No. 9). For prior history, see Register 91, No. 46.
2. Renumbering of former section 2750 to section 2800 filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).

§ 2760. Containers Per Pound Rate.

HISTORY

1. Renumbering and amendment of former section 2760 to section 2920 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2770. Commingled Rate.

HISTORY

1. Renumbering and amendment of former section 2770 to section 2930 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Article 2. General Requirements

§ 2800. Exemption Guidelines.

(a) If the number of convenience zones being reviewed for exemption, pursuant to Section 14571.8 of the Act, exceeds the number of exemptions available pursuant to Section 14571.8(d) of the Act, the Division shall consider exemptions in the following order of priority:

(1) all exemptions specifically applied for, in writing, or on the form provided by the Division (Form #CZ–1 (Rev.8/00)) shall contain all of the following information:

(A) The name, mailing address and phone number of the applicant.

(B) The company or organization which the applicant represents, if applicable.

(C) The name of a contact person if different from the applicant.

(D) The company name and address of the supermarket which is the focal point of each convenience zone for which the applicant is seeking an exemption.

(E) A statement justifying the request for an exemption, pursuant to Section 14571.8 of the Act.

(F) The signature and title (if applicable) of the applicant and the date of signature.

(2) newly established convenience zones and convenience zones which have become unserved, in order by date in which the recycling facility ceased operation.

(b) If the Division determines that the exemption cap established by Section 14571.8(d) of the Act has been reached, the Division shall thereafter serve all dealers in convenience zones which become unserved, or are newly created, with the notice specified at Section 14571.7(a).

(c) After the exemption cap has been reached, only those convenience zones which submit a Form #CZ–1 or a letter containing all specified information pursuant to Section 2800(a)(1) will be considered. Forms #CZ–1 or letters containing all specified information pursuant to Section 2800(a)(1) shall be considered in the order received as exemptions become available.

(d) The Division shall review exemption requests, pursuant to Public Resources Code Section 14571.8(b), at a minimum, every six months. Prior and subsequent to each exemption decision, the Division shall mail notice of the proposed convenience zone exemption to each of the following persons:

[The next page is 432.17.]

(1) Each person who has submitted a Form #CZ–1 or a letter containing all specified information pursuant to Section 2800(a)(1); and

(2) Each dealer located within the convenience zones which are being considered for an exemption; and

(3) Each person who has specifically requested notice of such actions.

(e) The persons enumerated in section (d) above shall have 30 days from the date of the notice to submit written comments to the Division regarding the proposed convenience zone exemption.

NOTE: Authority cited: Sections 14530.5 and 14536, Public Resources Code. Reference: Section 14571.8, Public Resources Code.

HISTORY

1. Amendment of article heading, renumbering and amendment of former section 2750 to section 2800 and renumbering of former section 2800 to section 2805 filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40). For prior history, see Register 93, No. 14.
2. Editorial correction deleting duplicate subchapter heading (Register 94, No. 40).
3. Editorial correction of subsection (a) (Register 95, No. 14).
4. Repealer and new subsection (d), amendment of subsection (d)(3), and repealer and new subsection (e) filed 10–7–96; operative 10–7–96 (Register 96, No. 41).
5. Amendment of section and new form CZ–1 filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).

APPLICATION

Convenience Zone Exemption

Mail to: **Department of Conservation** • ***Division of Recycling*** • *Convenience Zone Section*
801 K Street • MS 15-59 • Sacramento, CA 95814-3533

1. Applicant Information

Applicant Name _____ Firm/Organization _____

Contact Person _____ Mailing Address _____

City _____ State _____ Zip _____ Phone _____

2. Zone(s) Proposed for Exemption

Priority	Company Name of Supermarket	Address of Supermarket
1.		
2.		
3.		
4.		
5.		

Attach additional sheet if necessary

3. Justification for Exemption

_____

_____

_____

Attach additional sheet if necessary

4. Signature of Applicant:

The applicant declares that all the information submitted for the Division's consideration is true and accurate to the best knowledge and belief of the undersigned, who is duly authorized to sign this exemption request.

Applicant's Signature _____ Title _____ *(If applicable)*

Date _____

Form# CZ-1 (Rev.8/00)

§ 2805. Exemption Revocation Guidelines.

(a) The Division on its own motion may revoke a convenience zone exemption, or any interested person may petition the Division, on a form provided by the Division (Convenience Zone Exemption Revocation Application Form #CZ–2 (Rev. 8/00)) or in a letter to the Division, to revoke the exemption for any exempt convenience zone. The department will only consider petitions submitted in writing on either the form #CZ–2 or in a letter, which shall contain all of the following information:

(1) The name, complete mailing address and phone number of the petitioner.

(2) The name, complete mailing address and phone number of the company or firm which the petitioner represents, if applicable.

(3) The company name and street address of the supermarket which is the focal point of the exempt zone which is the subject of the petition.

(4) A statement of the change in condition(s) or other rationale which forms the basis for the petitioner's request.

(5) The signature and title (if applicable) of the petitioner and the date of signature.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14571.8, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2800 to new section 2805 with amendment of NOTE and renumbering of former section 2805 to section 2810 filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40). For prior history, see Register 93, No. 14.
2. Amendment of section heading and section and repealer and new form CZ–2 filed 7–10–2001; operative 8–9–2001 (Register 2001, No. 28).

APPLICATION

Revocation of Convenience Zone Exemption

Mail to: **Department of Conservation** • ***Division of Recycling*** • *Convenience Zone Section*
801 K Street • MS 15-59 • Sacramento, CA 95814-3533

1. Petitioner Information

Petitioner Name _____ Mailing Address _____

City _____ State _____ Zip _____ Phone _____

Name of Company Petitioner Represents (If applicable) _____ Mailing Address _____

City _____ State _____ Zip _____ Phone _____

2. Exempted Zone(s) Proposed to be Revoked

Priority	Company Name of Supermarket	Address of Supermarket
1.	_____	_____
2.	_____	_____
3.	_____	_____

Attach additional sheet if necessary

3. Justification for Revocation

_____

_____

_____

_____

_____

Attach additional sheet if necessary

4. Signature of Petitioner:

The applicant declares that all the information submitted for the Division's consideration is true and accurate to the best knowledge and belief of the undersigned.

Petitioner Signature _____ Title _____ *(If appicable)*

Date _____

Form# CZ-2 (Rev.8/00)

§ 2810. Granting of Exemptions.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14571.8, Public Resources Code.

HISTORY

1. Renumbering of former section 2805 to new section 2810 with amendment of section heading, new subsection (b) and amendment of NOTE filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40). For prior history, see Register 91, No. 46.
2. Repealer filed 10–7–96; operative 10–7–96 (Register 96, No. 41).

§ 2815. Eligibility.

HISTORY

1. Renumbering and amendment of former section 2815 to section 2950 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

Subchapter 11. Pacific Beach Pilot Mobile Recycling Program

Article 1. General Requirements

§ 2820. Pacific Beach Pilot Mobile Recycling Program.

Upon selection of an applicant, the Division shall certify one recycling center operator to establish a pilot mobile recycling program in the Pacific Beach area within the City of San Diego.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Section 14571.4, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2820 to section 2955 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. New subchapter 11, article 1 (sections 2820–2825) and section filed 1–3–95 as an emergency; operative 1–3–95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 7–2–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–3–95 order including amendment of section transmitted to OAL 6–12–95 and filed 7–20–95 (Register 95, No. 29).

§ 2825. General Operating Requirements for the Pacific Beach Pilot Mobile Recycling Program.

(a) All dealers in the Pacific Beach area of the City of San Diego shall comply with sections 14571.6 and 14571.7 of the Public Resources Code if, at any time, the Pacific Beach Pilot Mobile Recycling Program does not have an operator.

(b) Unless expressly specified otherwise in Public Resources Code Section 14571.4, the operator of the Pacific Beach Pilot Mobile Recycling Program is not exempt from compliance with other provisions of the Act or Regulations.

(c) The operator of the Pacific Beach Pilot Mobile Recycling Program shall be eligible to apply for one handling fee payment per month, based upon the combined logs and receipts from consumer transactions only, at the five recycling locations approved by the Division in the Pacific Beach area of the City of San Diego.

(d) If the Division terminates an operator's certification before January 1, 1997, the Division shall give a thirty (30) day notice to the operator before the effective termination date. The Division may terminate certification prior to January 1, 1997, if the operator violates the terms of the Division's regulations or its agreement with the Division, including such acts as:

(1) Failure to operate one (1) day per week, eight (8) hours per day, at each of the five (5) locations approved by the Division.

(2) Failure to operate a minimum of five hours per week occurring during periods other than from Monday to Friday, from 9:00 a.m. to 5:00 p.m.

(3) Failure to submit to the Department a copy of all shipping reports completed by the receiver for transactions of empty beverage containers recycled in the Pacific Beach area of the City of San Diego within five (5) working days of the receiver's signature date on the shipping report.

(4) Failure to keep records in accordance with sections 2525 and 2530 of subchapter 6 of these regulations.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14571.4, 14571.6 and 14571.7, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2825 to section 2955 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. New section filed 1–3–95 as an emergency; operative 1–3–95 (Register 95, No. 1). A Certificate of Compliance must be transmitted to OAL 7–2–95 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 1–3–95 order including amendment of section transmitted to OAL 6–12–95 and filed 7–20–95 (Register 95, No. 29).

Subchapter 11.5. Quality Incentive Payments

Article 1. General Requirements

§ 2850. Quality Incentive Payments.

(a) The Division may pay a quality incentive payment to any registered curbside program or entity certified pursuant to the Act and subject to the availability of funds, for empty glass, plastic and aluminum beverage containers collected by either a registered curbside program or a dropoff or collection program, consistent with the quality specifications adopted by the Division below.

(1) A Quality Incentive Payment shall be made for empty glass beverage containers, that meet the requirements in Section 14549.1(c)(1)(A) and (B) of the Act.

(2) A quality incentive payment shall be made for empty plastic beverage containers sorted by resin type (PETE #1, HDPE #2, V #3, LDPE #4, PP #5, PS #6, and OTHER #7) that meet the requirements of Section 14549.1(c)(2)(A) of the Act. The resin sorted and cleaned empty plastic beverage containers must meet the "Commercial Guideline Baled Recycled Plastic Standard," as specified in the most current "Scrap Specifications Circular" published by the Institute of Scrap Recycling Industries (ISRI).

(3) A quality incentive payment shall be made for empty aluminum beverage containers that meet the requirements of Section 14549.1(c)(3)(A) and (B) of the Act. The sorted and cleaned empty aluminum beverage containers must follow the guidelines for post–consumer aluminum can scrap as specified in the most current "Scrap Specifications Circular" published by the Institute of Scrap Recycling Industries (ISRI).

(b) For empty beverage containers that meet the quality specifications, pursuant to subsection 2850(a) (1), (2), and (3), prior to completion of the Shipping Report (DR–6 (06/07)), the registered curbside program or certified entity shall be identified on the Shipping Report (DR–6 (06/07)), as specified in Sections 2425(e) or 2530(f), and the Shipping Report (DR–6 (06/07) shall constitute the claim for the quality incentive payment.

(c) For empty beverage containers that meet the quality specifications, pursuant to subsection 2850 (a) (1), (2), and (3), subsequent to the completion of the Shipping Report (DR–6 (06/07)), the processor that claims a quality incentive payment for empty beverage containers shall submit a Quality Incentive Payment Claim Form (DOR 56 (06/07)) to the Division for each calendar month in which the quality incentive payment is being claimed. To be eligible to submit a Quality Incentive Payment Claim Form (DOR 56 (06/07)), the processor that sorts and/or cleans the empty beverage container material shall submit a request and receive approval from the Division for authorization to submit claims.

(1) The request for authorization must include the methodology developed by the processor to attribute the empty beverage containers to the types of programs from which they were received to ensure that empty beverage containers collected by sources other than curbside programs, or dropoff or collection programs are excluded from the amount claimed for quality incentive payments.

(2) The Division shall notify the applicant in writing within fifteen (15) working days of receipt of the application, or receipt of additional information if the application was initially incomplete, that it is either:

(A) Complete and accepted for further review; or

(B) Incomplete and the reasons for the deficiency.

(3) The Division shall review and consider each request for authorization to submit claims for quality incentive payments for post shipping report empty beverage containers and issue a written approval or denial. Upon determining that an application is complete, the Division shall notify the applicant in writing within forty–five (45) calendar days that such application is either:

(A) Approved; or

(B) Denied and the reasons for denial.

Upon approval, the authorization to submit claims for quality incentive payments for post shipping report empty beverage containers shall be valid for a period of three (3) years from the date of approval, or until such time as the authorization is surrendered by the processor, or suspended or revoked by the Division.

(4) Reasons for denying a request for authorization, or for suspending or revoking an approved authorization may include, but shall not be limited to any of the following:

(A) The processor does not ensure that empty beverage containers received from entities other than curbside programs or dropoff or collection programs are excluded from the claim;

(B) The processor does not account for each incoming load of empty beverage containers;

(C) The claim for quality incentive payment is not based on the sorted and/or cleaned weight for the material type; and

(D) The processor fails to maintain inventory records that show sorted, shipped and received materials; and,

(E) The processor has been found to be in violation of any provision of the Act, or any regulations adopted pursuant to the Act.

(5) A processor may request reconsideration of a denial, suspension, or revocation of an authorization by submitting a written request for reconsideration to the Division within thirty (30) calendar days of being notified of a denial, revocation, or suspension of an authorization to submit claims for quality incentive payments. All written requests shall include:

(A) A copy of the notice denying the authorization to submit claims for quality incentive payments;

(B) A detailed explanation of the grounds for reconsideration; and

(C) Any other documentation that supports the request.

(6) A written decision on the request for reconsideration shall be sent to the processor within twenty (20) calendar days of the receipt of the request.

(d) To be eligible for payment, the Quality Incentive Payment Claim Form (DOR 56 (06/07)) must meet the following requirements:

(1) Postmarked no later than the first day of the second month following the reporting month. Claims postmarked after this date or incomplete claims may be denied payment. A separate claim shall be completed by each processor; and

(2) Each Quality Incentive Payment Claim Form (DOR 56 (06/07)), must include all of the following information:

(A) The month for which the claim is submitted;

(B) The material type;

(C) The facility name, mailing address, and certification number of the processor submitting a claim for quality incentive payments.

(D) The name and phone number of a contact person;

(E) The redemption weight to tenths of tons of empty beverage container materials claimed;

(F) The signature and title of an authorized representative; and

(G) The date the report was signed by the authorized representative under penalty of perjury.

(e) The quality incentive payment may be denied or reduced if the Division has prevailed against the registered curbside program or certified entity in a civil or administrative action and money is owed to the Division as a result of the action.

(f) For the purpose of Section 14549.1 of the Act and these regulations, the following definitions apply:

(1) "Color sorted glass" means glass that has been sorted into flint, amber, and green fractions, and would be acceptable to a beneficiating processor.

(2) "Substantially free of contamination" means glass that has been substantially cleaned of non–glass contaminants.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14549.1 and 14552, Public Resources Code.

HISTORY

1. Renumbering and amendment of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) filed 3–25–2002 as an emergency; operative 3–25–2002 (Register 2002, No. 13). A Certificate of Compliance must be transmitted to OAL by 7–23–2002 or emergency language will be repealed by operation of law on the following day. For prior history of sections 2830–2865, see Register 91, No. 46.
2. Renumbering and amendment of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) refiled 7–17–2002 as an emergency, including amendment of subsection (b); operative 7–23–2002 (Register 2002, No. 29). A Certificate of Compliance must be transmitted to OAL by 11–20–2002 or emergency language will be repealed by operation of law on the following day. For prior history of sections 2830–2865, see Register 91, No. 46.
3. Editorial correction implementing subsection (b) amendments contained in 7–17–2002 order and correcting HISTORY 2 (Register 2002, No. 47).
4. Renumbering and amendment of former subchapter 8, article 3 (section 2690) to subchapter 11.5, article 1 (section 2850) refiled 11–18–2002 as an emergency; operative 11–20–2002 (Register 2002, No. 47). A Certificate of Compliance must be transmitted to OAL by 3–20–2003 or emergency language will be repealed by operation of law on the following day. For prior history of sections 2830–2865, see Register 91, No. 46.
5. Certificate of Compliance as to 11–18–2002 order transmitted to OAL 2–20–2003 and filed 4–1–2003 (Register 2003, No. 14).
6. Amendment of subsection (b) filed 2–23–2006; operative 3–25–2006 (Register 2006, No. 8).
7. Amendment of subchapter heading and repealer and new section, including new shipping report and quality incentive payment claim forms, filed 6–21–2007 as an emergency; operative 6–21–2007. This regulatory action meets the emergency standard and is mandated to remain in effect until revised by the Director of the Department of Conservation pursuant to Public Resources Code section 14536(b)(2) (Register 2007, No. 25).

FOR STATE USE ONLY
PROCESSOR CCN

FOR STATE USE ONLY
CCN

PRINTED ON RECYCLED PAPER

FOR STATE USE ONLY
ATTACHED TO CCN

SHIPPING REPORT

STATE OF CALIFORNIA - The Resources Agency
DEPARTMENT OF CONSERVATION
Division of Recycling
DR-6 (06/07)

FOR STATE ONLY

COMPLETED BY SHIPPER:

COMPANY NAME

ADDRESS

CERT. #

CONTACT PERSON

TELEPHONE NUMBER

RECEIVER INFORMATION

COMPANY NAME

CERT. #

MATERIAL TYPE

☐ AMENDMENT TO FSN

RECYCLER PAYMENT REQUEST INFORMATION

	REDEMPTION WEIGHT (LBS)	REFUND
FROM Receipts & Logs	•	•
FROM Shipping Reports or Consolidated Reports	•	•
TOTAL	•	•

Receipt & Log Entries For ☐☐☐ Thru ☐☐☐

Number of Attachments or Consolidated Shipments

COMPLETED BY RECEIVER

RECEIVER PAYMENT ANALYSIS

Weight Ticket #	Received Wt. (Lbs.)	Refund Value (C)	Processing Pymt. (D)	Subtotal Due (C+D)
		•	•	•

Received Date: ☐☐☐

Completed by receiver only: ☐ % of Reduction Taken

ADMINISTRATIVE FEE •

TOTAL PAYMENT DUE •

Civil penalties of up to five thousand dollars ($5,000.00) per day may be assessed for violation of the laws and regulations governing this report. In addition, the submission of false information with intent to defraud is a crime punishable by substantial fines, up to three years imprisonment, or both. Knowing this, I certify under penalty of perjury that the facts presented herein are true and correct to the best of my knowledge.

QIP S or R	% OF SHRINKAGE

APPROVED FOR PAYMENT Shipper's Signature/Title

Shipper's Printed Name

Date

Receiver's Signature/Title

Receiver's Printed Name

Date

For more information, visit our website at: www.consrv.ca.gov

State of California • Resources Agency



DOR 56 (06/07)

Department of Conservation
Division of Recycling
801 K Street, MS 17-24 • Sacramento, California 95814
Phone 916/323-5778 • **Fax** 916/445-0645 • **TDD** 916/324-2555
Website www.conservation.ca.gov

QUALITY INCENTIVE PAYMENT CLAIM FORM

Application for the month of: _____ Year: _____

Certification Number: _____

Facility Name: _____

Mailing Address: _____

_____

_____

Contact Person: _____

Telephone Number: _____

	FLINT	AMBER	GREEN
Color Sorted Glass: Redemption Weight (Tenth of Tons)	.	.	.

	#1 PET	#2 HDPE	#3 PVC	#4 LDPE	#5 PP	#6 PS	#7 Other
Plastic Sorted by Resin type: Redemption Weight (Tenth of Tons)	.	.	.	.	.	.	.

Aluminum: Redemption Weight (Tenth of Tons)	.

To be eligible to submit Quality Incentive Payment Claim Forms DOR 56 (06/07), the sorting facility must have a Division approved methodology to attribute beverage container materials to the types of programs from which they were received.

The Division shall pay a Quality Incentive Payment for:
Glass which is collected by curbside programs or dropoff and collection programs, color sorted and substantially free of contamination;
Plastic which is collected by curbside or dropoff and collection programs, that are sorted by resin type and substantially free of contamination; Aluminum which is collected commingled by curbside, dropoff and collection programs, subsequently cleaned of any and all metallic and nonmetallic items other than aluminum containers.

To be eligible for payment, a Quality Incentive Payment Claim Form DOR 56 (06/07) must be submitted to the Division, no later than the first day of the second month following the reporting month. Applications postmarked after this date or incomplete applications may be denied payment.

I certify under penalty of perjury that the facts presented herein are true and correct to the best of my knowledge.

_____ _____
Signature and Title of Authorized Representative Date

Subchapter 11.8. Plastic Market Development Payments

Article 1. General Requirements

§ 2880. Plastic Market Development Payments.

(a) The Department shall make Plastic Market Development Payments to both the certified entity actually washing and producing the flake, pellet or other form, and the plastic product manufacturer who uses this material to manufacture a plastic product in this state.

(b) Certified entities and product manufacturers shall each submit a Plastic Market Development Payment Claim Form (PMD 2 (03/07)) to the Department for each calendar quarter in which the payment is being claimed.

(1) Each Plastic Market Development Payment Claim Form (PMD 2 (03/07)) received from the certified entity must include all of the following information and attachments:

(A) The quarter and the year for which the claim is submitted.

(B) The facility name, mailing address, phone number, contact person and certification number of the certified entity submitting a claim.

(C) The type of plastic material and the form of the plastic material being sold by the certified entity.

(D) The weight of the material to tenths of tons of empty plastic beverage container material shipped by the certified entity.

(E) The following documents must be attached:

(i) Copies of the invoices or other supporting documents from the certified entity to the plastic product manufacturer(s) containing a description of the plastic material sold or transferred and the weight of the material sold or transferred.

(ii) The name, California mailing address, contact person, telephone number, and identification number of each plastic product manufacturer purchasing the empty plastic beverage container material for use in California manufacturing.

(F) The signature and title of an authorized representative of the certified entity.

(G) The date the form was signed by the authorized representative under penalty of perjury.

(2) Each Plastic Market Development Payment Claim Form (PMD 2 (03/07)) received from the plastic product manufacturer must include all of the following information and attachments:

(A) The quarter and year for which the claim is submitted.

(B) The facility name, mailing address, contact person, telephone number, and identification number of the product manufacturer submitting the claim.

(C) The type of plastic material and the form of the plastic material purchased from the certified entity.

(D) The weight to tenths of tons of empty plastic beverage container material received by the product manufacturer from certified entities.

(E) The plastic product manufacturer must attach copies of the bill of sale(s) or invoice(s) indicating the weight of the plastic beverage container material purchased from a certified entity, or other supporting documents. The bill of sale or other supporting documents must include the name of the seller and the certification number.

(F) The signature and title of an authorized representative of the product manufacturer; and

(G) The date the form was signed by the authorized representative under penalty of perjury.

(c) Prior to submitting a Plastic Market Development Payment Claim Form (PMD 2 (03/07)), the product manufacturer must obtain an identification number from the Department by completing a Plastic Market Development Payment Identification Number Application (PMD 1 (03/07)). The identification number application must include the facility name, mailing address, facility address (if different), telephone number, contact person, type of organization, type of plastic materials used in manufacturing, the plastic products produced in California, signature and title of an authorized representative and the date.

(d) To be eligible for payment, the Plastic Market Development Claim Form (PMD 2 (03/07)), must be postmarked no later than the tenth day of the second month following the reporting quarter. Claims postmarked after this date or incomplete claims may be denied payment.

(e) For the purpose of Section 14549.2 of the Act and these regulations, "plastic product" is defined as a good or package in a form which requires no further processing or forming before it is offered for sale.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Section 14549.2, Public Resources Code.

HISTORY

1. New subchapter 11.8 (article 1), article 1 (section 2880), section and Forms PMD 1 and PMD 2 filed 6–8–2007 as an emergency; operative 6–8–2007 (Register 2007, No. 23). This regulatory action was deemed to meet the emergency standard and mandated to remain in effect until revised by the director of the Department pursuant to Public Resources Code section 14536(b)(2).

State of California • Resources Agency



Department of Conservation
Division of Recycling

PMD 1 (03/07)

801 K Street, MS 17-24 • Sacramento, California 95814
Phone 916/323-5778 • **Fax** 916/445-0645 • **TDD** 916/324-2555
Website www.conservation.ca.gov

PLASTIC MARKET DEVELOPMENT PAYMENT
Manufacturer Identification Number Application

FOR STATE USE ONLY

Postmark Date: _____

Identification Number: _____

Facility Name: _____

Mailing Address: _____

_____

_____

Facility Address: _____

_____

_____

Contact Person: _____

Telephone Number: _____

Type of Organization: ❑ Individual ❑ Partnership ❑ Corporation ❑ Limited Liability Company

❑ Other: _____

Describe Product(s) Produced from Empty Plastic Beverage Container Material below

_____

_____

_____

_____

_____

_____ _____

Signature and Title of Authorized Representative Date

Register 2007, No. 25; 6–22–2007

State of California • Resources Agency



PMD 2 (03/07)

Department of Conservation
Division of Recycling
801 K Street, MS 17-24 • Sacramento, California 95814
Phone 916/323-5778 • **Fax** 916/445-0645 • **TDD** 916/324-2555
Website www.conservation.ca.gov

PLASTIC MARKET DEVELOPMENT PAYMENT CLAIM FORM

Application for Calendar Quarter (check one): ❑ 1st ❑ 2nd ❑ 3rd ❑ 4th Year:_____

Certification/Identification Number:_____

Facility Name: _____

Mailing Address: _____

_____

_____

Contact Person: _____

Telephone Number: _____

Type of Material: ❑ Flake ❑ Pellet ❑ Other:_____

Weight of Material Shipped (Tenth of Tons)	#1 PET	#2 HDPE	#3 PVC	#4 LDPE	#5 PP	#6 PS	#7 Other
	.	.	.	.	.	.	.

(check one)

❑ As a certified entity, I certify under penalty of perjury that the plastic materials herein were sold to a California product manufacturer.

❑ As a California product manufacturer, I certify under penalty of perjury that the plastic product(s) identified below was made in California from plastic purchased from a certified entity in California.

_____

_____

_____

_____

I certify under penalty of perjury that the facts presented herein are true and correct to the best of my knowledge.

_____ _____

Signature and Title of Authorized Representative Date

Subchapter 12. DOR Requirements

Article 1. DOR Determinations and Calculations

§ 2900. Determinations.

The Division shall make, and give notice of, the following determinations. For purposes of this section, notice shall be deemed complete upon the date of the postmark or date of deposit in the U.S. mail, whichever is earlier. Notices shall be mailed to the last known address of the intended recipient.

(a) Statistics.

(1) Determination. The Division shall determine the following statistics:

[The next page is 432.19.]

(A) Containers per pound. The average number of empty beverage containers per pound, by material type. This number is used to calculate the quantity of beverage containers for certain records, reports, and payments required pursuant to this chapter.

(B) Commingled rate. The average percentage of empty beverage containers in a commingled load of containers, by material type. The Division may determine more than one commingled rate. The Division shall also determine the geographic area within which each commingled rate shall apply. This rate shall be used to calculate the quantity of empty beverage containers for certain records, reports, and payments required pursuant to this chapter.

(2) Notice. Except for the initial determination of the above statistics after which the Division shall provide notice of not less than 10 days prior to their effective date or dates, the Division shall provide notice of the initial determination and any changes to the above statistics no less than 30 days prior to their effective date or dates, as follows:

(A) Recipients. Notice of any such determination shall be provided to persons certified pursuant to subchapter 2 of these regulations, and to any persons requesting such notice in writing.

(B) Contents. The notice shall state the relevant statistics themselves and their effective date.

(b) Notice of redemption payment or refund value. The Division shall provide notice of any change pursuant to section 14560 of the Act to the redemption payment or refund value per container, by material type, as follows.

(1) Timing: Notice shall be given no less than 30 days prior to the effective date of the change.

(2) Recipients: Notice shall be mailed to the last known addresses of the following parties:

(A) Persons certified pursuant to subchapter 2 of these regulations.

(B) Distributors having submitted a report to the Division within the previous 6 months.

(C) Persons requesting such notice in writing.

(3) Contents: The notice shall state the changed redemption payment and/or refund value by material type, and its effective date.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14551, 14553, 14560 and 14581, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2750 to section 2900 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2920. Containers Per Pound Rate.

The method used to calculate the average number of empty beverage containers per pound, by material type, shall include sampling procedures which consider, at a minimum, the following factors:

(a) Weight by separately aggregated size categories of containers (same size) in their original manufactured and unfilled state.

(b) Weight by variously mixed aggregated size of containers (different sizes) in their original manufactured and unfilled state.

(c) Weight by separately aggregated size categories of containers (same size) in their post–filled state.

(d) Weight by variously mixed aggregated size of containers (different sizes) in their post–filled state.

(e) Weight by individually mixed aggregated size of container loads in their post–filled state as presented by consumers at recycling centers (selected statewide on a random basis).

(f) Volume of sales at wholesale and retail levels in various regions of the state.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14552 and 14572, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2760 to section 2920 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2930. Commingled Rate.

The method used to calculate the commingled rate per pound, by material type, shall include sampling procedures which consider, at a minimum, the following factors:

(a) Weight and analysis of randomly mixed pre–filled empty beverage containers and other pre–filled containers of the same size in the original manufactured and unfilled state.

(b) Weight and analysis of individual loads of empty beverage containers and other containers in their post–filled state as presented by consumers at recycling centers (selected statewide on a random basis), excluding reverse vending machines.

(c) Weight and analysis of loads of empty beverage containers and other containers in their post–filled state redeemed or returned by consumers to reverse vending machines (selected statewide on a random basis).

(d) Weight and analysis of loads presented to processors by curbside programs, community service programs and dropoff or collection programs.

NOTE: Authority cited: Sections 14530.5(b) and 14536, Public Resources Code. Reference: Sections 14506.7, 14549.5, 14552 and 14572, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2770 to section 2930 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (c) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
3. Amendment of subsection (c) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. New subsection (a)(6) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
5. Amendment of subsection (b), new subsection (c), subsection relettering and amendment of NOTE filed 4–28–2003; operative 5–28–2003 (Register 2003, No. 18).

Article 2. Processing Fees and Processing Payments

§ 2945. Confidentiality of Information.

(a) The Division shall disclose only aggregated survey information for three or more firms to the public.

(b) Individual recycling center, processor, or scrap purchaser survey data exempt from public disclosure includes: trade secrets; financial statements; investment data; proprietary information relating to specific sales, purchases, revenues or expenses; or other information as permitted by section 6255 of the Public Records Act (Government Code section 6255).

(c) Upon receipt of a written request for records pertaining to information obtained by the Division pursuant to this chapter, the Division shall determine whether the requested information may be exempt from disclosure. The Division shall notify the requesting party of its determination within 10 days of the receipt of the written request as required by the Public Records Act (Government Code section 6256). If the Division determines that the information is not exempt from disclosure, it shall promptly provide it to the requesting party in accordance with the procedures of the Public Records Act.

NOTE: Authority cited: Section 14530.5(b) and (c), Public Resources Code. Reference: Sections 14518.5, 14551(b) and 14575(a), (b) and (d), Public Resources Code; and Sections 6250–6267, Government Code.

HISTORY

1. Renumbering and amendment of former section 2810 to section 2945 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Change without regulatory effect amending article heading filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).

§ 2950. Eligibility.

(a) Programs and operations eligible to receive processing payments include:

(1) recycling centers certified pursuant to these regulations,

(2) curbside programs which hold a valid identification number issued by the Division,

(3) dropoff or collection programs certified pursuant to these regulations,

(4) community service programs certified pursuant to these regulations.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14518.5, 14573, 14573.5, and 14575(a), (b) and (d), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2950 to section 2650, and renumbering and amendment of former section 2815 to section 2950 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. New subsection (a)(6) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
3. Amendment filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Change without regulatory effect amending subsection (a) filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).

§ 2955. Scrap Value Calculation.

(a) The Division shall survey processors to determine statewide weighted average scrap values paid for each beverage container material type (in the case of plastic, for each resin code type) on a monthly basis.

(b) The Division shall calculate the statewide weighted average scrap value using a statistically significant survey of the processors pursuant to paragraph (a).

(c) The statewide weighted average scrap value shall be equal to the quotient of the total net payment by the sampled processors to nonaffiliated recyclers divided by the total volume of beverage container material types purchased by the sampled processors from nonaffiliated recyclers, excluding beverage container material types processors receive in a form mixed with other beverage container material types and/or material types not covered by the Act.

(d) The scrap values reported in (c) above will then be used to determine a per container statewide weighted average scrap value for each container type.

(e) The Division may periodically sample and review processors' individual scrap purchases to verify the accuracy of the aggregated weights and aggregated net payments reported on the monthly Scrap Value Purchases Survey Form DOR – SV (10/00). The review may include examination of the records maintained by a sample of the selling entities.

(f) If, through this review the Division determines that either or both of the sampled weights and sampled net payments reported by a processor differ by more than ten percent (.10) from those recorded by the sellers, the Division shall adjust the reported aggregate weights or aggregate net payments or both to reflect the discovered difference.

NOTE: Authority cited: Sections 14530.5(b), 14536 and 14536.1, Public Resources Code. Reference: Sections 14504, 14515.5, 14518.5, 14519.5, 14526, 14538(b)(8), 14539(a)(9), 14575 and 18015, Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2955 to section 2655, and renumbering and amendment of former sections 2820 and 2825 to section 2955 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer of subsection (a) and subsection relettering, amendment of newly designated subsections (a)–(d), new subsections (e) and (f), and new Form DC DOR 12–92 filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–30–92 order including amendments transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
4. Amendment of subsection (c) filed 1–3–94 as an emergency pursuant to Public Resources Code section 14581.5(e)(2); operative 1–3–94 (Register 94, No.1). A Certificate of Compliance must be transmitted to OAL by 7–2–94 or emergency language will be repealed by operation of law on the following day.
5. Amendment of subsection (c) refiled 4–26–94 as an emergency; operative 4–26–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–24–94 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–26–94 order transmitted to OAL 8–22–94 with amendment of subsections (c) and (e) and filed 9–28–94 (Register 94, No. 39).
7. Amendment of subsections (a) and (e), NOTE and forms filed 2–27–95 as an emergency; operative 2–27–95. A Certificate of Compliance must be transmitted to OAL by 8–26–95 or emergency language will be repealed by operation of law on the following day.
8. Amendment of subsections (a)–(b), (e) and NOTE refiled 8–14–95 as an emergency; operative 8–26–95 (Register 95, No. 33). A Certificate of Compliance must be transmitted to OAL by 2–22–96 or emergency language will be repealed by operation of law on the following day.
9. Amendment of subsections (a), (c), (e) and NOTE filed 12–22–95 as an emergency pursuant to Public Resources Code section 14536.1; operative 1–1–96 (Register 95, No. 51). A Certificate of Compliance must be transmitted to OAL by 7–1–96 or emergency language will be repealed by operation of law on the following day.
10. Editorial correction of HISTORY 9 (Register 96, No. 10).
11. Amendment of subsections (a), (c), (e) and NOTE refiled 6–26–96 as an emergency pursuant to Public Resources Code section 14536.1; operative 6–30–96 (Register 96, No. 26). A Certificate of Compliance must be transmitted to OAL by 12–27–96 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 6–26–96 order, including amendment of subsection (e) and Scrap Value Survey Form, transmitted to OAL 10–22–96 and filed 12–6–96 (Register 96, No. 49).
13. New subsection (c)(1), amendment of subsection (e), new form DOR 6/98 1, and repealer and new form DOR 7/95 2 filed 7–24–98 as an emergency; operative 7–24–98 (Register 98, No. 30). A Certificate of Compliance must be transmitted to OAL by 1–22–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
14. Editorial correction of HISTORY 13 (Register 98, No. 43).
15. Reinstatement of section as it existed prior to 7–24–98 emergency amendment by operation of Government Code section 11346.1(f) (Register 99, No. 13).
16. Amendment of section and NOTE, and new form DOR 7/95 2 (Rev. 7/98) filed 4–12–99 as an emergency; operative 4–12–99 (Register 99, No. 16). A Certificate of Compliance must be transmitted to OAL by 10–9–99 pursuant to Public Resources Code section 14536.1 or emergency language will be repealed by operation of law on the following day.
17. Strikeout version of DOR 7/95 2 (Rev. 11/95), and a copy of DOR 6/98 2 (Rev. 11/98) filed with the Secretary of State 4–19–99 (Register 99, No. 17).
18. Reinstatement of section as it existed prior to 4–12–99 action by operation of Government Code section 11346.1(f) (Register 99, No. 43).
19. Amendment of subsections (a), (c) and (e), amendment of NOTE, repealer of form DOR 7/95 2, and new form DOR–SV (10/99) filed 12–21–99 as an emergency; operative 1–1–2000 (Register 99, No. 52). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 6–29–2000 or emergency language will be repealed by operation of law on the following day.
20. Editorial correction of HISTORY 19 (Register 2000, No. 27).
21. Reinstatement of section as it existed prior to 12–21–99 emergency amendment pursuant to Government Code section 11346.1(f) (Register 2000, No. 27).
22. Amendment of subsections (a), (c) and (e), amendment of NOTE, repealer of form DOR 7/95 2, and new form DOR–SV (10/99) filed 7–5–2000 as an emergency; operative 7–5–2000 (Register 2000, No. 27). Pursuant to Public Resources Code section 14536.1 a Certificate of Compliance must be transmitted to OAL by 1–2–2001 or emergency language will be repealed by operation of law on the following day.
23. Certificate of Compliance as to 7–5–2000 order, including further amendment of subsections (a), (c) and (e) and revised form DOR–SV (10/00), transmitted to OAL 12–19–2000 and filed 1–30–2001 (Register 2001, No. 5).

For official use only:

Reviewed	Entered	Quality Checked

DEPARTMENT OF CONSERVATION

Recycling

SCRAP VALUE *SALES* SURVEY FORM

Confidential

Market Research and Rate Determination Branch, *801 K Street, 20th Floor, MS 20–50, Sacramento, CA 95814*
Phone*: (916) 323–5778,* **Fax***: (916) 445–0645*

Company Name | Certification Number | Survey Month

Address | City | Phone | Date Prepared

To the best of my knowledge, the information submitted on this Scrap Value Sales Survey Form is complete, accurate and verifiable.

Print Name | Signature

GLASS

Total Weight Sold (Tons) | Total Scrap Value Payment Received | Your Total Shipping Cost

Monthly total weight sold (tons) by Color

Flint | Green

Amber | Mixed

CRV PET PLASTIC

Total Weight Sold (Tons) | Total Scrap Value Payment Received | Your Total Shipping Cost

NON-CRV PET PLASTIC

Total Weight Sold (Tons) | Total Scrap Value Payment Received | Your Total Shipping Cost

BIMETAL

Total Weight Sold (Tons) | Total Scrap Value Payment Received | Your Total Shipping Cost

PRINTED ON RECYCLED PAPER

Instructions on reverse side

(DOR 6/98 2 (Rev. 11/98))

INSTRUCTIONS

Scrap Value Sales Survey Forms shall be submitted once a month, no later than the 10th day of the following month, e.g. total transactions for the month of November should be submitted no later than December 10th. Include all information concerning glass, PET plastic and bimetal beverage container material types your company sold to any **nonaffiliated** container manufacturer, beverage manufacturer, processor or willing purchaser.

Combine the total weight sold, the total scrap value payment received (including any allowances given to your company), and your total shipping costs for all transactions pertaining to a specific material type, e.g. glass.

Note: Please submit a completed Scrap Value Sales Survey Form every month covering all material types for which you are certified, regardless of whether or not you sold a given commodity. For example, report zero tonnage for any and all commodities you did not sell to any **nonaffiliated** container manufacturer, beverage manufacturer, processor or willing purchaser.

COMMODITY

Glass– *All certified processors must report the monthly total weight, in tons, of postfilled beverage container material types (CRV and non–CRV), including the monthly weight, in tons, by color, sold to any **nonaffiliated** container manufacturer, beverage manufacturer, processor or willing purchaser.*

Plastic– *Plastic reported should include polyethylene terephthalate (PET) ONLY. Processors shall differentiate between California Redemption Value (CRV) PET and non–CRV PET.*

Plastic Recycling Corporation of California (PRCC) members and non–PRCC members shall report volumes and payment information the month materials are shipped.

Bimetal– ***Beverage** containers which consist of one or more metals and which are composed primarily of steel. Bimetal reports **should not** include non–beverage container metals.*

TOTAL WEIGHT SOLD

Total net weight (in tons) of beverage container material types **sold**. Container material types for purposes of reporting monthly scrap value, are any recyclable container including beverage, food and/or drink packaging material, other non–redeemable containers, out–of–state beverage containers, line breakage or rejected containers, of the same material composition as redeemable containers covered by the California Beverage Container Recycling and Litter Reduction Act. Plastic weight reported should only include polyethylene terephthalate (PET). Identify and report California Refund Value (CRV) PET and Non–CRV PET transactions in separate boxes.

TOTAL SCRAP VALUE PAYMENT RECEIVED

The scrap value amount received from any **nonaffiliated** container manufacturer, beverage manufacturer, processor or willing purchaser including any additions (e.g. freight allowances, service fees) pertinent to the specific sales transactions for that particular month.

TOTAL SHIPPING COST

Enter the total cost to you for delivery to any **nonaffiliated** container manufacturer, beverage manufacturer, processor or willing purchaser's facility. If the purchaser pays for shipping of the sold materials, enter zero, (0).

SCRAP VALUE *PURCHASES* SURVEY FORM

Market Research and Rate Determination Branch, 801 K Street, 20th Floor, MS 20-50, Sacramento, CA 95814
Phone: (916) 323-5778, **Fax:** (916) 445-0645

Confidential

Processor Name _____

Certification Number _____

Survey Month _____

Address _____

Phone _____

Date Prepared _____

To the best of my knowledge, the information submitted on this scrap value survey form is complete, accurate and verifiable.

Print Name _____

Signature _____

Glass:

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. Internal	.	

Monthly total weight (tons) by color

Flint _____ Green _____

Amber _____ Mixed _____

Processor to Processor Transactions

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
7. PR BP	.	
8. PR Non-BP	.	

Monthly total weight (tons):

Color Sorted _____ Mixed _____

Bimetal:

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

PETE Plastic: *(polyethylene terephthalate)*

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

HDPE Plastic: *(high density polyethylene)*

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

Instructions on Reverse Side

DOR-SV (10/00)

INSTRUCTIONS - Scrap Value PURCHASES Survey

Scrap Value Purchases Survey Forms are to be submitted once a month, no later than the 10th day of the following month, e.g. total transactions for the month of November should be submitted no later than December 10th. Include all information concerning glass, plastic and bimetal beverage container material types your company purchased. Combine weight and payment data into boxes, by entity type, for all transactions pertaining to a specific material type, e.g. glass. Total net payments are reported only for purchases from nonaffiliated sellers ("Entity Type", categories 1-6, or for glass 1-5 and 7-8 on the Scrap Value Purchases Survey Form), excluding beverage container material types that processors receive in a form mixed with other beverage container material types and/or material types not covered by the Act. For material received from affiliates (internal), simply report total weight received. Beverage container material types which are received by the processor in a form mixed with other beverage container material types and/or material types not covered by the act, along with material received from affiliates , shall be reported in the internal box after the material has been sorted.

Note: Please submit a completed Scrap Value Purchases Survey Form every month covering all material types for which you are certified, regardless of whether or not you purchased a given commodity. For example, report zero tonnage for any and all commodities you did not buy in that particular month. **Both page 1 and 3 shall be submitted.**

COMMODITY

All certified processors (re: Public Resources Code Sections 14550 and 14575(k)) must report postfilled beverage container material types (CRV and non-CRV) from all sellers.

Glass- *All glass purchases from beneficiating processors shall be reported as a processor PR BP transaction. All glass purchases from non-beneficiating processors shall be reported as a processor PR Non-BP transaction.*

Plastic- *Reporting shall be shown by each type of plastic resin, using codes* 1 – 7

Bimetal- ***Beverage*** *containers which consist of one or more metals and which are composed primarily of steel. Bimetal reports* ***should not*** *include non-beverage container metals.*

ENTITY TYPE DEFINITIONS

RC, RV= *Certified recycling center, Reverse Vending Machine*

CS= *Registered curbside program*

SP= *A Community Service Program,a certified nonprofit program which does not pay refund value and accepts or collects empty beverage containers.*

CP= *Certified dropoff or collection program*

Non-cert= *Entity* ***not certified***

Internal= *Entity which is either owned or managed in common with the purchasing processor or its affiliates.*

PR BP= *All glass purchases from a certified beneficiating processors*

PR Non-BP= *All glass purchases from a certified non-beneficiating processors*

RIGID PLASTIC CONTAINER CODE NUMBERS

1 **PETE Plastic:** (*polyethylene terephthalate)*

2 **HDPE Plastic:** (*high density polyethylene)*

3 **V:** (*vinyl)*

4 **LDPE:** *(low density polyethylene)*

5 **PP:** (*polypropylene)*

6 **PS:** (*polystyrene)*

7 **Other:** (*includes multilayer)*

WEIGHT AND PAYMENT

Total weight purchased- *Total weight (tons) of postfilled beverage container material types purchased from the particular entity type. In the case of glass, this includes beneficiated & non-beneficiated cullet purchased.*

Total net payment- *The amount paid for the reported monthly weight after deductions (e.g., transportation service) and additions (e.g., freight allowance) pertinent to the specific sales transaction have been made. "Total net payment" includes positive, zero and negative dollar amounts, as applicable.*

Monthly total weight (glass)- *Total weight (tons) by color for all glass purchases regardless of entity type. In the case of purchases from beneficiating or non-beneficiating processors, the total weight of color sorted or mixed glass.*

DOR-SV (10/00)

SCRAP VALUE *PURCHASES* SURVEY FORM

Market Research and Rate Determination Branch, 801 K Street, 20th Floor, MS 20-50, Sacramento, CA 95814
Phone: (916) 323-5778, **Fax:** (916) 445-0645

Confidential

Processor Name

Certification Number Survey Month

5 PP: (polypropylene)

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

3 V: (vinyl)

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

6 PS: (polystyrene)

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	. .
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

4 LDPE: (low density polyethylene)

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

7 OTHER: (includes multilayer)

Entity Type Purchased from	Total Weight Purchased (Tons)	Total Net Payment
1. RC, RV	.	.
2. CS	.	.
3. SP	.	.
4. CP	.	.
5. Non-Cert	.	.
6. PR	.	.
7. Internal	.	

Instructions on Reverse Side

DOR-SV (10/00)

INSTRUCTIONS - Scrap Value PURCHASES Survey

Scrap Value Purchases Survey Forms are to be submitted once a month, no later than the 10th day of the following month, e.g. total transactions for the month of November should be submitted no later than December 10th. Include all information concerning glass, plastic and bimetal beverage container material types your company purchased. Combine weight and payment data into boxes, by entity type, for all transactions pertaining to a specific material type, e.g. glass. Total net payments are reported only for purchases from nonaffiliated sellers ("Entity Type", categories 1-6, or for glass 1-5 and 7-8 on the Scrap Value Purchases Survey Form), excluding beverage container material types that processors receive in a form mixed with other beverage container material types and/or material types not covered by the Act. For material received from affiliates (internal), simply report total weight received. Beverage container material types which are received by the processor in a form mixed with other beverage container material types and/or material types not covered by the act, along with material received from affiliates , shall be reported in the internal box after the material has been sorted.

Note: Please submit a completed Scrap Value Purchases Survey Form every month covering all material types for which you are certified, regardless of whether or not you purchased a given commodity. For example, report zero tonnage for any and all commodities you did not buy in that particular month. **Both page 1 and 3 shall be submitted.**

COMMODITY

All certified processors (re: Public Resources Code Sections 14550 and 14575(k)) must report postfilled beverage container material types (CRV and non-CRV) from all sellers.

Glass- *All glass purchases from beneficiating processors shall be reported as a processor PR BP transaction. All glass purchases from non-beneficiating processors shall be reported as a processor PR Non-BP transaction.*

Plastic- *Reporting shall be shown by each type of plastic resin, using codes* 1 – 7

Bimetal- ***Beverage*** *containers which consist of one or more metals and which are composed primarily of steel. Bimetal reports* ***should not*** *include non-beverage container metals.*

ENTITY TYPE DEFINITIONS

RC, RV= *Certified recycling center, Reverse Vending Machine*

CS= *Registered curbside program*

SP= *A Community Service Program,a certified nonprofit program which does not pay refund value and accepts or collects empty beverage containers.*

CP= *Certified dropoff or collection program*

Non-cert= *Entity* ***not certified***

Internal= *Entity which is either owned or managed in common with the purchasing processor or its affiliates.*

PR BP= *All glass purchases from a certified beneficiating processors*

PR Non-BP= *All glass purchases from a certified non-beneficiating processors*

RIGID PLASTIC CONTAINER CODE NUMBERS

1 **PETE Plastic:** (*polyethylene terephthalate)*

2 **HDPE Plastic:** (*high density polyethylene)*

3 **V:** (*vinyl)*

4 **LDPE:** *(low density polyethylene)*

5 **PP:** (*polypropylene)*

6 **PS:** (*polystyrene)*

7 **Other:** (*includes multilayer)*

WEIGHT AND PAYMENT

Total weight purchased- *Total weight (tons) of postfilled beverage container material types purchased from the particular entity type. In the case of glass, this includes beneficiated & non-beneficiated cullet purchased.*

Total net payment- *The amount paid for the reported monthly weight after deductions (e.g., transportation service) and additions (e.g., freight allowance) pertinent to the specific sales transaction have been made. "Total net payment" includes positive, zero and negative dollar amounts, as applicable.*

Monthly total weight (glass)- *Total weight (tons) by color for all glass purchases regardless of entity type. In the case of purchases from beneficiating or non-beneficiating processors, the total weight of color sorted or mixed glass.*

DOR-SV (10/00)

§ 2960. Allowable Costs for Recycling Centers.

(a) On and after January 1, 2004, and every second year thereafter, the Division shall survey a statistical sample of recycling centers to determine statewide average allowable costs per container type.

(b) Allowable costs for calculation of the processing fee and processing payment shall include the actual costs of receiving, handling, processing, and storing and transporting postfilled beverage containers. Allowable costs also include maintaining equipment necessary for the above activities. More specifically these costs shall include, but not be limited to:

(1) labor,
(2) property taxes,
(3) depreciation,
(4) utilities,
(5) supplies,
(6) fuel,
(7) insurance,
(8) interest,
(9) general business overhead exclusive of administrative costs,
(10) facilities and equipment rent or lease,
(11) maintenance,
(12) transportation,
(13) disposal costs.

(c) The scrap price paid to the consumer by the recycling center shall not be included in allowable costs.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14518.5, 14526, 14573.5 and 14575(a), (b), (c) and (k), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2830 to section 2960 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) and NOTE filed 7–28–93; operative 7–28–93 (Register 93, No. 31).
3. Editorial correction of History 2 (Registrar 95, No. 52).
4. Change without regulatory effect amending subsection (b) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
5. Change without regulatory effect amending subsection (a) and adding new subsection (b)(13) filed 2–15–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
6. Change without regulatory effect amending subsection (a) filed 4–13–2005 pursuant to section 100, title 1, California Code of Regulations (Register 2005, No. 15).

§ 2965. Allowable Costs for Processors.

(a) Allowable costs for calculation of the processing fee shall include the actual costs of receiving, handling, processing, storing, and maintaining equipment, necessary for accepting, canceling, and readying postfilled beverage containers prior to shipment to scrap purchasers. More specifically, these costs shall include, but not be limited to:

(1) labor,
(2) property taxes,
(3) depreciation,
(4) utilities,
(5) supplies,
(6) fuel,
(7) insurance,
(8) interest,
(9) general business overhead exclusive of administrative costs,
(10) facilities and equipment rent or lease,
(11) maintenance,
(12) disposal costs pursuant to (c) below,
(13) transportation.

(b) The scrap price paid to recycling centers by processors shall not be included in allowable costs.

(c) The Division shall calculate a statewide average disposal cost per container for each beverage container type if the scrap value of a container type is negative as determined in section 2955(c) of these regulations.

(1) When 200% of the disposal cost is less than the absolute value of scrap value pursuant to section 2955 of these regulations, the Division shall use disposal cost, not scrap value, in the calculation of processing fees and processing payments.

(2) When 200% of the disposal cost is greater than or equal to the absolute value of scrap value pursuant to section 2955 of these regulations, the Division shall use only scrap value in the calculation of processing fees and processing payments.

(3) If the scrap price is zero, the Division shall use disposal cost, not scrap value in the calculation of processing fees and processing payments.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14501(d) and (h), 14518.5, 14526, 14573.5 and 14575(a), (b), (c) and (k), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2835 to section 2965 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) and NOTE filed 7–28–93; operative 7–28–93 (Register 93, No. 31).
3. Amendment of subsection (a), repealer of subsection (a)(9) and subsection redesignation, and amendment of subsections (d)–(d)(2) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
4. Change without regulatory effect amending subsections (d)(1)–(d)(3) and NOTE filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
5. Change without regulatory effect repealing subsection (a), relettering subsections, and amending newly designated subsection (a)(12) filed 2–15–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).
6. Editorial correction of HISTORY 2 (Register 2005, No. 15).

§ 2970. Allocation of Allowable Costs.

(a) The Division shall determine allowable costs per container pursuant to sections 2960 and 2965 of this subchapter that can be directly allocated to each beverage container type. (For example: depreciation and labor expenses for operating an aluminum can crusher shall be directly allocated to the allowable costs of aluminum beverage containers.)

(b) Allowable costs pursuant to sections 2960 and 2965 of this subchapter that cannot be directly allocated shall be allocated using the direct labor cost percentages for each container type as determined in the allowable cost surveys pursuant to sections 2960 and 2965 of this subchapter.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14518.5 and 14575(a) and (b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2840 to section 2970 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).

§ 2975. Reasonable Financial Return Calculation.

The statewide average reasonable financial return for recycling centers shall be equal to the statewide average allowable costs calculated in section 2960 of this subchapter, multiplied by the average return on costs for the scrap and waste materials industry as determined from data contained in the most recent Dun and Bradstreet Standard Three Year Norm Report (Published by Dun and Bradstreet Credit Services).

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14501(f) and (g), 14518.5 and 14575(a) and (b), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2845 to section 2975 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Change without regulatory effect repealing subsection (a) designator and repealing subsection (b) filed 2–15–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).

§ 2976. Consumer Price Index.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14501(f) and (g), 14518.5 and 14575(a) and (b), Public Resources Code.

HISTORY

1. New section filed 7–28–93; operative 7–28–93 (Register 93, No. 31).
2. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
3. Change without regulatory effect repealing section filed 2–15–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).

§ 2980. Processing Payments.

On and after January 1, 2000, the processor shall pay the operators of curbside programs, dropoff or collection programs, community service

programs, and certified recycling centers, the entirety of the processing payment multiplied by the number of containers accepted from the operator by the processor.

NOTE: Authority cited: Section 14530.5(b), Public Resources Code. Reference: Sections 14518.5, 14573.5 and 14575(a), (b) and (h)(3), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2850 to section 2980 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Repealer of subsection (a) and subsection relettering, amendment of newly designated subsection (a), and amendment of NOTE filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.
3. Amendment of subsection (a) filed 5–21–93; operative 5–21–93 pursuant to Government Code section 11346.2(d) (Register 93, No. 21).
4. Certificate of Compliance as to 12–30–92 order including amendment of subsection (a) and new subsections (b)–(c) transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
5. Amendment of subsections (a) and (c) filed 10–7–94; operative 10–7–94 pursuant to Government Code section 11346.2(d) (Register 94, No. 40).
6. Change without regulatory effect amending section heading and subsections (a) and (c) filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).
7. Amendment filed 12–6–96; operative 12–6–96 (Register 96, No. 49).
8. Change without regulatory effect repealing subsection (a) designator, amending text of former subsection (a), and repealing subsections (b)–(c) filed 2–15–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 7).

§ 2981. Calculation Of Reduced Processing Fee Payments.

NOTE: Authority cited: Sections 14530.5(b), 14581.5(e)(2) & (g), Public Resources Code. References cited: Sections 14575 and 14581.5, Public Resources Code.

HISTORY

1. New section filed 1–23–92 as an emergency; operative 1–23–92 (Register 92, No. 12). A Certificate of Compliance must be transmitted to OAL 8–22–92 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of Government Code section 11346.1(g) (Register 95, No. 22).

§ 2985. Notification of Changes.

(a) When the Division adopts a revised, terminated or newly established processing fee and processing payment pursuant to Public Resources Code section 14575, the Division shall mail written notification within fifteen (15) days of adoption, and at least 15 days prior to the effective date of the proposed action(s), to all interested persons.

(b) The Division shall mail written notification to certified processors, who participated in the scrap value survey, of the average monthly scrap value for each container material type pursuant to Section 2955 of the regulations. This notification will be sent within sixty (60) days of the end of the reporting month.

NOTE: Authority cited: Section 14530.5(b) and (c), Public Resources Code. Reference: Sections 14518.5 and 14575(a), (b) and (f)(1), Public Resources Code.

HISTORY

1. Renumbering and amendment of former section 2865 to section 2985 filed 6–12–91 as a change without regulatory effect pursuant to section 100, title 1, California Code of Regulations (Register 91, No. 46).
2. Amendment of subsection (a) and amendment of NOTE filed 12–30–92 as an emergency; operative 12–30–92 (Register 93, No. 1). A Certificate of Compliance must be transmitted to OAL 4–29–93 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 12–30–92 order including amendment of subsection (a) transmitted to OAL 6–18–93 and filed 7–28–93 (Register 93, No. 31).
4. New subsection (b) filed 11–30–94; operative 11–30–94 pursuant to Government Code section 1346.2(d) (Register 94, No. 48).
5. Change without regulatory effect amending subsection (a) filed 12–28–95 pursuant to section 100, title 1, California Code of Regulations (Register 95, No. 52).

Article 3. Handling Fee Payments

§ 2990. Allowable Costs for Handling Fee Recycling Centers.

(a) On or before January 1, 2008, and every second year thereafter, the Division shall survey a statistical sample of recycling centers receiving handling fees to determine the average allowable costs per empty beverage container redeemed.

(b) Allowable costs for calculation of the handling fee shall include the actual costs of receiving, handling, processing, and storing and transporting postfilled beverage containers. Allowable costs also include maintaining equipment necessary for the above activities. More specifically these costs shall include, but not be limited to:

(1) labor,
(2) property taxes,
(3) depreciation,
(4) utilities,
(5) supplies,
(6) fuel,
(7) insurance,
(8) interest,
(9) general business overhead exclusive of administrative costs,
(10) facilities and equipment rent or lease,
(11) maintenance,
(12) transportation,
(13) disposal costs.

(c) The scrap price paid to the consumer by the recycling center shall not be included in allowable costs.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14513.4, 14526.6, 14581 and 14585, Public Resources Code.

HISTORY

1. New article 3 (sections 2990–2997) and section filed 2–5–2007 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–5–2007 (Register 2007, No. 6). Pursuant to Public Resources Code section 14536(b)(2), the new section remains in effect until revised by the director of the Department of Conservation.
2. Certificate of Compliance as to 2–5–2007 order transmitted to OAL 11–21–2007 and filed 12–26–2007 (Register 2007, No. 52).

§ 2995. Allocation of Allowable Costs for Handling Fee Sites.

(a) The Division shall determine allowable costs per container pursuant to section 2990 of this subchapter that can be directly allocated to each beverage container type. (For example: depreciation and labor expenses for operating an aluminum can crusher shall be directly allocated to the allowable costs of aluminum beverage containers.)

(b) Allowable costs pursuant to section 2990 of this subchapter that cannot be directly allocated shall be allocated using the direct labor cost percentages for each container type as determined in the allowable handling fee cost surveys pursuant to section 2990 of this subchapter.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14513.4, 14526.6, 14581 and 14585, Public Resources Code.

HISTORY

1. New section filed 2–5–2007 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–5–2007 (Register 2007, No. 6). Pursuant to Public Resources Code section 14536(b)(2), the new section remains in effect until revised by the director of the Department of Conservation.
2. Certificate of Compliance as to 2–5–2007 order transmitted to OAL 11–21–2007 and filed 12–26–2007 (Register 2007, No. 52).

§ 2997. Notification of Handling Fee Changes.

When the Division adopts a revised, terminated or newly established handling fee pursuant to Public Resources Code Section 14585, the Division shall provide written notification within fifteen (15) days of adoption, and at least fifteen (15) days prior to the effective date of the proposed action(s), to all interested persons.

NOTE: Authority cited: Sections 14530.5(b) and 14536(b), Public Resources Code. Reference: Sections 14513.4, 14526.6, 14581 and 14585, Public Resources Code.

HISTORY

1. New section filed 2–5–2007 as an emergency pursuant to Public Resources Code section 14536(b); operative 2–5–2007 (Register 2007, No. 6). Pursuant to Public Resources Code section 14536(b)(2), the new section remains in effect until revised by the director of the Department of Conservation.
2. Certificate of Compliance as to 2–5–2007 order transmitted to OAL 11–21–2007 and filed 12–26–2007 (Register 2007, No. 52).

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Chapter 6. Office of Land Conservation

HISTORY

1. Repealer of Chapter 6, Subchapters 1 and 2 (Sections 2000–3105, not consecutive) filed 3–29–77 as an emergency; effective upon filing (Register 77, No. 14). For prior history, see Registers 56, No. 20 and 59, No. 20.

§ 3000. Definitions.

All terms used in these regulations shall have the same meaning as provided in Public Resources Code sections 10210 through 10223.

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Sections 10200–10277, Public Resources Code.

HISTORY

1. New chapter 6 (sections 3000–3015) and section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New chapter 6 (sections 3000–3015) and section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New chapter 6 (sections 3000–3015) and section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3010. Eligibility.

A real estate appraisal pursuant to Public Resources Code section 10260 must be completed prior to acting upon any grant application under the Agricultural Land Stewardship Program (ALSP) involving the acquisition of interests in real property. The cost of the appraisal is to be borne by the applicant. However, if the applicant is successful in obtaining a grant, the cost of the appraisal shall be considered a direct cost pursuant to Public Resources Code section 10231 and may be reimbursed at the discretion of the Director, based upon the fiscal considerations of a specific project.

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Section 10231, Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3011. Local Government Support for Agricultural Land Conservation.

In meeting the requirement of Public Resources Code section 10244, a local government shall include a summary of any specific actions taken in support of its stated goals and objectives for agricultural land conservation, including but not limited to specific planning and zoning decisions that have been taken that demonstrate this commitment.

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Section 10244, Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3012. Potential Easement Impacts upon Neighboring Lands.

In considering the selection criteria for ALSP applicants, information providing evidence that, by acquisition of an agricultural conservation easement for a given parcel or parcels, long term conservation of neighboring lands through any combination of geographic, zoning, or other considerations can logically be expected without incurring costs of additional easement acquisitions, will be considered pursuant to Public Resources Code section 10252(*l*).

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Section 10252(*l*), Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3013. Temporary Purchase of Fee Interests.

An applicant for funding of a temporary purchase of a fee interest in anticipation of creating an agricultural conservation easement pursuant to Public Resources Code section 10239 shall satisfy the criteria otherwise applicable to easements as provided in this chapter as well as the Agricultural Lands Stewardship Program Act of 1995.

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Sections 10239, 10251 and 10252, Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3014. Easement Enforcement.

Agricultural conservation easements funded through this program shall provide that in the event the holder of the easement fails to enforce any of the terms of the easement, as determined in the sole discretion of the Director of the Department, the Director of the Department and his or her successors and assigns shall have the right to enforce the terms of the easement, including limits on significant impairment of agricultural productivity and multiple uses created by incidental activities as specified in Public Resources Code section 10262. Multiple uses shall be those as defined in Public Resources Code section 10252(b).

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Section 10262, Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

§ 3015. Easement Transfer.

Agricultural conservation easements funded through this program shall provide that in the event that a local government or nonprofit organization holding an easement that was acquired with the use of ALSP funds is dissolved, the Department shall identify and select an appropriate public or private entity to whom the easement shall be transferred pursuant to Public Resources Code section 10235(b). In cases where the easement was acquired utilizing ALSP funds as well as funds from other sources, the Department shall work with the other contributing sources to identify and select an appropriate entity to whom the easement shall be transferred.

NOTE: Authority cited: Section 10240(b), Public Resources Code. Reference: Section 10235(b), Public Resources Code.

HISTORY

1. New section filed 5–9–97 as an emergency; operative 5–9–97 (Register 97, No. 19). A Certificate of Compliance must be transmitted to OAL by 9–8–97 or emergency language will be repealed by operation of law on the following day.
2. New section repealed by operation of Government Code section 11346.1(g) (Register 97, No. 44).
3. New section filed 10–30–97; operative 10–30–97 pursuant to Government Code section 11343.4(d) (Register 97, No. 44).

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Chapter 8. Mining and Geology

Subchapter 1. State Mining and Geology Board

Article 1. Surface Mining and Reclamation Practice

§ 3500. Purpose.

It is the purpose of this subchapter to establish state policy for the reclamation of mined lands and the conduct of surface mining operations in accord with the general provisions set forth in Public Resources Code, Division 2, Chapter 9, Section 2710 et seq. (Surface Mining and Reclamation Act of 1975, as amended by Statutes of 1980).

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2710–2795, Public Resources Code.

HISTORY

1. New Chapter 8, Subchapter 1 (Sections 3500–3508, not consecutive, and Appendices A, B and C) filed 3–29–77; effective thirtieth day thereafter (Register 77, No. 14).
2. Amendment of NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).
3. Repealer and new section filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3501. Definitions.

The following definitions as used herein shall govern the interpretation of these regulations:

Agricultural Activity. The cultivation and tillage of the soil, dairying, the production, cultivation, growing and harvesting of any agricultural commodity, the raising of livestock or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation of these products for market.

Angle of Repose. The maximum angle of slope (measured from horizontal plane) at which loose cohesionless material will come to rest on a pile of similar material.

Backfill. Earth, overburden, mine waste or imported material used to replace material removed during mining.

Borrow Pits. Excavations created by the surface mining of rock, unconsolidated geologic deposits or soil to provide material (borrow) for fill elsewhere.

Critical Gradient. The maximum stable inclination of an unsupported slope under the most adverse conditions that it will likely experience, as determined by current engineering technology.

Excavations for On–Site Construction. Earth material moving activities that are required to prepare a site for construction of structures, landscaping, or other land improvements (such as excavation, grading, compaction, and the creation of fills and embankments), or that in and of themselves constitute engineered works (such as dams, road cuts, fills, and catchment basins).

Grading. To bring an existing surface to a designed form by cutting, filling, and/or smoothing operations.

Minerals. Any naturally occurring chemical element or compound, or groups of elements and compounds, formed from inorganic processes and organic substances, including, but not limited to, coal, peat, and bituminous rock, but excluding geothermal resources, natural gas, and petroleum.

Person. Any individual, firm, association, corporation, organization, or partnership, or any city, county, district, or the state or any department or agency thereof.

Reclamation Plan. The applicant's (operator's) completed and approved plan for reclaiming the lands affected by his surface mining operations conducted after January 1, 1976, as called for in Section 2772 of the Act.

Resoiling. The process of artificially building or reconstructing a soil profile.

Stream Bed Skimming. Excavation of sand and gravel from stream bed deposits above the mean summer water level or stream bottom, whichever is higher.

Surface Mining Operations. In addition to the provisions of Section 2735 of the Act, borrow pitting, streambed skimming, segregation and stockpiling of mined materials (and recovery of same) are deemed to be surface mining operations unless specifically excluded under Section 2714 of the Act or Section 3505 of these regulations.

Topsoil. The upper part of the soil profile that is relatively rich in humus, which is technically known as the A–horizon of the soil profile.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2726–2735, Public Resources Code.

HISTORY

1. Repealer of former Section 3501, and renumbering and amendment of former Section 3502 to Section 3501 filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Registers 82, No. 33 and 79, No. 35.
2. Change without regulatory effect deleting definition of "Intermittent Operation" filed 1–10–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 2).
3. Amendment adding definition of "Agricultural Activity" filed 9–18–97; operative 10–18–97 (Register 97, No. 38).
4. Change without regulatory effect repealing definition of "Temporarily Deactivated Operation" filed 3–29–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 13).

§ 3502. The Reclamation Plan.

(a) Objectives. Reclamation plans shall be developed to attain the objectives of Public Resources Code Section 2712(a)–(c).

(b) Reclamation Plan Elements. In addition to the information required by Public Resources Code Section 2772, the following elements shall be included in the reclamation plan:

(1) The environmental setting of the site of operations and the effect that possible alternate reclaimed site conditions may have upon the existing and future uses of surrounding lands.

(2) The public health and safety, giving consideration to the degree and type of present and probable future exposure of the public to the site.

(3) The designed steepness and proposed treatment of the mined lands' final slopes shall take into consideration the physical properties of the slope material, its probable maximum water content, landscaping requirements, and other factors. In all cases, reclamation plans shall specify slope angles flatter than the critical gradient for the type of material involved. Whenever final slopes approach the critical gradient for the type of material involved, regulatory agencies shall require an engineering analysis of the slope stability. Special emphasis on slope stability and design shall be necessary when public safety or adjacent property may be affected.

(4) Areas mined to produce additional materials for backfilling and grading, as well as settlement of filled areas, shall be considered in the reclamation plan. Where ultimate site uses include roads, building sites, or other improvements sensitive to settlement, the reclamation plans shall include compaction of the fill materials in conformance with good engineering practice.

(5) Disposition of old equipment.

(6) Temporary stream or watershed diversions.

(c) Adequacy. In judging the adequacy of a particular reclamation plan in meeting the requirements described herein and within the Act, the lead agency shall consider the physical and land–use characteristics of the mined lands and their surrounding area pursuant to Public Resources Code Section 2773.

(d) Each surface mining operation as defined in Public Resources Code Section 2735 and Title 14 California Code of Regulations Section 3501, shall have no more than one approved reclamation plan applicable to that operation except as described in subsection (i) to this section. An amended reclamation plan shall be approved by the lead agency prior to the commencement of activities determined to be a substantial deviation from the approved plan. For purposes of the Surface Mining and Reclamation Act of 1975 and regulations adopted pursuant thereto, a substan-

tial deviation shall be defined as a change or expansion to a surface mining operation that substantially affects the completion of the previously approved reclamation plan, or that changes the end use of the approved plan to the extent that the scope of the reclamation required for the surface mining operation is substantially changed. In determining whether a change or expansion constitutes a substantial deviation, the lead agency shall take into consideration the following factors:

(1) A substantial increase in the disturbance of a surface area or in the maximum depth of mining;

(2) A substantial extension of the termination date of the mining operation as set out in the approved reclamation plan;

(3) Changes that would substantially affect the approved end use of the site as established in the reclamation plan;

(4) The consistency of any proposed change to the operation with the previously adopted environmental determinations.

(5) Any other changes that the lead agency deems substantial deviations as defined in this subsection.

(e) An amended reclamation plan shall be filed if the lead agency determines, after an inspection, that the surface mining operation can no longer be reclaimed in accordance with its approved reclamation plan. Such amended plan shall incorporate current reclamation standards as described in Chapter 9 (commencing with Section 2710) and Title 14 of the California Code of Regulations commencing with Section 3700.

(f) In the event that a proposed change is determined not to be a substantial deviation from an approved reclamation plan, then current reclamation standards need only apply to the amended portion of the plan. An amendment to the originally approved reclamation plan that includes an expanded operating area shall be approved by the lead agency prior to implementation of the activities in the expansion area.

(g) Should an expansion of an operation into an area not covered by an approved reclamation plan be determined by the lead agency to be a substantial deviation, an amended reclamation plan shall be prepared that ensures adequate reclamation for the surface mining operation. The amended reclamation plan shall incorporate current reclamation standards for the entire area governed by the plan that is impacted by the deviation. If reclamation has been substantially initiated at the time that a lead agency determines that an amended reclamation plan is required, the operator may complete reclamation of those areas according to the previously approved reclamation plan, except for those areas that are or will be affected by the proposed expanded mining activities which shall be subject to the requirements of the amended reclamation plan.

(h) Where a surface mining operation has in effect an approved reclamation plan and approved financial assurance covering a surface mining operation, and the mining operator proposes to utilize a new surface area, not included within the approved reclamation plan, for purposes of creating a new and separate pit, quarry, or other excavation, the operator may, at the option of the operator do one of two things:

(1) Amend the existing reclamation plan to encompass the new area designated for use as a pit, quarry, or excavation, together with any other changes necessary to make the reclamation plan, as amended, conform to the Act and these regulations. If such an amended plan is proposed, the amended plan must conform to the current reclamation standards required by the Act and the regulations, as to the new area(s) designated as a quarry, pit or excavation, and any processing facilities, roads, sumps, drainage systems or storage or processing areas, which that new area will utilize within the previously approved reclamation plan area or within the new area. Concurrently with the approval of the amended reclamation plan to encompass the new area operations, unless such a provision already is in the existing reclamation plan, the lead agency may require an amendment to the existing reclamation plan to provide for the immediate commencement of the reclamation of any mined lands which no longer are required for mining operations.

(2) Obtain approval of a new reclamation plan covering the new area and any facilities, roads, sumps, drainage systems, or storage or processing areas, utilized in connection with operations in the new area. Any areas encompassed within such plan shall conform to the reclamation standards of the Act and these regulations that are in effect at the time the reclamation plan is approved.

(i) The following exemptions to this section shall apply:

(1) Where a single surface mining operation has separate facilities located within different lead agency jurisdictions, and where these facilities are separated by a distinct and significant physical boundary such as a major highway, stream channel, or the like, the operator may obtain separate reclamation plans and financial assurances for the facilities from the lead agencies in which those facilities are located.

(2) Those surface mining operations that have more than one reclamation plan approved on or before October 1, 2002 shall not be subject to the requirements for a single reclamation plan as described in subsection (d) of this section unless new mining operations or substantial deviations to the operation are proposed after that date that require one of the plans to be amended.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2712(a)–(c), 2756–2757, 2770 and 2772–2773, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 3502 to Section 3501, and new Section 3502 filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Registers 82, No. 33 and 79, No. 35.
2. New subsections (d)–(i)(2) filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3503. Surface Mining and Reclamation Practice.

The following are minimum acceptable practices to be followed in surface mining operations:

(a) Soil Erosion Control.

(1) The removal of vegetation and overburden, if any, in advance of surface mining shall be kept to the minimum.

(2) Stockpiles of overburden and minerals shall be managed to minimize water and wind erosion.

(3) Erosion control facilities such as retarding basins, ditches, streambank stabilization, and diking shall be constructed and maintained where necessary to control erosion.

(b) Water Quality and Watershed Control.

(1) Settling ponds or basins shall be constructed to prevent potential sedimentation of streams at operations where they will provide a significant benefit to water quality.

(2) Operations shall be conducted to substantially prevent siltation of ground–water recharge areas.

(c) Protection of Fish and Wildlife Habitat. All reasonable measures shall be taken to protect the habitat of fish and wildlife.

(d) Disposal of Mine Waste Rock and Overburden. Permanent piles or dumps of mine waste rock and overburden shall be stable and shall not restrict the natural drainage without suitable provisions for diversion.

(e) Erosion and Drainage. Grading and revegetation shall be designed to minimize erosion and to convey surface runoff to natural drainage courses or interior basins designed for water storage. Basins that will store water during periods of surface runoff shall be designed to prevent erosion of spillways when these basins have outlet to lower ground.

(f) Resoiling. When the reclamation plan calls for resoiling, coarse hard mine waste shall be leveled and covered with a layer of finer material or weathered waste. A soil layer shall then be placed on this prepared surface. Surface mines that did not salvage soil during their initial operations shall attempt, where feasible, to upgrade remaining materials. The use of soil conditioners, mulches, or imported topsoil shall be considered where revegetation is part of the reclamation plan and where such measures appear necessary. It is not justified, however, to denude adjacent areas of their soil, for any such denuded areas must in turn be reclaimed.

(g) Revegetation. When the reclamation plan calls for revegetation the available research addressing revegetation methods and the selection of species having good survival characteristics, for the topography, resoiling characteristics, and climate of the mined areas shall be used.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756 and 2757, Public Resources Code.

HISTORY

1. Repealer of former Section 3503, and renumbering and amendment of former Section 3504 to Section 3503 filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Register 82, No. 33.

§ 3503.1. Reclamation Plan Elements.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2772 and 2773, Public Resources Code.

HISTORY

1. Repealer filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3504. Administration by Lead Agency.

(a) Record Keeping. The lead agency shall establish and maintain in–house measures and procedures to ensure organized record–keeping and monitoring of surface mining reclamation under its jurisdiction. The lead agency shall forward a copy of each permit and approved reclamation plan and financial assurance instrument to the director of the Department of Conservation.

(b) Financial Assurances. The lead agency shall ensure that the objectives of the reclamation plan will be attained. This may include provisions for surety bonds, irrevocable letters of credit, trust funds, or other forms of financial assurances adopted by the board in accordance with PRC § 2773.1(e), to guarantee the reclamation in accordance with the approved reclamation plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757, 2758(b), 2774(a) and 2778, Public Resources Code.

HISTORY

1. Renumbering and amendment of former Section 3504 to Section 3503, and renumbering and amendment of former Section 3505 to Section 3504 filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Register 82, No. 33.
2. Change without regulatory effect amending section filed 4–3–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 14).

§ 3504.5. Mine Inspections Per Calendar Year.

The purpose of this section is to clarify and make specific the scope, nature, and frequency of a surface mine inspection required under Public Resources Code Section 2774(b).

(a) Inspection of a surface mining operation shall be conducted not less than once each calendar year to determine if the operation is in compliance with the requirements of Public Resources Code Chapter 9, commencing with section 2710. The lead agency, or the board if the board is the lead agency, shall send written notice to the operator at least ten days prior to any inspection.

(b) A person, who in the determination of the lead agency has demonstrated competence in performing inspections of surface mining operations, shall perform inspections. Evaluation of geological and engineering conditions, when required, shall be performed by or under the supervision of a Geologist Registered to practice in the state under the Geologists and Geophysicists Act or a Professional Engineer registered to practice in the state under the Professional Engineers Act.

(c) A surface mine inspection shall not be performed by any person who holds a financial interest in or has been employed by the surface mining operation in any capacity, including as a consultant or as a contractor, during the year preceding the inspection.

(d) Annual surface mine inspections may be conducted by a specialist or a team of specialists with expertise that includes but is not limited to, geology, engineering, surveying, ecology, water chemistry and quality, and permitting. Persons participating in the inspection shall follow such reasonable requirements of the operator so that there is minimal interference with the surface mining operation and the inspection is conducted in a safe manner in accordance with all state and federal safety requirements.

(e) The operator shall be responsible for the reasonable cost of the annual inspection conducted by the lead agency or by the board if the board is the lead agency.

(f) Inspections may include, but shall not be limited to the following: the operation's horizontal and vertical dimensions; volumes of materials stored on the site; slope angles of stock piles, waste piles and quarry walls; potential geological hazards; equipment and other facilities; samples of materials; photographic or other electronic images of the operation; any measurements or observations deemed necessary by the inspector or the lead agency to ensure the operation is in compliance with Public Resources Code Chapter 9.

(g) The inspection report to the lead agency shall consist of the inspection form MRRC–1 (4/97), developed by the department and approved by the board, and any other reports or documents prepared by the inspector or inspection team. The lead agency shall provide a copy of the completed inspection report along with the lead agency's statement regarding the status of compliance of the operation to the director within 30 days of completion of the inspection. A copy of the completed inspection report and lead agency statement of compliance shall also be provided to the mine operator within 30 days of completion of the inspection.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774, Public Resources Code.

HISTORY

1. New section filed 4–7–2003; operative 5–7–2003 (Register 2003, No. 15).

§ 3505. Special Provisions.

(a) Exemptions.

(1) In addition to the provisions of Public Resources Code Section 2714(a), (c) and (d), any surface mining operation that does not involve either the removal of a total of more than 1000 cubic yards of minerals, ores, and overburden, or involve more than one acre in any one location, shall be exempt from the provisions of the Act.

(2) The purpose of this subdivision is to define the criteria of a "flood control facility," the clean–out of which is exempt from the requirements of the Surface Mining and Reclamation Act of 1975 under PRC Section 2714(a) and (b). It is intended that cleaning out of a previously engineered, constructed facility for which approved design plans exist is an activity to restore the usefulness of that flood control facility to its original design purpose. It is not the intent of this subsection to exempt the removal of materials from natural channels.

The removal of post–construction accumulated materials from a responsible public agency–approved, managed, engineered, constructed facility intended for the purpose of water retention or detention, debris retention, or from a flood water conveyance, where the post–extraction condition, capacity or grade of the facility or conveyance does not exceed the as–built approved design specification contained in the approved documents for the facility or conveyance, shall be exempt from the provisions of the Act.

(3) The excavation, grading, or transportation of mineral materials, including overburden, exclusive of commercial surface mining activities as defined in Public Resources Code Section 2714(d), that is wholly integral and necessary to the conduct of agricultural activities either on–site or on non–contiguous parcels, shall meet the requirements of Public Resources Code Section 2714(a) for farming excavations or grading. This exemption does not apply to the exportation of mineral materials, including overburden, from the property that is in excess of 1,000 cubic yards for commercial purposes.

(b) Vested Rights. The permit and reclamation plan requirements for persons with vested rights are stated in Public Resources Code Section 2776.

Where a person with vested rights continues surface mining in the same area subsequent to January 1, 1976, he shall obtain an approval of a reclamation plan covering the mined lands disturbed by such subsequent surface mining. In those cases where an overlap exists (in the horizontal and/or vertical sense) between pre– and post–Act mining, the reclamation plan shall call for reclamation proportional to that disturbance caused by the mining after the effective date of the Act.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code; and 78 Ops.Cal.Atty.Gen. 343 (1995).

HISTORY

1. Renumbering and amendment of former Section 3505 to Section 3504, and renumbering and amendment of former Section 3506 to Section 3505 filed

4–29–85; effective thirtieth day thereafter (Register 85, No. 18). For prior history, see Register 82, No. 33.

2. Amendment adding new subsection (a)(1) designator, new subsection (a)(2), and amendment of NOTE filed 4–11–97; operative 5–11–97 (Register 97, No. 15).

3. Amendment of subsection (a)(2), new subsection (a)(3), and amendment of NOTE filed 9–18–97; operative 10–18–97 (Register 97, No. 38).

§ 3506. Special Provisions.

NOTE: Authority cited: Sections 2714(d) and 2755, Public Resources Code. Reference: Sections 2714, 2758(c) and 2776, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).

2. Renumbering and amendment of Section 3506 to Section 3505 filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3507. Suggested Form for Reclamation Plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2758(b), 2772 and 2773, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3507.1. Confidential Information.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2778, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3507.2. Multiple Operations in a Single Plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2756, 2757, 2758(b), 2772 and 2773, Public Resources Code.

HISTORY

1. New NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

§ 3508. Model Surface Mining and Reclamation Ordinance.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2758(b) and 2774(a), Public Resources Code.

HISTORY

1. New NOTE filed 8–10–82; effective thirtieth day thereafter (Register 82, No. 33).

2. Repealer filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

APPENDICES A–C

HISTORY

1. Repealer of Appendices A–C filed 4–29–85; effective thirtieth day thereafter (Register 85, No. 18).

Article 2. Areas Designated to Be of Regional Significance

§ 3550. Introduction.

Pursuant to Section 2790 of the Surface Mining and Reclamation Act, the Mining and Geology Board designates certain mineral resource sectors within the following geographical areas to be of regional significance.

NOTE: Authority and reference cited: Section 2790, Public Resources Code.

HISTORY

1. New Article 2 (Sections 3550 and 3550.1) filed 10–22–81; effective thirtieth day thereafter (Register 81, No. 43).

§ 3550.1. Tujunga and Pacoima Wash Areas of the San Fernando Valley Region, Los Angeles County.

On January 7, 1981, following a December 11, 1980, public hearing, the Mining and Geology Board designated Sectors A, B, C, and D of the Tujunga and Pacoima Wash areas to be of regional significance. In general, these sectors are described as follows:

(1) Sector A—Tujunga Valley east of the Hansen Dam flood control basin, west of the 210 freeway and excluding identified archaeological sites;

(2) Sector B—the Hansen Dam Area;

(3) Sector C—an area southwest of Hansen Dam; and

(4) Sector D—Pacoima Wash north of Lopez Dam.

These sectors contain sand and gravel deposts which provide a source of construction aggregate for the region's future need.

Designation Map #81–1 and a report summarizing the designation findings of the State Mining and Geology Board are on file at the Board's office in Sacramento.

NOTE: Authority and reference cited: Section 2790, Public Resources Code.

§ 3550.2. Santa Clara River Valley Area of the Western Ventura County Region, Ventura County.

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, C, D, E, F, G, H, I, and J, on Designation Map #82–1, in the Santa Clara River Valley to be of regional significance. In general, these sectors are described as follows:

(1) Sector A—Instream deposits of the Santa Clara River near the community of El Rio beginning approximately one mile downstream of the U.S. Highway 101 bridge and extending to a point approximately two miles upstream of the Los Angeles Avenue bridge.

(2) Sector B—Offstream deposits located adjacent to Vineyard Avenue in the community of El Rio.

(3) Sector C—Offstream deposits located in and adjacent to the community of El Rio.

(4) Sector D—Offstream deposits located east of Los Angeles Avenue and south of the Santa Clara River.

(5) Sector E—Instream deposits of the Santa Clara River beginning at the eastern boundary of Sector A and extending upstream to the confluence of Santa Paula Creek.

(6) Sector F—Instream deposits extending from the eastern boundary of Sector E upstream to the confluence of Sespe Creek.

(7) Sector G—Instream deposits extending from the eastern boundary of Sector F upstream to Cavin Road.

(8) Sector H—Instream deposits extending from the eastern boundary of Sector G upstream to Piru.

(9) Sector I—Instream deposits extending from the eastern boundary of Sector H upstream for approximately three miles.

(10) Sector J—Instream deposits extending from the eastern boundary of Sector I upstream to the Ventura County line.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future need.

Designation Map #82–1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource Areas in the Western Ventura County and Simi Production–Consumption Regions—March 1982," are on file at the Board's office in Sacramento.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2791, Public Resources Code.

HISTORY

1. New section filed 5–6–82; effective thirtieth day thereafter (Register 82, No. 19).

§ 3550.3. Simi Valley Area of the Simi Region, Ventura County.

On January 28, 1982, following a November 19, 1981, public hearing, the State Mining and Geology Board designated Sectors A, B, and C, on Designation Map 82–1, in the Simi Valley area to be of regional significance. In general, these sectors are described as follows:

(1) Sector A—Hillside deposits located on Oak Ridge and the Simi Hills.

(2) Sector B—Hillside deposits located along a portion of Oak Ridge extending from Long Canyon eastward to the Ventura County line.

(3) Sector C—Hillside deposits located above Meir and Runkle Canyons in the Simi Hills.

These sectors contain sand and gravel deposits that provide a source of construction aggregate for the region's future needs.

Designation Map #82–1 and a report summarizing the designation findings of the State Mining and Geology Board, "Designation of Regionally Significant Construction Aggregate Resource Areas in the Western Ventura County and Simi Production–Consumption regions—March 1982," are on file at the Board's office in Sacramento.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2791, Public Resources Code.

HISTORY

1. New section filed 5–6–82; effective thirtieth day thereafter (Register 82, No. 19).

§ 3550.4. Santa Ana River, Santiago Creek, Arroyo Trabuco, San Juan Creek, and Temescal Valley Areas of the Orange County–Temescal Valley Region, Orange, Riverside, and San Bernardino Counties.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County–Temescal Valley and San Gabriel Valley Production–Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A—Instream deposits of the Santa Ana River beginning at Prado Dam and extending downstream for one and one–half miles.

Sector B—Instream deposits along the north side of the Santa Ana River beginning near Coal Canyon and extending downstream for approximately three miles.

Sector C—Instream deposits along the south side of the Santa Ana River from Horseshoe Bend downstream to the Weir Canyon Bridge.

Sector D—Offstream deposits located between Orangethorpe Avenue and La Palma Avenue in the northeastern part of Anaheim.

Sector E—Offstream deposits located near the intersection of Fee Ana Street and La Palma Avenue in Anaheim.

Sector F—Offstream deposits in the Warner Basin located near Jefferson Street and the Riverside Freeway in Anaheim.

Sector G—Offstream deposit located on the south side of the Santa Ana River near Lincoln Avenue in Anaheim.

Sector H—Hillside deposit located immediately east of Prado Dam in the Chino Hills.

Sector I—Hillside deposit located east of Gypsum Canyon in the Santa Ana Mountains.

Sector J—Instream deposit of Santiago Creek beginning near Villa Park Dam and extending downstream to approximately the Newport Freeway.

Sector K—A conglomerate deposit in upper Blind Canyon east of Villa Park Dam.

Sector L—Instream deposit located on Santiago Creek between Santiago Dam and Irvine Park.

Sector M—Instream deposit located under the Santiago Reservoir on Santiago Creek.

Sector N—Instream deposits of Santiago Creek beginning near Santiago Reservoir and extending upstream to the confluence of Williams Canyon, including a portion of Silverado Canyon.

Sector O—Offstream deposit located on the southeast side of Cota Street in Corona.

Sector P—Offstream deposits of Temescal Wash near the intersection of the Riverside Freeway and Interstate 15 near Corona.

Sector Q—Instream deposits located in Temescal Wash beginning near Magnolia Avenue and extending upstream to Cajalco Road.

Sector R—Instream deposits located in Temescal Wash beginning near the Olsen Canyon confluence and extending upstream to Lee Lake.

Sector S—Offstream deposits of the Coldwater Mayhew Fan near Glen Ivy Hot Springs.

Sector T—Instream deposits of San Juan Creek beginning near Casper Regional Park and extending downstream to approximately Ganado Road in San Juan Capistrano.

Sector U—Instream deposits of Arroyo Trabuco beginning one–half mile above Interstate 5 and extending approximately five miles upstream.

Sector V—Instream deposits of Arroyo Trabuco beginning at the Live Oak Canyon Road crossing and extending upstream for approximately two miles.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2791, Public Resources Code.

HISTORY

1. New section filed 8–24–83; effective thirtieth day thereafter (Register 83, No. 35).

§ 3550.5. San Gabriel River, Eaton Wash, Devils Gate, and Palos Verdes Areas of the San Gabriel Valley Region, Los Angeles County.

A set of maps identifying the exact locations of the designated areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Orange County–Temescal Valley and San Gabriel Valley Production–Consumption Regions," is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas have been designated as being of regional significance:

Sector A—Offstream and instream deposits of the San Gabriel River below Morris Dam near Azusa.

Sector B—Instream deposit consisting of the flood control channel of the San Gabriel River upstream of Foothill Boulevard near Azusa.

Sector C—Instream deposits in a portion of the Santa Fe Flood Control Basin and spillway channel near Irwindale.

Sector D—Offstream and instream deposits in the western portion of the San Gabriel River Fan near Baldwin Park and Arcadia.

Sector E—Offstream deposits in the eastern portion of the San Gabriel River Fan in Irwindale.

Sector F—Instream deposits of Eaton Wash located in the Eaton Wash Flood Control Basin.

Sector H—Instream deposits of Arroyo Seco in the Devils Gate Reservoir area.

Sector I—Hillside deposit in the Palos Verdes Hills on Narbonne Avenue in Bent Springs Canyon.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2791, Public Resources Code.

HISTORY

1. New section filed 8–24–83; effective thirtieth day thereafter (Register 83, No. 35).

§ 3550.6. Construction Aggregate Resources, Western San Diego County Region.

A set of maps identifying the exact locations of the designated resource areas, entitled "Regionally Significant Construction Aggregate Resource Areas in the Western San Diego County Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A—A granitic rock deposit located in eastern Oceanside, southwest of the intersection of Highway 78 and College Boulevard, near Buena Vista Creek Canyon.

Sector B—Channel and flood–plain deposits of the San Luis Rey River beginning near North River Road in Oceanside and extending upstream for approximately six miles.

Sector C—Channel and flood–plain deposits of the San Luis Rey River from near the Highway 78 bridge upstream to approximately the Interstate 15 bridge.

Sector D—Alluvial deposits of the upper San Luis Rey River, extending discontinuously from the Interstate 15 bridge upstream to the community of Rincon in Pauma Valley.

Sector E—A hillside alluvial fan deposit located northeast of the San Luis Rey River, extending from the community of Pala to Pauma Valley.

Sector F—An alluvial fan deposit located in upper Pauma Valley near the community of Rincon.

Sector H—A granitic rock deposit located in Twin Oaks Valley approximately three miles east of the City of Vista.

Sector I—An alluvial fan deposit extending eastward from Lake Hodges on the San Dieguito River to the upper end of San Pasqual Valley.

Sector J—A mesa–top conglomerate deposit consisting of 4 areas located in or near the communities of Rancho Bernardo, Rancho Penasquitos, Poway Mira Mesa, Tierra Santa, and Santee, and on the Miramar Naval Air Station.

Sector K—A metavolcanic rock deposit located in Mission Gorge on the San Diego River.

Sector M—Channel and flood–plain deposits of the upper San Diego River from Magnolia Avenue in the City of Santee to within one mile of El Capitan Dam.

Sector N—A channel deposit of the lower Sweetwater River located near the community of Sunnyside.

Sector O—A channel deposit of the Sweetwater River located at the upper end of Sweetwater Reservoir.

Sector P—A channel deposit of the Sweetwater River located in upper Jamacha Valley.

Sector Q—A channel deposit of the Sweetwater River that extends from near the Singing Hills Golf Course upstream for a distance of approximately four miles.

Sector R—Channel and adjacent mesa deposits of the Otay River extending from near Interstate 805 upstream to approximately the head of Otay Valley.

Sector S—A metavolcanic rock deposit on Rock Mountain located on the north side of upper Otay Valley.

Sector U—Flood–plain deposits of the Tijuana River extending from the international boundary downstream for a distance of approximately four miles.

Sector V—Conglomerate deposits located on the Border Highlands immediately south of the Tijuana River.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 3–19–85; effective thirtieth day thereafter (Register 85, No. 12).

[The next page is 439.]

§ 3550.7. Construction Aggregate Resources, Claremont–Upland Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Claremont–Upland Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–The annual recharge area upstream from the San Antonio Creek Flood Control Dam.

Sector B–Eight parcels south of San Antonio Creek Flood Control Dam in the unurbanized areas of the San Antonio Creek Fan, northeast of the City of Clarement. Sector B is roughly bounded by Foothill Boulevard on the south, San Antonio Avenue on the east, and Thompson Creek on the west.

Sector C–Four parcels in the proximal part of the Cucamonga Creek Fan, north of the City of Upland. The area is generally north of 19th Street, west of Carmelian Avenue, east of Euclid Avenue, and south of the San Bernadino National Forest.

Sector D–Three parcels covering parts of the Day Creek and Deer Creek Fans between the Cities of Cucamonga and Fontana. It is bounded by the San Gabriel Mountains on the north and Highland Avenue on the south.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.8. Construction Aggregate Resources, San Bernadino Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in San Bernadino Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–Eighteen parcels on the Lytle Creek Fan in and around the City of Fontana. The larger parcels of this sector are north of Fontana; several smaller parcels are scattered to the east and south of Fontana to the Santa Ana River.

Sector B–Thirteen parcels covering the unurbanized portions of Lytle Creek Wash from north of Freeway 15, west to the downtown area of the City of San Bernadino.

Sector C–Eight parcels along the Cajon Creek Wash from the bend in the wash south of Lost Lake, southward to the confluence of Cajon Creek and Lytle Creek.

Sector D–Five parcels in a generally oval–shaped area southeast of the City of Ontario. The area is generally bounded by Freeway 10 on the south, Marlay Avenue on the north, Haven Avenue on the west, and Etiwanda Avenue on the east.

Sector E–Fourteen parcels in and along the Santa Ana River from Freeway 395, south and west to the town of Rubidoux.

Sector F–Seventeen parcels along the upper Santa Ana River and Santa Ana Wash and areas along smaller drainages merging with the Santa Ana Wash, including Warm Creek, City Creek, and Mill Creek.

Sector G–Two parcels covering parts of the San Gorgonio River alluvial fan, east of the City of Banning. Sector G extends from the mouth of Banning Canyon, southeastward to the community of Cabazon.

Sector H–The alluviated area of the Rice Canyon drainage, about one mile south of Alberhill.

Sector I–The alluvial deposits in the lower part of McVickers Canyon and the alluvial fan near the mouth of McVickers Canyon. Sector I is a few miles northeast of Lake Elsinore.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.9. Construction Aggregate Resources, Saugus–Newhall and Palmdale Regions.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Saugus–Newhall and Palmdale Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–Portions of the Santa Clara River and its immediate flood plain extending from the Los Angeles County Line to Bee Canyon, parts of Castiac Creek, and Oak Spring Canyon.

Sector B–An area bounded by Bee Canyon on the northwest, the Santa Clara River to the south, and extending approximately one mile east of the Agua Dulce Canyon; and a triangle–shaped area with a boundary extending from the mouth of Pole Canyon west along an old railroad grade, south to Oak Spring Canyon then northeast back to the mouth of Pole Canyon.

Sector C–A triangular area beginning at the mouth of Pole Canyon, running southeast along the canyon to Oak Spring Canyon then southwest to Coyote Canyon, turning northeast to close the triangle back at the mouth of Pole Canyon.

Sector D–An area north of the California Aqueduct whose eastern boundary is along Little Rock Wash then turns west approximately one mile north of Boundary Avenue. The western boundary runs south near 47th Street and Fort–Tejon Road.

Sector E–An area of the Big Rock Wash bounded by the aqueduct on the south, North 165th Street on the east, Palmdale Boulevard on the north, and 116th Street on the west.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.10. Construction Aggregate Resources, South San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in South San Francisco Bay Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

Sector A–Aggregate deposit located in Amador Valley and Livermore Valley areas in the Cities of Pleasanton and Livermore in Alameda County.

Sector B–Alluvial deposit consisting of six parcels along Arroyo del Valle on the southwestern edge of Livermore in Alameda County.

Sector C–Alluvial deposit consisting of six parcels located along Arroyo Mucho on the eastern edge of Livermore in Alameda County.

Sector D–Greenstone deposit located on Apperson Ridge east of Sunol Valley in Alameda County.

Sector E–Alluvial deposit consisting of five parcels in Sunol Valley in southern Alameda County.

Sector H–Elongated sandstone deposit located on the foothills of the Cities of Fremont and Union City.

Sector I–Elongated series of parcels consisting of a sandstone deposit along the foothills east of the Cities of Fremont and Milpitas.

Sector J–Alluvial deposit located near Mowry Landing on the southern edge of Fremont in Alamada County.

Sector K–Alluvial deposit located west of Highway 17 on the southern edge of Fremont in Alameda County.

Sector L–Alluvial deposit consisting of three parcels located between the Nimitz Freeway, Alameda Creek, the Coyote Hills, and Jarvis Avenue in the northwestern portion of the City of Fremont in Alameda County.

Sector M–Located at the southern end of the Coyote Hills on the west side of Fremont in Alameda County.

Sector N–Greenstone deposit in the foothills east of the City of Hayward in Alameda County.

Sector O–Consists of greenstone and rhyolite located in the Berkeley Hills west of Lake Chabot in Alameda County.

Sector P–Consists of rhyolite located north of the Oak Knoll Naval Hospital in the Berkeley Hills.

Sector S–Mount Zion and a smaller adjacent hill in central Contra Costa County.

Sector T–Consists of basalt and andesite located at the south end of Gudde Ridge in the City of Moraga in southwestern Contra Costa County.

Sector U–Consists of basalt and andesite located on a small ridge southwest of the City of Orinda in Contra Costa County.

Sector V–Consists of basalt and andesite located on a small ridge southwest of the city of Orinda in Costa Contra County.

Sector W–Sandstone and shale deposit consisting of three parcels located on the west side of the City of Richmond in Contra Costa County.

Sector X–The Guadalupe Quarry property on the north side of Mount San Bruno adjacent to the City of Brisbane in San Mateo County.

Sector Y–Limestone and greenstone deposits located west of Pacifica near Rockway Beach in northern San Mateo County.

Sector Z–Greenstone deposit located in the Los Altos Hills in northwestern Santa Clara County.

Sector BB–Limestone deposit located west of the City of Cupertino on upper Permanente Creek in Santa Clara County.

Sector CC–Greenstone deposit located northwest of Stevens Creek Reservoir on the western edge of the City of Cupertino in Santa Clara County.

Sector DD–Conglomerate deposit located northwest of Stevens Creek Reservoir west of the City of Cupertino in Santa Clara County.

Sector EE–Located immediately northwest of the intersection of Capitol Expressway and Monterey Road (highway 82) on the City of San Jose in Santa Clara Cunty.

Sector GG–Sandstone deposit located approximately four miles south of Brentwood in eastern Contra Costa County.

Sector HH–Granitic rock deposit located northwest of the City of Half Moon Bay in western San Mateo County.

Sector II–Sandstone and siltstone deposit located in Limekiln Canyon east of Lexington Reservoir in southwestern Santa Clara County.

Sector LL–Sandstone deposit located in the foothills east of the City of Fremont in Alameda County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.11. Construction Aggregate Resources, North San Francisco Bay Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in North San Franciso Bay Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–Channel and floodplain alluvium deposits located in Alexander Valley of Sonoma County; extends from approximately the City of Cloverdale downstream to a point 3.25 miles southeast of the community of Jimtown.

Sector B–Alluvial deposits of the middle reach of the Russian River and a small portion of Dry Creek 0.5 miles west of Healdsburg. The sector extends from the City of Healdsburg down the Russian River to a point near the Wohler Road bridge.

Sector C–Alluvial deposits restricted to two small portions of Sonoma Creek. The first is about one l mile south of Sonoma State Hospital, and the second is about one mile south of Boyes Hot Springs.

Sector D–Consists of Novato Conglomerate deposits located near Black Point in eastern Marin County.

Sector E–A small basalt deposit located on Petaluma Hill near the southeastern edge of the City of Petaluma in Sonoma County.

Sector F–A small aggregate deposit located west of the City of Cotati on Stony Point Road in Sonoma County.

Sector G–Three contiguous parcels consisting of metamorphosed graywacke and greenstone deposits located east of the City of Vallejo at the southern end of Sulphur Springs Mountain.

Sector H–Aggregate deposit located southeast of the City of Napa in Napa County.

Sector I–Metamorphosed sandstone deposit located on Point San Pedro in eastern Marin County.

Sector J–A large block of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector K–Two areas east of Dunbar Union School and northeast of the community of Glen Ellen in Sonoma County.

Sector L–Small greenstone and pillow lavas deposits located in Millerton Gulch approximately 3.5 miles north of the community of Point Reyes Station in Marin County.

Sector M–A small serpentinite deposit located in upper Bowman Canyon on Burdell Mountain approximately three miles northwest of Novato in Marin County.

Section N–A small siltstone deposit located approximately one mile west of the community of Forestville and south of Highway 116.

Sector O–A small siltstone deposit located approximately one mile west of the community of Forestville and north of Highway 116.

Sector P–Located along the west side of Green Valley approximately three miles southwest of Forestville in Sonoma County.

Sector Q–Sandstone deposit located in Cheney Gulch approximately 2.5 miles east of Bodega Bay in western Sonoma County.

Sector R–Located approximately 2.5 miles southeast of the City of Petaluma in Sonoma County.

Sector S–Located approximately five miles west of Petaluma on Petaluma Creek Road in Sonoma County.

Sector T–Sandstone deposits located 1.5 miles north of Duncan Mills on Austin Creek in western Sonoma County.

Sector U–Located at the confluence of the South Fork and Wheatfield Fork of the Gualala River in northwestern Sonoma County.

Sector V–Consists of andesite located on Burdell Mountain approximately two miles north of the City of Novato in Marin County.

Sector W–Located on Porter Creek Road approximately four miles east of the community of Mark West Springs in eastern Sonoma County.

Sector X–Consists of sandstone and andesite located along Highway 121 approximately 2.5 miles north of Sears Point in southeastern Sonoma County.

Sector Y–Shale deposit located approximately 2.5 miles west of Healdsburg in Sonoma County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.12. Construction Aggregate Resources, Monterey Bay Region.

A set of maps identifying the exact locations of the designated resources areas entitled "Regionally Significant Construction Aggregate Resources Areas in Monterey Bay Production–Consumption Region" is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.*

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–Consists of quartz diorite located on Ben Lomond Mountain southwest of Felton in Santa Cruz County.

Sector B–Consists of sandstone deposit divided into three large non–contiguous parcels located east of Felton in Santa Cruz County.

Sector C–Sandstone deposit located near Wilder Ranch west of the City of Santa Cruz.

Sector D–Alluvial deposit located in a portion of Uvas Creek located west of Gilroy in southern Santa Clara County.

Sector E–Channel and floodplain deposits located in a long portion of the San Benito River extending from lower Tres Pinos Creek west to State Highway 101 in central San Benito County.

Sector F–Two elongated deposits located near the community of Aromas in western San Benito County, extending from State Highway 101 northwesterly to Pajaro Gap on Highway 129, a distance of approximately five miles.

Sector G–The Natividad Quarry located northeast of Salinas in Monterey County.

Sector H–Sand deposits in two separate but adjacent parcels located along the southern portion of Monterey Bay, north of the City of Marina.

Sector I–A large sand dune area located on the northern edge of the City of Marina in Monterey County.

Sector J–Quartz diorite located on Huckleberry Hill on the east side of the community of Pebble Beach in Monterey County.

Sector K–Stream channel and floodplain deposits consisting of a one mile long portion of the lower Carmel River in the Carmel Valley of Monterey County.

Sector L–Consists of quartz diorite and siltstone located on upper Soquel Creek on the east side of Sugarloaf Mountain in Santa Cruz County.

Sector M–Fluvial sand and gravel deposit located on Freedom Boulevard approximately seven miles northwest of Watsonville in southern Santa Cruz County.

Sector N–Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield, northeast of the Southern Pacific Railroad tracks.

Sector O–Located at the confluence of Chalone Creek with the Salinas River in southern Monterey County, approximately three miles southwest of the community of Greenfield.

Sector P–Stream channel and floodplain deposits of San Lorenzo Creek located in the foothills of the Gabilan Range in southern Monterey County, approximately six miles northwest of King City.

Sector U–Stream channel and floodplain deposits of Upper Pacheco Creek located near Bells Station in southeastern Santa Clara County.

*Copies of the maps incorporated by this section accompanied the text which was filed with Secretary of State on 12–3–86.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 12–3–86, effective thirtieth day thereafter (Register 86, No. 49).

§ 3550.13. Construction Aggregate Resources, Fresno Production–Consumption Region.

A set of maps identifying the exact locations of the designated resource areas entitled "Regionally Significant Construction Aggregate Resource Areas in the Fresno Production–Consumption Region," February 2000, is incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector K—Alluvial deposits of the Kings River between Avocado Lake on the northeast and the Southern Pacific Railroad tracks on the southwest.

Sector S—Portions of the San Joaquin River floodplain between Friant Dam and Highway 99.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2726, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 9–16–88; operative 10–16–88 (Register 88, No. 39).
2. Amendment of first paragraph filed 9–5–2000; operative 10–5–2000 (Register 2000, No. 36).

§ 3550.14. Construction Aggregate Resources, Stockton–Lodi Production–Construction Region.

A map identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Stockton–Lodi Production–Consumption Region, 1989," is incorporated by reference into this regulation. This map is available from the State Mining and Geology Board's office in Sacramento.

The construction aggregate deposits in the following areas are designated as being of regional significance:

Sector A–Aggregate deposits on the alluvial fan created by Corral Hollow Creek, situated south of the City of Tracy.

Sector B–Aggregate deposit on the alluvial fan created by Lone Tree Creek. Deposit extends from just west of Interstate 580 near the base of the Coast Range hills northwest to the alignment of Interstate 5.

Sector C–Aggregate deposit that consists of the alluvial fan formed by Hospital Creek. Deposit extends from west of Interstate 580 within the foothills of the Coast Range and east into the San Joaquin Valley.

Sector D–Sand deposit centered on the San Joaquin River near the intersection of Highway 120 and Interstate 5 west of the City of Manteca.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2762, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 6–29–89; operative 7–29–89 (Register 89, No. 27).

§ 3550.15. Construction Aggregate Resources, Palm Springs Production–Consumption Region.

Two maps identifying the exact locations of the designated resource areas entitled, "Regionally Significant Construction Aggregate Resource Areas in the Palm Springs Production–Consumption Region, 1989 (Designation Map no. 89–2, Plates 1 and 2)," are incorporated by reference into this regulation. These maps are available from the State Mining and Geology Board's office in Sacramento.

The aggregate deposits in the following areas are designated as being of regional significance:

Sector A–1—Aggregate deposits located adjacent to the southeast border of the community of Cabezon at the base of the San Jacinto Mountains.

Sector A–2—Aggregate deposits located between the Colorado River Aqueduct and the Morongo Indian Reservation.

Sector A–3—Aggregate deposits located directly south of Interstate 10 two miles east of the community of Cabazon.

Sector B–1—Aggregate deposit located at the mouth of the Whitewater Canyon north of Interstate 10.

Sector B–2—Aggregate deposit located immediately south of Interstate 10 at the intersection of Highway 62.

Sector B–3—Aggregate deposit located immediately south of Sector B–2 and east of the San Gorgonio Pass to Garnet Hill.

Sector B–4—Aggregate deposit located east of Indian Avenue and south of Garnet Hill.

Sector B–5—Aggregate deposit located adjacent to the northern border of Sector B–3 and the southern border of Interstate 10 near Garnet Hill.

Sector C—Aggregate deposit located in the Little Morongo Canyon approximately one mile north of the City of Desert Hot Springs.

Sector D—Aggregate deposit located in a small unnamed wash in the foothills of the community of Thousand Palms.

Sector E–1—Aggregate deposit located northeast of Dillon Road, approximately six miles northeast of the City of Indio.

Sector E–2—Aggregate deposit located approximately six miles northeast of the City of Indio.

Sector F—Aggregate deposit located approximately four miles northeast of the City of Indio.

Sector G—Aggregate deposit located approximately three miles north of the City of Indio.

Sector H–1—Aggregate deposit located approximately four miles east of the community of Thermal.

Sector H–2—Aggregate deposit located northeast of the Coachella Canal approximately three and a half miles east of the community of Thermal.

Sector H–3—Aggregate deposit located southwest of the Coachella Canal approximately three miles east of the community of Thermal.

NOTE: Authority cited: Section 2790, Public Resources Code. Reference: Sections 2762, 2761–2763 and 2790–2792, Public Resources Code.

HISTORY

1. New section filed 11–13–89; operative 12–13–89 (Register 89, No. 46).

Article 3. Policies and Criteria of the State Mining and Geology Board with Reference to the Alquist–Priolo Earthquake Fault Zoning Act

§ 3600. Purpose.

It is the purpose of this subchapter to set forth the policies and criteria of the State Mining and Geology Board, hereinafter referred to as the "Board," governing the exercise of city, county, and state agency responsibilities to prohibit the location of developments and structures for human occupancy across the trace of active faults in accordance with the provisions of Public Resources Code Section 2621 et seq. (Alquist–Priolo Earthquake Fault Zoning Act). The policies and criteria set forth herein shall be limited to potential hazards resulting from surface faulting or fault creep within earthquake fault zones delineated on maps officially issued by the State Geologist.

NOTE: Authority cited: Section 2621.5, Public Resources Code. Reference: Sections 2621–2630, Public Resources Code.

HISTORY

1. New Article 3 (Sections 3600–3602) filed 4–3–79; effective thirtieth day thereafter (Register 79, No. 14).
2. Amendment of NOTE filed 8–11–82; effective thirtieth day thereafter (Register 82, No. 33).
3. Amendment filed 10–18–84; effective thirtieth day thereafter (Register 84, No. 42).
4. Change without regulatory effect amending article heading and section filed 1–5–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 1).

§ 3601. Definitions.

The following definitions as used within the Act and herein shall apply:

(a) An "active fault" is a fault that has had surface displacement within Holocene time (about the last 11,000 years), hence constituting a potential hazard to structures that might be located across it.

(b) A "fault trace" is that line formed by the intersection of a fault and the earth's surface, and is the representation of a fault as depicted on a map, including maps of earthquake fault zones.

(c) A "lead agency" is the city or county with the authority to approve projects.

(d) "Earthquake fault zones" are areas delineated by the State Geologist, pursuant to the Alquist–Priolo Earthquake Fault Zoning Act (Public Resources Code Section 2621 et seq.) and this subchapter, which encompass the traces of active faults.

(e) A "structure for human occupancy" is any structure used or intended for supporting or sheltering any use or occupancy, which is expected to have a human occupancy rate of more than 2,000 person–hours per year.

(f) "Story" is that portion of a building included between the upper surface of any floor and the upper surface of the floor next above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. For the purpose of the Act and this subchapter, the number of stories in a building is equal to the number of distinct floor levels, provided that any levels that differ from each other by less than two feet shall be considered as one distinct level.

NOTE: Authority cited: Section 2621.5, Public Resources Code. Reference: Sections 2621–2630, Public Resources Code.

HISTORY

1. Editorial correction of subsection designations (Register 79, No. 14).
2. Amendment of NOTE filed 8–11–82; effective thirtieth day thereafter (Register 82, No. 33).
3. Amendment filed 10–18–84; effective thirtieth day thereafter (Register 84, No. 42).
4. Change without regulatory effect amending subsections (b) and (d) filed 1–5–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 1).

§ 3602. Review of Preliminary Maps.

(a) Within 45 days from the issuance of proposed new or revised preliminary earthquake fault zone map(s), cities and counties shall give notice of the Board's announcement of a ninety (90) day public comment period to property owners within the area of the proposed zone. The notice shall be by publication, or other means reasonably calculated to reach as many of the affected property owners as feasible. Cities and counties may also give notice to consultants who may conduct geologic studies in fault zones. The notice shall state that its purpose is to provide an opportunity for public comment including providing to the Board geologic information that may have a bearing on the proposed map(s).

(b) The Board shall also give notice by mail to those California Registered Geologists and California Registered Geophysicists on a list provided by the State Board of Registration for Geologists and Geophysicists. The notice shall indicate the affected jurisdictions and state that its purpose is to provide an opportunity to present written technical comments that may have a bearing on the proposed zone map(s) to the Board during a 90–day public comment period.

(c) The Board shall receive public comments during the 90–day public comment period. The Board shall conduct at least one public hearing on the proposed zone map(s) during the 90–day public comment period.

(d) Following the end of the 90–day public comment period, the Board shall forward its comments and recommendations, with supporting data received, to the State Geologist for consideration prior to the release of official earthquake fault zone map(s).

NOTE: Authority cited: Section 2621.5, Public Resources Code. Reference: Section 2622, Public Resources Code.

HISTORY

1. Amendment of NOTE filed 8–11–82; effective thirtieth day thereafter (Register 82, No. 33).
2. Amendment filed 10–18–84; effective thirtieth day thereafter (Register 84, No. 42).
3. New subsections (a) and (b), subsection relettering, and amendment of newly designated subsections (c) and (d) filed 4–1–97; operative 5–1–97 (Register 97, No. 14).

§ 3603. Specific Criteria.

The following specific criteria shall apply within earthquake fault zones and shall be used by affected lead agencies in complying with the provisions of the act.

(a) No structure for human occupancy, identified as a project under Section 2621.6 of the Act, shall be permitted to be placed across the trace of an active fault. Furthermore, as the area within fifty (50) feet of such active faults shall be presumed to be underlain by active branches of that fault unless proven otherwise by an appropriate geologic investigation and report prepared as specified in Section 3603(d) of this subchapter, no such structures shall be permitted in this area.

(b) Affected lead agencies, upon receipt of official earthquake fault zones maps, shall provide for disclosure of delineated earthquake fault zones to the public. Such disclosure may be by reference in general plans, specific plans, property maps, or other appropriate local maps.

(c) No change in use of character of occupancy, which results in the conversion of a building or structure from one not used for human occu-

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pancy to one that is so used, shall be permitted unless the building or structure complies with the provisions of the Act.

(d) Application for a development permit for any project within a delineated earthquake fault zone shall be accompanied by a geologic report prepared by a geologist registered in the State of California, which is directed to the problem of potential surface fault displacement through the project site, unless such report is waived pursuant to Section 2623 of the Act. The required report shall be based on a geologic investigation designed to identify the location, recency, and nature of faulting that may have affected the project site in the past and may affect the project site in the future. The report may be combined with other geological or geotechnical reports.

(e) A geologist registered in the State of California, within or retained by each lead agency, shall evaluate the geologic reports required herein and advise the lead agency.

(f) One (1) copy of all such geologic reports shall be filed with the State Geologist by the lead agency within thirty (30) days following the report's acceptance. The State Geologist shall place such reports on open file.

NOTE: Authority cited: Section 2621.5, Public Resources Code. Reference: Sections 2621.5, 2622, 2623 and 2625(c), Public Resources Code.

HISTORY

1. New section filed 10–18–84; effective thirtieth day thereafter (Register 84, No. 42).
2. Change without regulatory effect amending section and subsections (b) and (d) filed 1–5–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 1).

§ 3604. Selection of Professional Service Firms.

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Alquist–Priolo Earthquake Fault Zoning Act (Public Resources Code Sections 2621 et seq.).

(b) Selection by the department for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management, firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

NOTE: Authority cited: Section 2621.5, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3605. Definitions, As Used in These Regulations.

(a) "Small business" shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3606. Establishment of Criteria.

(a) The department shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the department according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Department employees with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the employee would be subject to the prohibition of Section 87100 of the Government Code.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3607. Estimate of Value of Services.

Before any discussion with any firm concerning fees, the department may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the department determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be re-evaluated and modified if necessary.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3608. Request for Proposals.

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the department shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The department shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the department concludes that small business firms could be especially qualified. A failure of the department to send a copy of an announcement to any firm shall not operate to preclude any contract.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4527, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3609. Selection of Firm.

After expiration of the period stated in the publications or other public announcements, the department shall evaluate statements of qualifications and performance data which have been submitted to the department. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the department shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the estab-

lished criteria, which are deemed to be the most highly qualified to provide the services required.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526–4527, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3610. Negotiation.

The department shall attempt to negotiate a contract with the most highly qualified firm. When the department is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3923 if those procedures were used, negotiations shall be terminated. The department shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The department shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the department be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3611. Amendments.

In instances where the department effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3612. Contracting in Phases.

Should the department determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the department shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the department, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3613. Department's Power to Require Bids.

Where the department determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4529, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

§ 3614. Exclusions.

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–24–2000; operative 11–23–2000 (Register 2000, No. 43).

Article 4. Designation Appeal Procedures

§ 3625. Purpose of Regulations.

The regulations contained in this article govern procedures affecting appeals to the Board on the approval or denial of a permit to conduct surface mining operations by a city or county, hereinafter referred to as the "lead agency," in an area designated as containing mineral deposits of statewide or regional significance pursuant to the provisions of Section 2775, Public Resources Code (PRC 2775).

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3626. Filing of Intent to Appeal.

(a) Any person filing an appeal to the Board pursuant to PRC 2775 shall, within 15 days of exhausting his or her rights to appeal in accordance with the procedures of the lead agency, file an intent to appeal by submitting the following information. Failure to submit all the required, completed documents to the Board within the 15 days filing period will result in an incomplete filing of intent and an automatic rejection of the appeal.

(1) A map indicating the exact location of the disputed area, including township and range, and corresponding to the designation map prepared for the region;

(2) Written statements with supporting documentation indicating the basis for the appellant's challenge to the decision by the lead agency either to approve or deny a permit to mine in an area designated as being of statewide or regional significance.

(3) Copy of notice to the lead agency that the appellant has filed an intent to appeal to the Board.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).
2. Amendment of subsection (a) filed 9–19–2002; operative 10–19–2002 (Register 2002, No. 38).

§ 3627. Determination of Jurisdiction.

The Chairman of the Mining and Geology Board, or the Chairman's designee, based upon the information submitted pursuant Section 3626 of this article, shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises substantial issues with respect to the action taken to approve or deny the permit to conduct surface mining operations by the lead agency. The Chairman of the Board, or the Chairman's designee, shall make such determination within 15 days of receipt of the information required by Section 3626 of this article, and shall notify the appellant and the lead agency of the determination by certified mail.

If the Chairman finds, based upon the criteria stated in (a), (b) or (c) below, that the appeal raises no substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct surface mining operations in a designated area, he or she shall refuse to grant a hearing on an appeal. In making this determination, the Chairman, or the Chairman's designee, shall consider the following:

(a) Whether the appeal raises any issues which legally can be addressed by the Board within the limits of the Public Resources Code and the rules of the Board; and

(b) Whether the appeal specifically relates to the approval or denial of a permit to conduct surface mining operations in an area designated by the Board as being of statewide or regional significance.

(c) Whether the appeal is that of a lead agency's reconsideration of an appeal previously remanded by the board to that lead agency, and the appellant's challenge raises no new substantial issues with respect to the action taken by the lead agency to approve or deny the permit to conduct surface mining operations.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

2. Amendment filed 9–19–2002; operative 10–19–2002 (Register 2002, No. 38).

§ 3628. Administrative Record.

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit to the board within 30 days of receipt of notification three certified copies for the complete administrative record, which shall include, but not be limited to, all of the following information.

(1) Project application and complete, detailed description of the proposed project, including conditions added for mitigation of environmental impacts;

(2) Location and site description maps submitted to the lead agency as part of the application process;

(3) All reports, findings, communications, correspondence, and statements in the file of the lead agency relating to the project; and

(4) Written transcripts of all public hearings related to the decision of the lead agency.

(b) In cases where the appellant is faced with more than 30 days delay in gathering the administrative record because of internal procedures of the lead agency, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(c) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days shall be deemed grounds to remand the appeal to the lead agency for reconsideration.

NOTE: Authority cited: Section 2772, 2773, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

2. Amendment filed 9–19–2002; operative 10–19–2002 (Register 2002, No. 38).

§ 3629. Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 30 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. In no case shall the hearing be scheduled beyond 180 days of the receipt of the complete administrative record without the concurrence of the Board, the appellant, and the project proponent (when not the same person as the appellant). The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3630. Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3634 of these regulations.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3631. Hearing Procedures—Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency, the appellant, and the project proponent (when not the same person as the appellant);

(2) Mailing the notice to any person who requests notice of the appal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily posted in the city or county jurisdiction within which the proposed surface mining operations are to take place.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed surface mining operation, a brief description of the location of the operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement that the appellant has appealed the lead agency's decision to approve or deny the project and has requested the Board hear the appeal;

(4) A statement inviting the appellant, the lead agency, the project proponent (when not the same person as the appellant), and the public to make statements at the hearing regarding the decision of the lead agency; and

(5) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3632. Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3626 and 3628 of this article.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY

1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3633. Hearing Procedures—Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the project proponent (when not the same person as the appellant);

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the appellant; and

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded either electronically or by other convenient means.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY
1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

§ 3634. Hearing Procedures—Determination.

Following the public hearing, the Board shall determine whether, upon the record before it, the lead agency decision was made based on substantial evidence in light of the whole record. Notification of the Board's determination shall be made by certified mail to the appellant, the lead agency, and the project proponent (when not the same person as the appellant) within 15 days following the regular business meeting of the Board at which the decision is made.

NOTE: Authority cited: Section 2775, Public Resources Code. Reference: Section 2775, Public Resources Code.

HISTORY
1. New section filed 7–6–88; operative 8–5–88 (Register 88, No. 30).

Article 5. Reclamation Plan Appeals

§ 3650. Filing of Intent to Appeal.

Any person filing an appeal to the Board pursuant to PRC 2770 shall, within 15 days of exhausting his or her rights to appeal in accordance with the procedures of the lead agency, file an intent to appeal by submitting the following information. Failure to submit all the required, completed documents to the board within the 15 days filing period will result in an incomplete filing of intent and an automatic rejection of the appeal.

(a) A map indicating the exact location of the surface mining operation, including township and range.

(b) A copy of all documents which together were proposed to serve as the reclamation plan and which were submitted to the lead agency for review and approval pursuant to PRC 2770.

(c) Written statements with supporting documentation indicating the basis for the appellant's challenge of:

(1) the lead agency's action to deny approval of the reclamation plan submitted pursuant to PRC 2770; or

(2) the lead agency's failure to act according to due process; or

(3) the lead agency's failure to act within a reasonable period of time of submittal of a completed application.

(A) failure to act means a lead agency's inaction in processing the reclamation plan through its successive steps as provided for in the lead agency's surface mining and reclamation ordinance adopted pursuant to PRC Section 2774, and as provided for in PRC Section 2774(c).

(B) reasonable time means the time period specified in the lead agency's surface mining and reclamation ordinance, or that which is mutually agreed upon by the applicant and the lead agency. Where no times are specified in the lead agency's ordinance, then the interval between successive review steps shall not exceed 60 days.

(d) Copy of notice to the lead agency that the appellant intends to file an appeal to the Board.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Section 2770(c)–(e), Public Resources Code.

HISTORY
1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Amendment of first paragraph and new subsections (c)(3)(A)–(B) filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3651. Determination of Jurisdiction.

The Chairman of the Mining and Geology Board, or the Chairman's designee (Board Member), shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises substantial issues related to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770. If the Chairman finds, based upon the criteria stated in (a) plus (b) below, that the appeal raises no substantial issues with respect to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770, he or she shall refuse to grant a hearing on the appeal. In making these determinations, the Chairman shall consider the following:

(a) Whether the appeal raises any issues which can legally be addressed by the Board within the limits of PRC 2770(e) and the rules of the Board; and

(b) Whether the appeal specifically relates to the lead agency's review of reclamation plans submitted for surface mining operations pursuant to the provisions of PRC 2770.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Section 2770(c)–(e), Public Resources Code.

HISTORY
1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Change without regulatory effect amending first paragraph and subsection (a) filed 5–1–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 18).
3. Change without regulatory effect amending first paragraph and subsection (b) filed 8–9–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 32).

§ 3652. Administrative Record.

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit to the board within 30 days of receipt of notification three certified copies of the complete administrative record, which shall include, but not be limited to, all of the following information:

(1) All documents which together are proposed to serve as the reclamation plan and which were submitted to the lead agency for review and approval pursuant to PRC 2770;

(2) Location and site description maps submitted to the lead agency as part of the reclamation plan application;

(3) Environmental documentation prepared pursuant to the provisions of the California Environmental Quality Act (CEQA), PRC Sections 21000 et seq., including conditions added for mitigation of environmental impacts, if any;

(4) A copy of the lead agency surface mining and reclamation ordinance under which the reclamation plan may have been judged pursuant to PRC 2770;

(5) All reports, findings, communications, correspondence, and statements in the file of the lead agency relating to the proposed reclamation plan; and

(6) Written transcripts of all public hearings related to the lead agency review for approval of the reclamation plan pursuant to PRC Section 2770.

(b) Should the lead agency choose not to complete an environmental review of the project pursuant to the provisions of CEQA, or should the Board deem such review inadequate under the provisions of CEQA, the record will not be considered complete until an adequate CEQA review is completed.

(1) In those instances in which the Board is the CEQA lead agency, the Board shall be responsible for the preparation of new or supplemental environmental documents.

(2) Pursuant to PRC Section 15045, the project proponent shall bear any costs relating to preparation and completion of any required environmental documents.

(c) Failure of the appellant to request in writing the administrative record from the lead agency within 10 days of receiving notification of the Board's acceptance of the appeal may be deemed grounds for dismissal of the appeal.

(d) If the appellant is unable to obtain the administrative record from the lead agency within 15 days, the appellant shall so notify the Board in writing and the Board may require the lead agency to immediately submit three copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(e) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days shall be deemed grounds for Board action based on information provided solely by the appellant.

(f) Following production of the administrative record by the lead agency, failure of the appellant to produce the administrative record upon

the request of the Board within 10 days may be deemed grounds for dismissal of the appeal.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e) and 21000 et seq., Public Resources Code; and Section 15000 et seq., California Code of Regulations.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Amendment filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3653. Technical Review for Adequacy of Reclamation Plan.

(a) The Board may consult with the technical staff of the Department of Conservation for determination of the adequacy of reclamation plans prepared for surface mining operations that are appealed to the Board. Preliminary determination of technical adequacy shall be based on, but shall not be limited to, the following:

(1) Substantial compliance with the requirements of PRC Sections 2772 and 2773;

(2) Substantial compliance with the requirements of Board rules and regulations (14 CCR Sections 3500 et seq. and Sections 3700 et seq.);

(3) Substantial compliance with the reclamation provisions of the lead agency surface mining and reclamation ordinance as certified by the Board pursuant to the provisions of PRC 2774; and

(4) Whether the proposed reclamation plan is technically feasible given the scope of the mining operations.

(b) The determination of whether substantial compliance with PRC Sections 2772 and 2773, 14 CCR Sections 3500 et seq. and Sections 3700 et seq., and the Board–certified lead agency surface mining and reclamation ordinance have been met shall be based on whether all elements of these provisions that are necessary to ensure viable, planned reclamation of a particular site are included and are technically feasible so as to satisfy the objectives of the Surface Mining and Reclamation Act. For example, a description of revegetation efforts might not be necessary for a pit to be used as a landfill, just as a description of final slope angles may not be necessary for a gravel bar skimming operation. In other sites, however, such information may be critical. In all cases, a site visit by the technical staff of the Department of Conservation shall be made before substantial compliance is determined.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e) and 2774, Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Change without regulatory effect amending subsections (a), (a)(2) and (b) filed 5–1–96 pursuant to section 100, title 1, California Code of Regulations (Register 96, No. 18).
3. Amendment of subsections (a), (a)(2) and (b) filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3654. Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 45 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board. The Board shall endeavor to schedule such public hearings in the jurisdiction from which the appeal originated, but may otherwise schedule such appeals to be heard in Sacramento.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e), Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).

§ 3655. Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two members of the Board to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the Board at a regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3659 of these regulations.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e), Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Amendment filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3656. Hearing Procedures—Notice.

(a) At least 10 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency and to the appellant;

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Identification of the proposed reclamation plan, a brief description of the location of the surface mining operation for which the reclamation plan was prepared by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement that the appellant has appealed the lead agency's decision to deny approval of the reclamation plan, or that the lead agency is being challenged based on failure to act according to due process, or that the lead agency is being challenged based on failure to act within a reasonable period of time;

(4) A statement explaining that the Board may approve or deny approval of the reclamation plan, and that if the reclamation plan is denied approval, it shall be returned to the operator who then must revise it and resubmit the revised plan to the lead agency within 30 days of receipt from the Board;

(5) A statement inviting the appellant, the lead agency, and the public to make statements at the hearing regarding the action (or inaction) of the lead agency; and

(6) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e), Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Amendment of subsection (a) filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3657. Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3650 and 3652 of this article, together with any findings from the technical review pursuant to Section 3653 of this article, and any CEQA documents prepared pursuant to Section 3652 of this article.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e) and 2774, Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).

§ 3658. Hearing Procedures—Sequence.

(a) The public hearing shall normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the appellant; and

(6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presenta-

tions and accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the Board at least five days prior to the hearing.

(d) The public hearing shall be recorded.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e), Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).
2. Amendment of subsection (c) filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3659. Hearing Procedures—Determination.

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed reclamation plan substantially meets the requirements of PRC 2772 and 2773 and the lead agency surface mining and reclamation ordinance, and the provisions of Section 3654 of this article. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision is made. In cases where the reclamation plan is not approved, deficiencies shall be noted in the correspondence notifying the appellant and the lead agency of the Board's decision, and the operator shall be put on notice that deficiencies must be corrected and a revised reclamation plan filed with the lead agency within 30 days.

NOTE: Authority cited: Section 2770, Public Resources Code. Reference: Sections 2770(c)–(e), 2772, 2773 and 2774, Public Resources Code.

HISTORY

1. New section filed 1–3–89; operative 2–2–89 (Register 89, No. 2).

Article 6. Mineral Resource Management Policies

§ 3675. Definitions.

The following definitions as used herein shall govern the interpretation of these regulations:

Compatible Land Use. Land uses inherently compatible with mining and/or that require a minimum public or private investment in structures, land improvements, and which may allow mining because of the relative economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, very low density residential, geographically extensive but low impact industrial, recreational, agricultural, silvicultural, grazing, and open space.

Incompatible Land Use. Land uses inherently incompatible with mining and/or that require public or private investment in structures, land improvements, and landscaping and that may prevent mining because of the greater economic value of the land and its improvements. Examples of such uses may include, but shall not be limited to, high density residential, low density residential with high unit value, public facilities, geographically limited but impact intensive industrial, and commercial.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2761–2762, Public Resources Code.

HISTORY

1. New section filed 10–12–88; operative 11–11–88 (Register 88, No. 42).

§ 3676. Mineral Resource Management Policies.

Lead agency mineral resource management policies adopted pursuant to the provisions of PRC Section 2762 shall include but not be limited to, the following:

(a) A summary of the information provided by the classification and/or designation reports, or incorporation of PRC Sections 2710 et seq., and state policy by reference, together with maps of the identified mineral deposits or incorporation by reference of the classification and/or designation maps provided by the Board.

(b) Statements of policy in accordance with the provisions of PRC Section 2762(a).

(c) Implementation measures that shall include:

(1) Reference in the general plan of the location of identified mineral deposits, and a discussion of those areas targeted for conservation and possible future extraction by the lead agency.

(2) Use of overlay maps or inclusion of information on any appropriate planning maps to clearly delineate identified mineral deposits and those areas targeted by the lead agency for conservation and possible future extraction.

(3) At least one of the following:

(A) Use of special purpose overlay zones, mineral resource/open space zoning, or any other appropriate zoning that identifies the presence of identified mineral deposits and restricts the encroachment of incompatible land uses in those areas that are to be conserved.

(B) Record, on property titles in the affected mineral resource areas, a notice identifying the presence of identified mineral deposits.

(C) Impose conditions upon incompatible land uses in and surrounding areas containing identified mineral deposits for the purpose of mitigating the significant land use conflicts prior to approving a use that would otherwise be incompatible with mineral extraction.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2757 and 2761–63, Public Resources Code.

HISTORY

1. New section filed 10–12–88; operative 11–11–88 (Register 88, No. 42)

Article 7. Financial Assurances Appeal Procedures

§ 3680. Purpose of Regulations.

The regulations contained in this article govern procedures for appeals to the State Mining and Geology Board ("the Board") concerning financial assurances for reclamation of existing surface mining operations under section 2770 of the Public Resources Code.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3681. Filing of Intent to Appeal.

Any person filing an appeal to the Board pursuant to section 2770 of the Public Resources Code concerning financial assurances for reclamation shall, within 15 days of exhausting his or her right to appeal in accordance with the procedures of the lead agency, file a notice of intent to appeal by submitting the following information:

(1) A map indicating the exact location of the surface mining operation, including township and range.

(2) A copy of all documents which together comprise the financial assurances for reclamation which are the subject of the appeal.

(3) Written statements, with supporting documentation, indicating the basis for the appellant's challenge of the action or inaction by the lead agency concerning financial assurances for reclamation.

(4) Copy of the notice to the lead agency that the appellant intends to file an appeal with the Board.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3682. Determination of Jurisdiction.

The Chairman of the Board, or the Chairman's designee (Board Member), shall determine whether the appeal is within the jurisdiction of the Board for purposes of hearing the appeal, and determine whether the appellant's challenge raises any substantial issues related to the review by the lead agency of financial assurances for reclamation for existing surface mining operations pursuant to Public Resources Code section 2770. If the Chairman finds, based on the criteria stated in (a) through (c) below, that the appeal raises no substantial issues with respect to the review by the lead agency of financial assurances for existing surface mining opera-

tions under Public Resources Code section 2770, he or she shall refuse to grant a hearing on the appeal. In making this determination, the Chairman shall consider the following:

(a) Whether the appeal raises any issues which legally can be addressed by the Board within the limits of Public Resources Code section 2770 and the rules of the Board;

(b) Whether the appeal specifically relates to the lead agency's review of financial assurances submitted for existing surface mining operations pursuant to the provisions of Public Resources Code section 2770; and

(c) Whether the appellant exhausted his or her appeal remedies before the lead agency.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3683. Limit on Number of Filings of Appeal.

Upon a finding by the Chairman, or the Chairman's designee (Board Member), that the appeal is not within the jurisdiction of the Board, the appellant may refile the notice of intent to appeal, once only, with the identified information needed to complete the appeal, within 21 days of receipt of the letter of denial of the original notice of intent to appeal.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3684. Administrative Record.

(a) Once the appellant has been notified that a determination has been made that an appeal is within the jurisdiction of the Board for purposes of hearing the appeal, the appellant shall submit three certified copies of the complete administrative record, which shall include, but shall not be limited to, all of the following information:

(1) A copy of the approved reclamation plan for the mining operation and any permit conditions or California Environmental Quality Act mitigations which pertain to reclamation for which the financial assurances for reclamation are proposed;

(2) A copy of the documents comprising the financial assurances or the proposed financial assurances for reclamation which were submitted to the lead agency for review and approval pursuant to Public Resources Code section 2770;

(3) Location and site description maps submitted to the lead agency as part of the reclamation plan;

(4) A detailed estimate of the cost of the reclamation, in accordance with the approved reclamation plan, of the lands remaining disturbed and/or to be disturbed by the surface mining operation in the applicable twelve (12) month period, together with a map clearly delineating the boundaries of those lands;

(5) All reports, findings, communications, correspondence and statements in the file of the lead agency relating to the financial assurances in question;

(6) Written transcripts of all public hearings related to the lead agency's review of the financial assurances.

(b) Failure of the appellant to request the administrative record from the lead agency within 21 days of receiving the notice stating the Board's acceptance of the appeal, may be deemed grounds for dismissal of the appeal.

(c) If the appellant is unable to obtain the administrative record from the lead agency within 10 working days after submission of the request for the record, the appellant shall so notify the Board in writing. The Board may then require the lead agency to immediately submit three certified copies of the administrative record to the Board for purposes of hearing the appeal without undue delay.

(d) Failure of the lead agency to produce the administrative record upon request of the Board within 30 days may be deemed grounds for Board action based on information provided solely by the appellant.

(e) Following production of the administrative record by the lead agency, failure of the appellant to produce the administrative record upon the request of the Board within 21 days may be deemed grounds for dismissal of the appeal.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3685. Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on an appeal no later than 45 days from the filing of the complete administrative record, or at such time as may be mutually agreed upon by the Board and the appellant. The hearing may be scheduled as part of a regular business meeting of the Board or may be conducted by a committee of the Board.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3686. Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee of at least two Board members to be appointed for that hearing by the Chairman of the Board. The Chairman of the Board or the Chairman's designee (Board Member) shall conduct the hearing; the recommendations of the committee shall be presented to a quorum of the board at a regular business meeting for a decision of the full Board consistent with the procedures set forth in section 3690 of these regulations.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3687. Hearing Procedures—Notice.

(a) At least 10 working days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing the notice to the lead agency and to the appellant;

(2) Mailing the notice to any person who requests notice of the appeal or hearing;

(3) Mailing the notice to the Board's regular mailing list; and

(4) Posting of the notice in a place where notices are customarily placed within the jurisdiction of the lead agency.

(b) The notice of hearing shall include the following:

(1) The name of the appellant;

(2) Description of the financial assurances for reclamation, identification of the surface mining operation for which the financial assurances for reclamation were provided, a brief description of the location of the surface mining operation by reference to any commonly known landmarks in the area, and a simple location map indicating the general location of the operation;

(3) A statement of the grounds for the appeal;

(4) A statement that the Board may approve or deny approval of the financial assurances for reclamation;

(5) A statement that if the Board denies approval of the financial assurances, they shall be returned to the mine operator who shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the Board, to correct the noted deficiencies and submit the revised financial assurances to the lead agency for review and approval;

(6) A statement inviting the appellant, the lead agency, and the public to provide testimony and evidence at the hearing regarding the action or inaction of the lead agency; and

(7) The time, date, and location of the public hearing.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3688. Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to sections 3681 and 3684 of this article.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3689. Hearing Procedures — Sequence.

(a) The public hearing shall normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the appellant;

(3) Statements on behalf of the lead agency;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the appellant; and

(6) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee (Board Member) for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee (Board Member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Written statements shall be submitted to the Board at least ten days prior to the hearing.

(d) The public hearing shall be recorded.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Section 2770, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

§ 3690. Hearing Procedures—Determination.

Following the public hearing, the Board shall determine whether, based on the record before it, the proposed or existing financial assurances for reclamation substantially meet the applicable requirements of Public Resources Code sections 2770, 2773.1., and the lead agency surface mining ordinance adopted pursuant to subdivision (a) of section 2774. Financial assurances determined to meet these requirements shall be approved. Notification of the Board's determination shall be made by certified mail to the appellant and the lead agency within 15 days following the regular business meeting of the Board at which the decision was made. In cases where the financial assurances for reclamation are not approved, deficiencies shall be noted in the correspondence notifying the appellant and the lead agency of the Board's decision. The appellant shall be granted, once only, a period of 30 days, or a longer period mutually agreed upon by the operator and the Board, to correct the noted deficiencies and submit the revised financial assurances for reclamation to the lead agency for review and approval.

NOTE: Authority cited: Sections 2755 and 2770, Public Resources Code. Reference: Sections 2770 and 2774, Public Resources Code.

HISTORY

1. New section filed 12–12–91; operative 12–12–91 pursuant to Government Code section 11346.2(d) (Register 92, No. 9).

Article 8. Fees Schedule

§ 3695. Definitions.

The following definitions shall govern the interpretation of these regulations:

"Produced Minerals" means minerals extracted at the site of the mining operation, and either:

(a) sold, given or otherwise moved off the site of the operation, as defined in the approved reclamation plan, or;

(b) used on-site for production of completed products (e.g. cement, bricks, asphaltic concrete, etc.),

Stockpiles of mineral products that remain on the site, as defined in the lead agency approved reclamation plan, are not produced minerals for purposes of these regulations.

"Primary Mineral Commodity Produced" means the produced mineral that provides the highest dollar values sales for the operation.

"Board" means State Mining and Geology Board.

As used in Section 3697 and 3699 "Mining Company" means any entity, corporation, partnership, parent or holding company. Any subsidiaries of the above are deemed to be part of the mining company.

As used in section 3699, "Gross Income" means all income from whatever source derived as defined by, and determined in accordance with, Section 61 of the Internal Revenue Code, Title 26, U.S.C.S.

"Aggregate Products" means decomposed granite, sand and gravel, slag, or stone.

"Industrial Minerals" means borates, cinders, clay, diatomite, dolomite, gypsum, iron ore, lime, limestone, perlite, pumice, rare earth elements, saline compounds, salt, shale, silica, specialty sand, abrasives, asbestos, barite, bituminous rock, decorative rock, dimension stone, feldspar, fluorite, gemstones, graphite, kyanite, lignite, lithium, magnesite, mica, olivine, peat, phosphate, potash, pyrophyllite, quartz crystal, sea shells, sericite, sulfur, talc, vermiculite, wollastonite, zeolites, and zircon.

"Gold, Silver, and Precious Metals" means gold (lode), gold (placer), platinum group metals, and silver.

"Base Metals and Other Metals" means antimony, arsenic, chromite, copper, lead, manganese, mercury, molybdenum, nickel, pyrite, tin, titanium, tungsten, uranium, vanadium, and zinc.

NOTE: Authority cited: Sections 2207(d)(1)–(2), Public Resources Code. Reference: Sections 2207(d)(1)–(2) and 2207(f), Public Resources Code.

HISTORY

1. Renumbering of former section 3695 to section 3696, and new section filed 4–22–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–18–92 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 4–22–92 order transmitted to OAL 8–28–92 and filed 10–13–92 (Register 92, No. 42).
3. Amendment adding Gross income filed 4–30–93 as an emergency; operative 4–30–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.

[The next page is 446.3.]

4. Certificate of Compliance as to 4–30–93 order transmitted to OAL 8–10–93 and filed 9–22–93 (Register 93, No. 39).
5. New definitions "Board" and "Mining Company" and amendment of NOTE filed 4–28–94 as an emergency; operative 5–1–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–29–94 order transmitted to OAL 8–26–94 and filed 10–6–94 (Register 94, No. 40).
7. Amendment filed 4–20–95 as an emergency; operative 5–1–95 (Register 95, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–95 or emergency language will be repealed by operation of law on the following day.

§ 3696. Operations Subject to Fees.

(a) Each surface mining operation, as defined in Public Resources Code Sections 2719, 2727.1, 2735, and California Code of Regulations, Title 14, Section 3501, unless exempted by Public Resources Code Section 2714, shall be assessed an annual reporting fee according to the schedule established pursuant to in Section 3698 each May 1 following the reporting calendar year.

(b) In addition to the annual reporting fee, each surface mining operation that is newly permitted shall be assessed an initial reporting fee according to the schedule in Section 3698 of this article.

NOTE: Authority cited: Section 2207, Public Resources Code. Reference: Sections 2207 and 2719, Public Resources Code.

HISTORY

1. New section filed 4–17–91 as an emergency; operative 5–1–91 (Register 91, No. 19). A Certificate of Compliance must be transmitted to OAL by 8–29–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 1–9–92; operative 1–9–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 12).
3. Renumbering of former section 3695 to section 3696 filed 4–22–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–18–92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–22–92 order transmitted to OAL 8–28–92 and filed 10–13–92 (Register 92, No. 42).
5. Amendment of section and NOTE filed 4–30–93 as an emergency; operative 4–30–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–30–93 order transmitted to OAL 8–10–93 and filed 9–22–93 (Register 93, No. 39).
7. Amendment of section and NOTE filed 4–28–94 as an emergency; operative 5–1–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4–29–94 order transmitted to OAL 8–26–94 and filed 10–6–94 (Register 94, No. 40).
9. Amendment filed 4–20–95 as an emergency; operative 5–1–95 (Register 95, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–95 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 5–1–95 order transmitted to OAL 8–2–95 and filed 9–8–95 (Register 95, No. 36).
11. Amendment filed 4–9–96 as an emergency; operative 5–1–96 (Register 96, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–8–96 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 4–9–96 order transmitted to OAL 7–26–96 and filed 8–21–96 (Register 96, No. 34).
13. Amendment of subsection (b) and NOTE filed 4–21–97 as an emergency; operative 5–1–97 pursuant to Government Code section 11343.4(c). A Certificate of Compliance must be transmitted to OAL by 8–29–97 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 4–21–97 order, including further amendments, transmitted to OAL 5–30–97 and filed 7–11–97 (Register 97, No. 28).

§ 3696.5. Board Administration Fee.

Each surface mining operation, as defined in Public Resources Code sections 2719, 2727.1, and 2735, and, Title 14 California Code of Regulations, Section 3501, unless exempted by Public Resources Code Section 2714, shall be assessed each January 31 an annual administration fee of $14 (fourteen dollars) per day for each day of the previous calendar year that the surface mine operation was under the board's jurisdiction as lead agency pursuant to Chapter 9, commencing with Section 2710. The administration fee is due and payable to the State Mining and Geology Board not later than April 1 each year by the surface mine's owner or operator of record on the preceding December 31.

NOTE: Authority cited: Sections 2207 and 2755, Public Resources Code. Reference: Section 2207, Public Resources Code.

HISTORY

1. New section filed 11–8–2004; operative 12–8–2004 (Register 2004, No. 46).
2. Amendment filed 6–20–2007; operative 7–20–2007 (Register 2007, No. 25).

§ 3697. Fees Due and Delinquent.

(a) The annual reporting fee and Mining Operation Annual Report (MRRC–2) are due and payable to the Department of Conservation not later than July 1 for the prior reporting year, by the owner or operator of record on the preceding December 31. The initial reporting fee for a new surface mining operation, together with an initial report, are due and payable to the Department of Conservation not later than thirty (30) days after permit approval. An owner or operator of a surface mining operation submitting an annual reporting fee or annual report after July 1, or more than thirty (30) days after permit approval, shall be assessed a penalty fee and interest as provided in Public Resources Code Section 2207(c) and (d)(5).

(b) Except as otherwise provided in (c), for the purposes of this article, surface mining operations are deemed to be discrete operations per each reclamation plan required.

(c) Multiple site surface mining operations are deemed to be those active surface mining operations which meet all of the following criteria:

(1) one or more surface mining operations are operated on one or more sites by a single operator or mining company;

(2) the total annual combined mineral production for all sites is less than 100 troy ounces for precious metals, if precious metals are the primary mineral commodity produced, or less than 100,000 short tons if the primary mineral commodity product is not precious metals;

(3) all of the sites included are active;

(4) all of the operator or company's entire active surface mining operations located in the State of California are tied to, or located on, the listed sites; and

(d) In addition to the criteria provided in (c), multiple site mining operator's submittal of the annual report form (Mining Operation Annual Report, Form MRRC–2) shall be accompanied by a multiple site form (Multiple Site Single Fee Request, Form MRRC–4M) supplied by the Department of Conservation.

NOTE: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

HISTORY

1. New section filed 4–17–91 as an emergency; operative 5–1–91 (Register 91, No. 19). A Certificate of Compliance must be transmitted to OAL by 8–29–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 1–9–92; operative 1–9–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 12).
3. Repealer of former section 3697 and renumbering and amendment of section 3696 to section 3697 filed 4–22–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–18–92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–22–92 order including amendment of section transmitted to OAL 8–28–92 and filed 10–13–92 (Register 92, No. 42).
5. Amendment filed 4–30–93 as an emergency; operative 4–30–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–30–93 order transmitted to OAL 8–10–93 and filed 9–22–93 (Register 93, No. 39).
7. Amendment of section and NOTE filed 4–28–94 as an emergency; operative 5–1–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4–29–94 order transmitted to OAL 8–26–94 and filed 10–6–94 (Register 94, No. 40).
9. Amendment of subsections (a) and (d) filed 4–20–95 as an emergency; operative 5–1–95 (Register 95, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–95 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 5–1–95 order including amendment of subsections (a), (c)(2), (c)(4) and (d) transmitted to OAL 8–2–95 and filed 9–8–95 (Register 95, No. 36).

11. Amendment of subsections (a) and (d) filed 4–9–96 as an emergency; operative 5–1–96 (Register 96, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–8–96 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 4–9–96 order transmitted to OAL 7–26–96 and filed 8–21–96 (Register 96, No. 34).
13. Amendment of subsections (a) and (d) and NOTE filed 4–21–97 as an emergency; operative 5–1–97 pursuant to Government Code section 11343.4(c). A Certificate of Compliance must be transmitted to OAL by 8–29–97 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 4–21–97 order, including further amendment of subsections (a) and (d), transmitted to OAL 5–30–97 and filed 7–11–97 (Register 97, No. 28).

§ 3698. Fees Calculation.

Annual reporting fees cited in sections 3698 and 3699 shall be adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–2006 fiscal year and annually thereafter.

(a) The annual reporting fee for a multiple site surface mining operation shall be four thousand dollars ($4,000).

(b) The annual reporting fee for surface mining operations which are no longer in operation with no intent to resume, which had no mineral production in the reporting calendar year, and

(1) which did not complete reclamation during the reporting calendar year shall be $100; or

(2) which completed reclamation during the reporting calendar year shall be $100. Proof of completion of reclamation, approved by the lead agency, shall be submitted with this fee.

(c) Except as otherwise provided, the annual reporting fee for surface mining operations shall be calculated on the total primary mineral commodity produced in the reporting calendar year. A factor to determine the amount of fee adjustments from one reporting calendar year to the next shall be calculated according to the following formula:

$$[((AT_{RY}) - (AT_{PY}))/(AT_{PY})] = \text{Factor}$$

Where: Adjusted Total (AT) equals the Amount Requested by the Director, less a projected amount from fees set in CCR §3698(a)(b)(d)(e) and CCR §3699, and less a projected amount from mine operations subject to the maximum fee amount of $4,000;

Where: ATRY is the Adjusted Total for the current "Reporting Year"

Where: ATPY is the Adjusted Total for the "Prior Year"

The new Fee Amount for each category is determined by the following formulae (calculated amounts cannot be less than $100 or more than $4,000, as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–2006 fiscal year and annually thereafter, and may be rounded to the nearest $1 (one dollar):

Formula 1: Current Year Reporting Fee = Prior Year Reporting Fee times (1 + Factor) if Factor is positive;

Formula 2: Current Year Reporting Fee = Prior Year Reporting Fee times (1 – Factor) if Factor is negative.

(1) Operations where the primary mineral commodity produced is either aggregate products or industrial minerals shall be assessed a fee as follows:

Tons	*Fee in Dollars*
0 – 100	Formula 1 or 2 (not less than $100)
>100 – 1,000	Formula 1 or 2
>1,000 – 10,000	Formula 1 or 2
>10,000 – 50,000	Formula 1 or 2
>50,000 – 100,000	Formula 1 or 2
>100,000	4,000

(2) Operations where the primary mineral commodity produced is gold, silver, or precious metals shall be assessed a fee as follows:

Ounces	*Fee in Dollars*
0 – 1	Formula 1 or 2 (not less than $100)
>1 – 10	Formula 1 or 2
>10 – 50	Formula 1 or 2
>50 – 150	Formula 1 or 2
>150 – 300	Formula 1 or 2
> 300	4,000

(3) Operations where the primary mineral commodity produced is base metals or other metals shall be assessed a fee as follows:

Pounds	*Fee in Dollars*
0 – 10	Formula 1 or 2 (not less than $100)
>10 – 100	Formula 1 or 2
>100 – 1,000	Formula 1 or 2
>1,000 – 10,000	Formula 1 or 2
>10,000 – 20,000	Formula 1 or 2
>20,000	4,000

(d) The initial reporting fee for surface mining operations shall be five hundred dollars ($500).

(e) The annual reporting fee for newly permitted surface mining operations which have not yet begun operations shall be one hundred dollars ($100).

(f) In addition to the annual reporting fees, the board shall collect five dollars ($5) per ounce of gold and ten cents ($0.10) per ounce of silver based on the amount of product mined within the state during the reporting year.

NOTE: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

HISTORY

1. New section filed 4–17–91 as an emergency; operative 5–1–91 (Register 91, No. 19). A Certificate of Compliance must be transmitted to OAL by 8–29–91 or emergency language will be repealed by operation of law on the following day.
2. Repealed by operation of law and new section filed 1–9–92; operative 1–9–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 12).
3. Amendment filed 4–22–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–18–92 or emergency language will be repealed by operation of law on the following day.
4. Certificate of Compliance as to 4–22–92 order including amendment of subsection (d) transmitted to OAL 8–28–92 and filed 10–13–92 (Register 92, No. 42).
5. Amendment filed 4–30–93 as an emergency; operative 4–30–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.
6. Certificate of Compliance as to 4–30–93 order transmitted to OAL 8–10–93 and filed 9–22–93 (Register 93, No. 39).
7. Amendment of section and NOTE filed 4–28–94 as an emergency; operative 5–1–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
8. Certificate of Compliance as to 4–29–94 order transmitted to OAL 8–26–94 and filed 10–6–94 (Register 94, No. 40).
9. Amendment of subsections (b)–(d) filed 4–20–95 as an emergency; operative 5–1–95 (Register 95, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–95 or emergency language will be repealed by operation of law on the following day.
10. Certificate of Compliance as to 5–1–95 order including amendment of subsection (b)(2) transmitted to OAL 8–2–95 and filed 9–8–95 (Register 95, No. 36).
11. Amendment of subsections (b)–(e) filed 4–9–96 as an emergency; operative 5–1–96 (Register 96, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–8–96 or emergency language will be repealed by operation of law on the following day.
12. Certificate of Compliance as to 4–9–96 order transmitted to OAL 7–26–96 and filed 8–21–96 (Register 96, No. 34).
13. Amendment of section and NOTE filed 4–21–97 as an emergency; operative 5–1–97 pursuant to Government Code section 11343.4(c). A Certificate of Compliance must be transmitted to OAL by 8–29–97 or emergency language will be repealed by operation of law on the following day.
14. Certificate of Compliance as to 4–21–97 order, including further amendment of subsections (b)–(c), transmitted to OAL 5–30–97 and filed 7–11–97 (Register 97, No. 28).
15. Amendment filed 3–8–2004 as an emergency; operative 3–8–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 3–8–2004 order transmitted to OAL 6–21–2004 and filed 7–30–2004 (Register 2004, No. 31).

§ 3699. Low Gross Exemptions.

(a) For the calendar reporting year, a single operator or mining company may file with the Office of Mine Reclamation of the Department of

Conservation, a written request for an exemption from the method of fee assessment set forth in Section 3698. Neither the State, nor any county, city, district or other political subdivision shall be eligible for an exemption under this Section. A request for an exemption must be filed on a form (Low Gross Exemption Fee Request, Form MRRC–4L) supplied by the Department of Conservation and received by the Department of Conservation by July 1 following the calendar reporting year. The Department of Conservation shall grant the exemption if information submitted and confirmed by the annual report form and approved reclamation plan, clearly demonstrates that the operation meets the following criteria:

(1) material is extracted from one surface mining operation, and lead agency approval of a reclamation plan and financial assurance has been obtained; and

(2) all of the single operator or mining company's surface mining operation located in the State of California is tied to, or located on, one site; and

(3) the amount of the operator's gross income from the surface mining operation for the reporting calendar year was less than $100,000, and proof of gross income is supplied in the form of a signed federal tax return or returns accompanied by a complete and signed Federal Internal Revenue Service Form 4506, or a report prepared and signed by a certified public accountant; and

(4) the owner or operator has submitted an annual reporting fee of four hundred dollars ($400) as adjusted for the cost of living as measured by the California Consumer Price Index for all urban consumers, calendar year averages, using the percentage change in the previous year, beginning with the 2005–2006 fiscal year and annually thereafter.

(b) For any request received on or before July 1 following the reporting calendar year the Department may afford the applicant one 30–day period in which to correct minor deficiencies in the application.

(c) If the Department of Conservation determines that an exemption is not warranted, the operator may appeal that determination to the Board. The appeal must be submitted in writing within fifteen (15) days of the denial of exemption notification by the Department of Conservation. The Chairman of the Board or his designee (Board Member), shall determine whether the Board has jurisdiction for the purposes of an appeal. In order for the Board to have jurisdiction the appeal must:

(1) Demonstrate the exemption request was complete and filed in a timely fashion;

(2) Specifically relate to the exemption criteria outlined in this Section; and

(3) Specify the appellant's arguments for granting the exemption.

(d) If the appeal is within the Board's jurisdiction, the Board, based on all the evidence in the record, may affirm the Department's decision or grant the exemption. If the operator does not appeal, the appeal is not within the Board's jurisdiction, or the Board affirms the Department's decision, the operator or owner shall submit an annual reporting fee calculated upon the total mineral commodity produced pursuant to Section 3698. Such fee shall be submitted within thirty (30) days of notification by the Department of Conservation or the Board. An operator or owner submitting an annual reporting fee later than thirty (30) days after notification shall be assessed a penalty and interest as provided in Public Resources Code Section 2207(d)(5).

NOTE: Authority cited: Section 2207, Public Resources Code. Reference: Section 2207, Public Resources Code.

HISTORY

1. New section filed 1–9–92; operative 1–9–92 pursuant to Government Code section 11346.2(d) (Register 92, No. 12).
2. Amendment filed 4–22–92 as an emergency; operative 5–1–92 (Register 92, No. 19). A Certificate of Compliance must be transmitted to OAL 9–18–92 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–22–92 order transmitted to OAL 8–28–92 and filed 10–13–92 (Register 92, No. 42).
4. Amendment filed 4–30–93 as an emergency; operative 4–30–93 (Register 93, No. 18). A Certificate of Compliance must be transmitted to OAL 8–30–93 or emergency language will be repealed by operation of law on the following day.
5. Certificate of Compliance as to 4–30–93 order, including amendment of subsections (a)(1)–(2) and (b)(3) transmitted to OAL 8–10–93 and filed 9–22–93 (Register 93, No. 39).
6. Amendment of section and NOTE filed 4–28–94 as an emergency; operative 5–1–94 (Register 94, No. 17). A Certificate of Compliance must be transmitted to OAL by 8–29–94 or emergency language will be repealed by operation of law on the following day.
7. Certificate of Compliance as to 4–29–94 order transmitted to OAL 8–26–94 and filed 10–6–94 (Register 94, No. 40).
8. Amendment of section, NOTE, and Forms MRRC–4L and MRRC–4M filed 4–20–95 as an emergency; operative 5–1–95 (Register 95, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–29–95 or emergency language will be repealed by operation of law on the following day.
9. Certificate of Compliance as to 5–1–95 order including amendment of subsection (b) and new Form MRRC–2 transmitted to OAL 8–2–95 and filed 9–8–95 (Register 95, No. 36).
10. Amendment of subsections (a), (a)(3) and (b), and repealer and new Forms MRRC–2, MRRC–4L and MRRC–4M filed 4–9–96 as an emergency; operative 5–1–96 (Register 96, No. 15). A Certificate of Compliance must be transmitted to OAL by 8–8–96 or emergency language will be repealed by operation of law on the following day.
11. Certificate of Compliance as to 4–9–96 order transmitted to OAL 7–26–96 and filed 8–21–96 (Register 96, No. 34).
12. Amendment of subsections (a), (a)(3), (b) and (d), amendment of and NOTE, and amendment of forms MRRC–2, MRRC–4L and MRRC–4M filed 4–21–97 as an emergency; operative 5–1–97 pursuant to Government Code section 11343.4(c). A Certificate of Compliance must be transmitted to OAL by 8–29–97 or emergency language will be repealed by operation of law on the following day.
13. Certificate of Compliance as to 4–21–97 order, including further amendment of subsections (a) and (b) and forms MRRC–2, MRRC–4L and MRRC–4M, transmitted to OAL 5–30–97 and filed 7–11–97 (Register 97, No. 28).
14. Editorial correction amending subsection (a) and inserting inadvertently omitted subsection (c) (Register 2004, No. 11).
15. Amendment of subsections (a) and (a)(4) filed 3–8–2004 as an emergency; operative 3–8–2004 (Register 2004, No. 11). A Certificate of Compliance must be transmitted to OAL by 7–6–2004 or emergency language will be repealed by operation of law on the following day.
16. Certificate of Compliance as to 3–8–2004 order transmitted to OAL 6–21–2004 and filed 7–30–2004 (Register 2004, No. 31).

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CA MINE ID # _____

MINE NAME _____

1. Company Operating	Site Contact Person	Telephone ( )
Street Address/P.O. Box No.	City	State/ZIP Code/County
2. Designated Agent's Name (Individual must reside in CA)	Mailing Address	
City	ZIP Code	Telephone ( )

ITEMS BELOW WHICH ARE PRECEDED BY A BOX LABELED N.C. MAY BE CHECKED—IF THERE ARE NO CHANGES IN THE INFORMATION FROM THE LAST REPORTING YEAR. (NOTE: IF THIS IS THE FIRST TIME YOU HAVE FILED A REPORT, ALL SECTIONS MUST BE COMPLETED.)

☐ N.C.

3. Owner of Mining Operation — Telephone ( )

Mailing Address (this address will be used to send next year's report form)

City	State/ZIP Code	Country (If other than U.S.A.)

Was this operation purchased by you during reporting year? ☐ Yes. If yes, date of purchase _____. ☐ No.

Was this operation sold by you during reporting year? ☐ Yes. If yes, date of sale _____. ☐ No.

☐ N.C.

4. Landowner — Assessor's Parcel #

Mailing Address — Telephone ( )

City/State/ZIP Code — Country (If other than U.S.A.)

5. Status of Mining Activities DURING THE REPORTING YEAR **CHECK 1 ONLY**

- ☐ Newly Permitted—Not yet in operation. Date Permitted _____ .
- ☐ Active.
- ☐ Idle (as defined in Public Resources Code Section 2727.1). Complete the following:
  - Date operation became idle _____ .
  - ☐ Copy of Approved Interim Management Plan attached.
  - ☐ Interim Management Plan pending with Lead Agency. **ATTACH PROOF OF SUBMITTAL**
- ☐ Closed with no intent to resume. Date mining ceased _____.
- ☐ Closed—reclamation certified completed by Lead Agency. Date mining ceased _____ .

6. State of Reclamation Activities DURING THE REPORTING YEAR **CHECK 1 ONLY**

- ☐ Reclamation not started.
- ☐ Reclamation in progress (attach updated reclamation plan map indicating progress).
- ☐ Reclamation certified complete by Lead Agency. **ATTACH CERTIFICATION**
  - Reclamation certified complete on _____(Date).
  - Financial Assurances released on _____(Date).

DISTRIBUTION White—State Yellow—Lead Agency Pink—Operator 95 86444

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CA MINE ID # _____

7. ☐ YES ☐ NO Inspection completed by Lead Agency during the reporting year.

If yes, attach the goldenrod copy of Surface Mining Inspection Report (MRRC-1). If Inspection report is not attached, please explain on Page 4.

☐ N.C. 8A. SMARA Lead Agency (city OR county ONLY) _____

☐ N.C. 8B. Reclamation Plan Status **CHECK ONE**

☐ No Plan

☐ Approved on _____ (date). Attach copy with amendments, conditions, and **PROOF** of approval.

_____ Number of acres subject to Reclamation Plan.

☐ Pending. Submitted to Lead Agency on _____ (date). **ATTACH PROOF OF SUBMITTAL**

☐ On Appeal. Submitted to SMGB on _____ (date). **ATTACH PROOF OF SUBMITTAL**

9. YES: Financial Assurances approved by Lead Agency. **ATTACH COPY AND PROOF OF APPROVAL**
Complete below for approved Financial Assurances:

Amount	Type	Date Posted	Date of Annual Review by Lead Agency	Expiration Date or Renewal Date (If applicable)

☐ NO: Financial Assurances NOT approved by Lead Agency.

☐ Financial Assurances pending with Lead Agency. Submitted on _____ (date). ATTACH PROOF OF SUBMITTAL

IF APPLICABLE, INFORMATION REQUIRED IN ITEMS 10 THROUGH 13 MUST BE PROVIDED FOR EACH SEPARATE PLOT

☐ N.C. 10. ATTACH NAMED U.S. GEOLOGICAL SURVEY MAP—7.5′ OR 15′ QUAD—SHOWING BOUNDARIES OF MINING OPERATION

Latitude Longitude Section—Township—Range—Base Meridian Quad Name County

_____

☐ N.C. 11. **Type** Code(s) of Mining Operation _____ **SEE EXHIBIT A FOR TYPE CODES**

12. DISTURBED ACREAGE **COMPLETE ENTIRE SECTION**

1. _____ Approximate disturbed acreage at beginning of 1996. This figure should match the figure from item 12, line 5 on your 1995 annual report. If it does not match, please explain on Page 4.
2. _____ Approximate acreage disturbed during 1996
3. _____ (ADD LINE 1 TO LINE 2)
4. _____ Approximate disturbed acreage reclaimed during 1996
5. _____ (SUBTRACT LINE 4 FROM LINE 3) Approximate disturbed acreage remaining at end of 1996

☐ N.C. 13. CHECK ALL THAT APPLY

☐ Acres Permitted: _____ & Permit # _____

☐ Acres Vested (Acres disturbed prior to January 1, 1976): _____

☐ Acres on Federal Lands: _____ & Permit/ID # _____

☐ N.C. 14.

$_____Current total assessed value of mining operation as established by County Assessor's Office

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CA MINE ID # _____

15. COMMODITIES AND PRODUCTION | **SEE EXHIBIT B FOR COMMODITIES AND UNITS OF MEASURE.**

PRODUCTION INFORMATION IS PROPRIETARY AND WILL BE KEPT CONFIDENTIAL PURSUANT TO GOVERNMENT CODE SECTION 6252

List All Commodities (from Exhibit B)	Category Number (from Exhibit B)	Check here If No Production for a Commodity	TOTAL PRODUCTION Amount of Production	CHECK ONE Short Tons	Troy Ounces	Pounds
A. **PRIMARY** COMMODITY PRODUCED BY OPERATION						
B. ALL OTHER COMMODITIES PRODUCED BY OPERATION						

16. REPORTING FEE

FEE SCHEDULE: USING **BOTH** YOUR CATEGORY NUMBER **AND** TOTAL PRODUCTION FROM 15(A) ABOVE, REFER TO EXHIBIT C TO FIND YOUR CORRESPONDING PRODUCTION RANGE. ENTER YOUR CORRESPONDING PRODUCTION CODE IN 16(A) AND FEE IN 16(B) BELOW.

A. PRODUCTION CODE _____ **FROM EXHIBIT C**

B. REPORTING FEE ATTACHED $_____ **FROM EXHIBIT C**

SUBMITTED BY:

Your Name (Please print) _____

Your Mailing Address _____

City/State/ZIP Code _____

Your Telephone Number (__) _____

I certify that the information submitted herein is complete and accurate (failure to submit complete and accurate requisite information may result in an administrative penalty as provided for in Public Resources Code Section 2774.1).

SIGNATURE OF SUBMITTER _____ **DATE** _____

TITLE OF SUBMITTER _____

Please mail annual report, reporting fee, and ALL required attachments to:

DEPARTMENT OF CONSERVATION
Office of Mine Reclamation
801 K Street, MS 09–06
Sacramento, CA 95814–3529

DISTRIBUTION White—State Yellow—Lead Agency Pink—Operator 95 86442

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CA MINE ID #_____

DISTRIBUTION White—State Yellow—Lead Agency Pink—Operator 95 86441

State of California
DEPARTMENT OF CONSERVATION
Request for Exemption from
Method of Fee Assessment
MRRC–4L (Revised 04/97)

Requested by: _____
Mine Operator or Mining Company

LOW–GROSS EXEMPTION FEE REQUEST FOR 1996 REPORTING PERIOD

Non–Governmental operators with only one surface mining operation in the State (operation must be active) which had a gross income of less than $100,000 for the 1996 reporting period may qualify for a reduced reporting fee of $200, if answers to **ALL** of the following questions are **"YES"**, and this form is submitted by July 1, 1997:

Yes ☐ No ☐ 1. Is all the material extracted from one surface mining operation?

Yes ☐ No ☐ 2. Does the operation have Lead Agency approval of a Reclamation Plan and Financial Assurance(s)?

Yes ☐ No ☐ 3. Are all of the single operator or mining company's surface mining activities which are located in the State of California tied to, or located on, this one site?

Yes ☐ No ☐ 4. Is the amount of gross income of the surface mining operation, for the 1996 calendar year, less than one hundred thousand dollars ($100,000)?

Yes ☐ No ☐ 5. Will proof of gross income be attached to this request in the form of a signed, federal tax return(s), or a report prepared and signed by a certified public accountant (CPA)?
Should number 5 above be fulfilled by submitting a Federal tax return(s), the request may be denied for failure to supply a signed Federal Internal Revuene Service Form 4506 if requested by the Department. Form 4506 will allow the Department to verify submitted tax records with IRS records (CCR Section 3699[a]).

Yes ☐ No ☐ 6. Will the owner or operator of the operation submit by **July 1, 1997**, all of the following:
a) The 1996 Mining Operation Annual Report (form MRRC–2)?
b) The reporting fee of two hundred dollars ($200)?
c) This completed request form?
d) Proof of gross income less than $100,000, as specified in Item 5 above?

IF YOU ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE (ITEMS 1–6), THE OPERATION DOES NOT MEET THE LOW–GROSS EXEMPTION FEE REQUIREMENTS OF THE TITLE 14, CALIFORNIA CODE OF REGULATIONS (CCR) SECTION 3699. IF YOU ANSWERED "YES" TO ALL OF THE ABOVE QUESTIONS, COMPLETE THIS FORM AND SUBMIT IT BY JULY 1, 1997, TO THE OFFICE OF MINE RECLAMATION WITH THE 1996 MINING OPERATION ANNUAL REPORT.

CA Mine ID# _____. Mine Name _____.
(as reported on form MRRC–2)

Annual Gross Income $_____ *(attach a copy of your signed, Federal Income Tax return(s), or a report prepared and signed by a Certified Public Accountant [CPA]).*

Date Reclamation Plan was approved by Lead Agency _____

Date Financial Assurance(s) was approved by Lead Agency _____

If the Department of Conservation (Department) determines that the low–gross exemption is not warranted, the operator shall either: (1) remit an annual reporting fee calculated upon the total primary mineral commodity produced, pursuant to Title 14, CCR Section 3698, within thirty (30) days of notification by the Department of Conservation; or (2) may appeal to the State Mining and Geology Board (Board), pursuant to Title 14, CCR Section 3699, within fifteen (15) days of notification by the Department. If the operator does not appeal, the appeal is not within the Board's jurisdiction, or the Board affirms the Department's decision, the operator or owner shall remit an annual reporting fee calculated upon the total primary mineral commodity produced, pursuant to Title 14, CCR Section 3698. Such fee shall be remitted within thirty (30) days of notification by the Department or the Board. An operator or owner remitting an annual reporting fee later than thirty (30) days after notification shall be assessed a penalty and interest, as provided for in Public Resources Code (PRC) Section 2207(d)(5).

I certify that the information submitted herein is complete and accurate (failure to submit complete and accurate requisite information may result in the imposition of an administrative penalty of up to $5,000 a day, as provided for in PRC Section 2774.1). Additionally, I understand that submittal of this form to the Department of Conservation after July 1, 1997, does not constitute a valid Low–Gross Exemption Fee request.

_____ _____ _____
Signature Title Date

State of California
DEPARTMENT OF CONSERVATION
Request for Multiple–Site
Method of Fee Assessment
MRRC–4M (Revised 04/97)

Requested by: _____
Mine Operator or Mining Company

MULTIPLE–SITE SINGLE FEE REQUEST FOR 1996 REPORTING PERIOD

Operators with multiple, **ACTIVE** surface mining operations may qualify for a reduced, single reporting fee of $2,000, if answers to **ALL** of the following questions are **"YES"** (idle mining operations must be reported separately):

Yes ☐ No ☐ 1. Are all of the operations operated by a single operator or mining company?

Yes ☐ No ☐ 2. Is the total combined production of the primary commodity for all operations:
a) less than 100 troy ounces for precious metals?
OR
b) less than 100,000 short tons for non–precious metals?

Yes ☐ No ☐ 3. Are all operations **active**?

Yes ☐ No ☐ 4. Are **idle** operations excluded from this request?

Yes ☐ No ☐ 5. Will all active operations within the State operated by this operator or company be listed on this single fee request form?

Yes ☐ No ☐ 6. Will this completed form be submitted with separate annual reports for each operation? (California Code of Regulations [CCR] requires the $2,000 single fee to be paid by July 1, 1997.)

IF YOU ANSWERED "NO" TO ANY OF THE QUESTIONS ABOVE (ITEMS 1–6), THE OPERATIONS DO NOT MEET THE MULTIPLE–SITE SINGLE FEE REQUIREMENTS OF CCR SECTION 3697. IF YOU ANSWERED "YES" TO ALL OF THE QUESTIONS ABOVE, COMPLETE THIS FORM AND SUBMIT IT TO THE OFFICE OF MINE RECLAMATION WITH THE SEPARATE 1996 MINING OPERATION ANNUAL REPORTS FOR EACH OPERATION LISTED BELOW (for additional sites, please attach a separate sheet)**:**

CA MINE ID#	PRIMARY COMMODITY	AMOUNT PRODUCED	CHECK ONE	
			Short Tons	Troy Ounces
TOTAL COMBINED AMOUNT PRODUCED				

If the Department of Conservation determines that the multiple–site single fee is not warranted, the operator shall remit annual reporting fees calculated upon the total primary mineral commodity produced on each of the site listed above, pursuant to CCR Section 3698. Such fees shall be remitted within thirty (30) days of notification by the Department of Conservation. An operator or owner remitting an annual reporting fee later than thirty (30) days after notification, shall be assessed penalties and interest, as provided for in Public Resources Code (PRC) Section 2207(d)(5).

I certify that the information submitted herein is complete and accurate (failure to submit complete and accurate requisite information may result in the imposition of an administrative penalty of up to $5,000 a day, as provided for in PRC Section 2774.1).

Signature _____ Title _____ Date _____

[The next page is 446.7.]

Article 9. Reclamation Standards

§ 3700. Applicability.

Reclamation of mined lands shall be implemented in conformance with the standards in this Article.

(a) The standards shall apply to each surface mining operation to the extent that:

(1) they are consistent with required mitigation identified in conformance with the California Environmental Quality Act, provided that such mitigation is at least as stringent as the standards; and

(2) they are consistent with the planned or actual subsequent use or uses of the mining site.

(b) Where an applicant demonstrates to the satisfaction of the lead agency that an exception to the standards specified in this article is necessary based upon the approved end use, the lead agency may approve a different standard for inclusion in the approved reclamation plan. Where the lead agency allows such an exception, the approved reclamation plan shall specify verifiable, site-specific standards for reclamation. The lead agency may set standards which are more stringent than the standards set forth in this Article; however, in no case may the lead agency approve a reclamation plan which sets any standard which is less stringent than the comparable standard specified in this Article.

(c) When substantial amendments are proposed to reclamation plans which were approved prior to January 15, 1993, the standards set forth in this Article shall be applied by the lead agency in approving or denying approval of the amended reclamation plan.

(d) The standards in this Article shall not apply to mining operations:

(1) which completed reclamation prior to January 15, 1993, in conformance with an approved reclamation plan; or

(2) for which a reclamation plan has been approved prior to January 15, 1993.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New article 9 (sections 3700–3713) filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3701. Definitions.

The following definitions shall govern the interpretation of these regulations:

"Arid" means landscapes with an average annual precipitation of five inches or less.

"Contamination" means an impairment of the quality of the waters of the state to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

"Highwall" means the unexcavated face of exposed overburden and ore in a surface mine.

"Indigenous Plants" means plants occurring naturally in an area, not introduced.

"Native Species" means plant species indigenous to California, using pre-European as the historic time reference.

"Noxious Weeds" means any species of plant that is or is likely to become destructive or difficult to control or eradicate, and is termed to be so by the Director of the Department of Food and Agriculture in section 4500, Title 3 of the California Code of Regulations, pursuant to the Food and Agriculture Code section 5004 et seq.

"Vegetative Cover" means the vertical projection of the crown or shoot area of a species to the ground surface expressed as a percentage of the reference area (percentage can be greater than 100 percent).

"Vegetative Density" means the number of individuals or stems of each species rooted within the given reference area.

"Vegetative Species-richness" means the number of different plant species within the given reference area.

"Wetlands" for the purposes of these regulations, the definition of wetlands shall be the same as defined in the California Fish and Game Code, section 2785, subdivision (g).

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3702. Financial Assurances.

Lead agencies shall require financial assurances for reclamation in accordance with Public Resources Code section 2773.1 to ensure that reclamation is performed in accordance with the approved reclamation plan and with this article.

NOTE: Authority cited: Sections 2755, 2773 and 2773.1, Public Resources Code. Reference: Sections 2773 and 2773.1, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3703. Performance Standards for Wildlife Habitat.

Wildlife and wildlife habitat shall be protected in accordance with the following standards:

(a) Rare, threatened or endangered species as listed by the California Department of Fish and Game, (California Code of Regulations, Title 14, sections 670.2 – 670.5) or the U.S. Fish and Wildlife Service, (50 CFR 17.11 and 17.12) or species of special concern as listed by the California Department of Fish and Game in the Special Animals List, Natural Diversity Data Base, and their respective habitat, shall be conserved as prescribed by the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq., and the California Endangered Species Act, Fish and Game Code section 2050 et seq. If avoidance cannot be achieved through the available alternatives, mitigation shall be proposed in accordance with the provisions of the California Endangered Species Act, Fish and Game Code section 2050 et seq., and the federal Endangered Species Act of 1973, 16 U.S.C. section 1531 et seq.

(b) Wildlife habitat shall be established on disturbed land in a condition at least as good as that which existed before the lands were disturbed by surface mining operations, unless the proposed end use precludes its use as wildlife habitat or the approved reclamation plan establishes a different habitat type than that which existed prior to mining.

(c) Wetland habitat shall be avoided. Any wetland habitat impacted as a consequence of surface mining operations shall be mitigated at a minimum of one to one ratio for wetland habitat acreage and wetland habitat value.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3704. Performance Standards for Backfilling, Regrading, Slope Stability, and Recontouring.

Backfilling, regrading, slope stabilization, and recontouring shall conform with the following standards:

(a) Where backfilling is proposed for urban uses (e.g., roads, building sites, or other improvements sensitive to settlement), the fill material shall be compacted in accordance with the Uniform Building Code, published by the International Conference of Building Officials and as adopted by the lead agency, the local grading ordinance, or other methods approved by the lead agency as appropriate for the approved end use.

(b) Where backfilling is required for resource conservation purposes (e.g., agriculture, fish and wildlife habitat, and wildland conservation), fill material shall be backfilled to the standards required for the resource conservation use involved.

(c) Piles or dumps of mining waste shall be stockpiled in such a manner as to facilitate phased reclamation. They shall be segregated from topsoil and topsoil substitutes or growth media salvaged for use in reclamation.

(d) Final reclaimed fill slopes, including permanent piles or dumps of mine waste rock and overburden, shall not exceed 2:1 (horizontal:vertical), except when site-specific geologic and engineering analysis demonstrate that the proposed final slope will have a minimum slope stability

factor of safety that is suitable for the proposed end use, and when the proposed final slope can be successfully revegetated.

(e) At closure, all fill slopes, including permanent piles or dumps of mine waste and overburden, shall conform with the surrounding topography and/or approved end use.

(f) Cut slopes, including final highwalls and quarry faces, shall have a minimum slope stability factor of safety that is suitable for the proposed end use and conform with the surrounding topography and/or approved end use.

(g) Permanent placement of piles or dumps of mining waste and overburden shall not occur within wetlands unless mitigation acceptable to the regulatory agencies with jurisdiction over wetlands, which may include the lead agency, has been proposed to offset wetland impacts and/or losses.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Amendment of subsections (a) and (g) filed 10–31–2000; operative 11–30–2000 (Register 2000, No. 44).

§ 3704.1. Performance Standards for Backfilling Excavations and Recontouring Lands Disturbed by Open Pit Surface Mining Operations for Metallic Minerals.

Notwithstanding the provisions of Section 3700(b) of this Article, no reclamation plan, including any reclamation plan in which the end use is for wildlife habitat, wildland conservation, or open space, or financial assurance for a surface mining operation subject to the provisions of this section, shall be approved by a lead agency unless the reclamation plan meets the provisions of this section. Financial assurances must be maintained in an amount sufficient to provide for the backfilling and contour grading of the mined lands as required in this section.

(a) An open pit excavation created by surface mining activities for the production of metallic minerals shall be backfilled to achieve not less than the original surface elevation, unless the circumstances under subsection (h) are determined by the lead agency to exist.

(b) Backfilling shall be engineered, and backfilled materials shall be treated, if necessary, to meet all of the provisions of Title 27, California Code of Regulations, Division 2, Chapter 7, Subchapter 1, Mining Waste Management, commencing with Section 22470, and the applicable Regional Water Quality Control Board's Water Quality Control Plan.

(c) Excavated materials remaining in overburden piles, waste rock piles, and processed or leached ore piles not used in the backfilling process and remaining on the mine site shall be graded and contoured to create a final surface that is consistent with the original topography of the area. Care shall be taken to avoid the creation of un–natural topographic features, impediments to natural drainage, or conditions hazardous to human life and wildlife.

(d) Backfilling, recontouring, and revegetation activities shall be performed in clearly defined phases to the engineering and geologic standards required for the end use of the site as stipulated in the approved reclamation plan. All fills and fill slopes shall be designed to protect groundwater quality, to prevent surface water ponding, to facilitate revegetation, to convey runoff in a non–erosive manner, and to account for long term settlement.

(e) The requirements of subsections (a), (b), (c), and (d) notwithstanding, no final reclaimed fill slopes shall exceed 2:1 (horizontal:vertical), nor shall the resultant topography exceed in height the pre–mining surface contour elevations by more than 25 feet. Final fill slopes shall have static and dynamic factors of safety, as determined by an engineer licensed in California, that are suitable for the proposed end use of the site and meet or exceed the requirements of applicable building or grading codes, ordinances, statutes, and regulations. Final slopes must be capable of being revegetated, and shall blend visually with the local topography. Surface soil shall be salvaged, stored, and reapplied to facilitate revegetation of recontoured material in accordance with the requirements of Section 3711 of this Article.

(f) For the purposes of this section, a metallic mine is defined as one where more than ten percent of the mining operation's gross annual revenues as averaged over the last five years are derived from the production of, or any combination of, the following metallic minerals by the open pit extraction method: Precious metals (gold, silver, platinum);

Iron;
Nickel;
Copper;
Lead;
Tin;
Ferro–alloy metals (tungsten, chromium, manganese);
Mercury;
Uranium and thorium;
Minor metals including rubidium, strontium, and cesium;
Niobium and tantalum;

(g) For the purposes of this regulation, an open pit mine is the same as an open pit quarry, opencast mine, or opencut mine, and is defined as a mine working or excavation that is open to the surface and in which the opening is approximately the full size of the excavation.

(h) The requirement to backfill an open pit excavation to the surface pursuant to this section using materials mined on site shall not apply if there remains on the mined lands at the conclusion of mining activities, in the form of overburden piles, waste rock piles, and processed or leached ore piles, an insufficient volume of materials to completely backfill the open pit excavation to the surface, and where, in addition, none of the mined materials has been removed from the mined lands in violation of the approved reclamation plan. In such case, the open pit excavation shall be backfilled in accordance with subsections (b) and (d) to an elevation that utilizes all of the available material remaining as overburden, waste rock, and processed or leached ore.

(i) This regulation does not apply to any surface mining operation as defined in Public Resources Code Section 2735(a) and (b) for which the lead agency has issued final approval of a reclamation plan and a financial assurance prior to December 18, 2002.

NOTE: Authority cited: Sections 2755 and 2756, Public Resources Code; Reference: Sections 2733, 2772 and 2773, Public Resources Code.

HISTORY

1. New section filed 12–18–2002 as an emergency; operative 12–18–2002 (Register 2002, No. 51). A Certificate of Compliance must be transmitted to OAL by 4–17–2003 or emergency language will be repealed by operation of law on the following day.
2. New section refiled 4–15–2003 as an emergency; operative 4–15–2003 (Register 2003, No. 16). A Certificate of Compliance must be transmitted to OAL by 8–13–2003 or emergency language will be repealed by operation of law on the following day.
3. Certificate of Compliance as to 4–15–2003 order, including repealer and new section, transmitted to OAL 4–18–2003 and filed 5–30–2003 (Register 2003, No. 22).

§ 3705. Performance Standards for Revegetation.

Revegetation shall be part of the approved plan, unless it is not consistent with the approved end use.

(a) A vegetative cover suitable for the proposed end use and capable of self–regeneration without continued dependence on irrigation, soil amendments or fertilizer shall be established on disturbed land unless an artificially maintained landscape is consistent with the approved reclamation plan. Vegetative cover or density, and species–richness shall be, where appropriate, sufficient to stabilize the surface against effects of long–term erosion and shall be similar to naturally occurring habitats in the surrounding area. The vegetative density, cover and species richness of naturally occurring habitats shall be documented in baseline studies carried out prior to the initiation of mining activities. However, for areas that will not be reclaimed to prior conditions, the use of data from reference areas in lieu of baseline site data is permissible.

(b) Test plots conducted simultaneously with mining shall be required to determine the most appropriate planting procedures to be followed to ensure successful implementation of the proposed revegetation plan. The

lead agency may waive the requirement to conduct test plots when the success of the proposed revegetation plan can be documented from experience with similar species and conditions or by relying on competent professional advice based on experience with the species to be planted.

(c) Where surface mining activities result in compaction of the soil, ripping, disking, or other means shall be used in areas to be revegetated to eliminate compaction and to establish a suitable root zone in preparation for planting.

(d) Prior to closure, all access roads, haul roads, and other traffic routes to be reclaimed shall be stripped of any remaining roadbase materials, prepared in accordance with subsection 3705(g), covered with suitable growth media or topsoil, and revegetated. When it is not necessary to remove roadbase materials for revegetative purposes, lead agencies may set a different standard as specified in section 3700(b) of this Article.

(e) Soil analysis shall be required to determine the presence or absence of elements essential for plant growth and to determine those soluble elements that may be toxic to plants, if the soil has been chemically altered or if the growth media consists of other than the native topsoil. If soil analysis suggests that fertility levels or soil constituents are inadequate to successfully implement the revegetative program, fertilizer or other soil amendments may be incorporated into the soil. When native plant materials are used, preference shall be given to slow–release fertilizers, including mineral and organic materials that mimic natural sources, and shall be added in amounts similar to those found in reference soils under natural vegetation of the type being reclaimed.

(f) Temporary access for exploration or other short–term uses on arid lands shall not disrupt the soil surface except where necessary to gain safe access. Barriers shall be installed when necessary to gain safe access. Barriers shall be installed when necessary to prevent unauthorized vehicular traffic from interfering with the reclamation of temporary access routes.

(g) Native plant species shall be used for revegetation, except when introduced species are necessary to meet the end uses specified in the approved reclamation plan. Areas to be developed for industrial, commercial, or residential use shall be revegetated for the interim period, as necessary, to control erosion. In this circumstance, non–native plant species may be used if they are not noxious weeds and if they are species known not to displace native species in the area.

(h) Planting shall be conducted during the most favorable period of the year for plant establishment.

(i) Soil stabilizing practices shall be used where necessary to control erosion and for successful plant establishment. Irrigation may be used when necessary to establish vegetation.

(j) If irrigation is used, the operator must demonstrate that the vegetation has been self–sustaining without irrigation for a minimum of two years prior to release of the financial assurances by the lead agency, unless an artificially maintained landscape is consistent with the approved end use.

(k) Noxious weeds shall be managed: (1) when they threaten the success of the proposed revegetation; (2) to prevent spreading to nearby areas; and (3) to eliminate fire hazard.

(*l*) Protection measures, such as fencing of revegetated areas and/or the placement of cages over individual plants, shall be used in areas where grazing, trampling, herbivory, or other causes threaten the success of the proposed revegetation. Fencing shall be maintained until revegetation efforts are successfully completed and the lead agency authorizes removal.

(m) Success of revegetation shall be judged based upon the effectiveness of the vegetation for the approved end use, and by comparing the quantified measures of vegetative cover, density, and species–richness of the reclaimed mined–lands to similar parameters of naturally occurring vegetation in the area. Either baseline data or data from nearby reference areas may be used as the standard for comparison. Quantitative standards for success and the location(s) of the reference area(s) shall be set forth in the approved reclamation plan. Comparisons shall be made until performance standards are met provided that, during the last two years, there has been no human intervention, including, for example, irrigation, fertilization, or weeding. Standards for success shall be based on expected local recovery rates. Valid sampling techniques for measuring success shall be specified in the approved reclamation plan. Sample sizes must be sufficient to produce at least an 80 percent confidence level. There are standard statistical methods in commonly available literature for determining an 80 percent confidence level on a site–by–site basis. Examples of such literature include, but are not limited to, D. Mueller–Dombois and H. Ellenberg, 1974, "Aims and Methods of Vegetation Ecology", John Wiley and Sons, Inc., or C. D. Bonham, 1988, "Measurements for Terrestrial Vegetation", John Wiley and Sons, Inc., and are available at many university libraries. The texts are also available at some local libraries through the Inter–Library Loan Program.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3706. Performance Standards for Drainage, Diversion Structures, Waterways, and Erosion Control.

(a) Surface mining and reclamation activities shall be conducted to protect on–site and downstream beneficial uses of water in accordance with the Porter–Cologne Water Quality Control Act, Water Code section 13000, et seq., and the Federal Clean Water Act, 33 U.S.C. section 1251, et seq.

(b) The quality of water, recharge potential, and storage capacity of ground water aquifers which are the source of water for domestic, agricultural, or other uses dependent on the water, shall not be diminished, except as allowed in the approved reclamation plan.

(c) Erosion and sedimentation shall be controlled during all phases of construction, operation, reclamation, and closure of a surface mining operation to minimize siltation of lakes and watercourses, as required by the Regional Water Quality Control Board or the State Water Resources Control Board.

(d) Surface runoff and drainage from surface mining activities shall be controlled by berms, silt fences, sediment ponds, revegetation, hay bales, or other erosion control measures, to ensure that surrounding land and water resources are protected from erosion, gullying, sedimentation and contamination. Erosion control methods shall be designed to handle runoff from not less than the 20 year/1 hour intensity storm event.

(e) Where natural drainages are covered, restricted, rerouted, or otherwise impacted by surface mining activities, mitigating alternatives shall be proposed and specifically approved in the reclamation plan to assure that runoff shall not cause increased erosion or sedimentation.

(f) When stream diversions are required, they shall be constructed in accordance with:

(1) the stream and lake alteration agreement between the operator and the Department of Fish and Game; and

(2) the requirements of the Federal Clean Water Act, Sections 301 (33 U.S.C. 1311) and Section 404 (33 U.S.C. 1344) and/or Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(g) When no longer needed to achieve the purpose for which they were authorized, all temporary stream channel diversions shall be removed and the affected land reclaimed.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3707. Performance Standards for Prime Agricultural Land Reclamation.

In addition to the standards for topsoil salvage, maintenance, and redistribution, the following standards shall apply to mining operations on prime agricultural lands where the approved end use is agriculture:

(a) Mining operations which will operate on prime agricultural lands, as defined by the U.S. Soil Conservation Service, shall return all disturbed areas to a fertility level as specified in the approved reclamation plan.

(b) When distinct soil horizons are present, topsoil shall be salvaged and segregated by defined A, B, and C soil horizons. Upon reconstruction of the soil, the sequence of horizons shall have the A atop the B, the B atop the C, and the C atop graded overburden.

(c) Reclamation shall be deemed complete when productive capability of the affected land is equivalent to or exceeds, for two consecutive crop years, that of the premining condition or similar crop production in the area. Productivity rates, based on reference areas described in the approved reclamation plan, shall be specified in the approved reclamation plan.

(d) Use of fertilizers or other soil amendments shall not cause contamination of surface or ground water.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3708. Performance Standards for Other Agricultural Land.

The following standards shall apply to agricultural lands, other than prime agricultural lands, when the approved end use is agriculture.

In addition to the standards for topsoil salvage, maintenance, and redistribution, non–prime agricultural lands shall be reclaimed so as to be capable of sustaining economically viable production of crops commonly grown in the surrounding areas.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3709. Performance Standards for Building, Structure, and Equipment Removal.

(a) All equipment, supplies and other materials shall be stored in designated areas (as shown in the approved reclamation plan). All waste shall be disposed of in accordance with state and local health and safety ordinances.

(b) All buildings, structures, and equipment shall be dismantled and removed prior to final mine closure except those buildings, structures, and equipment approved in the reclamation plan as necessary for the end use.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3710. Performance Standards for Stream Protection, Including Surface and Groundwater.

(a) Surface and groundwater shall be protected from siltation and pollutants which may diminish water quality as required by the Federal Clean Water Act, sections 301 et seq. (33 U.S.C. section 1311), 404 et seq. (33 U.S.C. section 1344), the Porter–Cologne Act, section 13000 et seq., County anti–siltation ordinances, the Regional Water Quality Control Board or the State Water Resources Control Board.

(b) In–stream surface mining operations shall be conducted in compliance with Section 16000 et seq. of the California Fish and Game Code, section 404 of the Clean Water Act, and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(c) Extraction of sand and gravel from river channels shall be regulated to control channel degredation in order to prevent undermining of bridge supports, exposure of pipelines or other structures buried within the channel, loss of spawning habitat, lowering of ground water levels, destruction of riparian vegetation, and increased stream bank erosion (exceptions may be specified in the approved reclamation plan). Changes in channel elevations and bank erosion shall be evaluated annually using records of annual extraction quantities and benchmarked annual cross sections and/or sequential aerial photographs to determine appropriate extraction locations and rates.

(d) In accordance with requirements of the California Fish and Game Code section 1600 et seq., in–stream mining activities shall not cause fish to become entrapped in pools or in off–channel pits, nor shall they restrict spawning or migratory activities.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3711. Performance Standards for Topsoil Salvage, Maintenance, and Redistribution.

When the approved reclamation plan calls for revegetation or cultivation of disturbed lands, the following performance standards shall apply to topsoil salvage, maintenance, and redistribution activities:

(a) All salvageable topsoil suitable for revegetation shall be removed as a separate layer from areas to be disturbed by mining operations. Topsoil and vegetation removal shall not precede surface mining activities by more than one year, unless a longer time period is approved by the lead agency.

(b) Topsoil resources shall be mapped prior to stripping and the location of topsoil stockpiles shall be shown on a map in the reclamation plan. If the amount of topsoil needed to cover all surfaces to be revegetated is not available on site, other suitable material capable of sustaining vegetation (such as subsoil) shall be removed as a separate layer for use as a suitable growth media. Topsoil and suitable growth media shall be maintained in separate stockpiles. Test plots may be required to determine the suitability of growth media for revegatation purposes.

(c) Soil salvage operations and phases of reclamation shall be carried out in accordance with a schedule that: (1) is set forth in the approved reclamation plan; (2) minimizes the area disturbed; and (3) is designed to achieve maximum revegetation success allowable under the mining plan.

(d) Topsoil and suitable growth media shall be used to phase reclamation as soon as can be accommodated by the mining schedule presented in the approved reclamation plan following the mining of an area. Topsoil and suitable growth media that cannot be utilized immediately for reclamation shall be stockpiled in an area where it will not be disturbed until needed for reclamation. Topsoil and suitable growth media stockpiles shall be clearly identified to distinguish them from mine waste dumps. Topsoil and suitable growth media stockpiles shall be planted with a vegetative cover or shall be protected by other equally effective measures to prevent water and wind erosion and to discourage weeds. Relocation of topsoil or suitable growth media stockpiles for purposes other than reclamation shall require prior written approval from the lead agency.

(e) Topsoil and suitable growth media shall be redistributed in a manner that results in a stable, uniform thickness consistent with the approved end use, site configuration, and drainage patterns.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

§ 3712. Performance Standards for Tailing and Mine Waste Management.

State Water Resources Control Board mine waste disposal regulations in Article 1, Subchapter 1, Chapter 7 of Title 27, California Code of Regulations, shall govern mine waste and tailings, and mine waste disposal units shall be reclaimed in conformance with this article.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).
2. Change without regulatory effect amending section filed 5–1–2000 pursuant to section 100, title 1, California Code of Regulations (Register 2000, No. 18).

§ 3713. Performance Standards for Closure of Surface Openings.

(a) Except those used solely for blasting or those that will be mined through within one year, all drill holes, water wells, and monitoring wells

shall be completed or abandoned in accordance with each of the following:

(1) Water Code sections 13700, et seq. and 13800, et seq.;

(2) the applicable local ordinance adopted pursuant to Water Code section 13803;

(3) the applicable Department of Water Resources report issued pursuant to Water Code section 13800; and

(4) Subdivisions (1) and (2) of section 2511(g) of Chapter 15 of Title 23 regarding discharge of waste to land.

(b) Prior to closure, all portals, shafts, tunnels, or other surface openings to underground workings shall be gated or otherwise protected from public entry in order to eliminate any threat to public safety and to preserve access for wildlife habitat.

NOTE: Authority cited: Sections 2755, 2756 and 2773, Public Resources Code. Reference: Section 2773, Public Resources Code.

HISTORY

1. New section filed 12–16–92; operative 1–15–93 (Register 92, No. 51).

Article 10. Seismic Hazards Mapping

§ 3720. Purpose.

These regulations shall govern the exercise of city, county and state agency responsibilities to identify and map seismic hazard zones and to mitigate seismic hazards to protect public health and safety in accordance with the provisions of the Public Resources Code, section 2690 *et seq.* (Seismic Hazards Mapping Act).

NOTE: Authority cited: Section 2695, Public Resources Code. Reference: Section 2695(a)(1) and (3)–(5), Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

§ 3721. Definitions.

(a) " Acceptable Level" means that level that provides reasonable protection of the public safety, though it does not necessarily ensure continued structural integrity and functionality of the project.

(b) "Lead Agency" means the city, county or state agency with the authority to approve projects.

(c) "Registered civil engineer" or "certified engineering geologist" means a civil engineer or engineering geologist who is registered or certified in the State of California.

NOTE: Authority cited: Section 2695, Public Resources Code. Reference: Sections 2690–2696.6, Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

§ 3722. Requirements for Mapping Seismic Hazard Zones.

(a) The Department of Conservation, Division of Mines and Geology, shall prepare one of more State–wide probabilistic ground shaking maps for a suitably defined reference soil column. One of the maps shall show ground shaking levels which have a 10% probability of being exceeded in 50 years. These maps shall be used with the following criteria to define seismic hazard zones:

(1) Amplified shaking hazard zones shall be delineated as areas where historic occurrence of amplified ground shaking, or local geological and geotechnical conditions indicate a potential for ground shaking to be amplified to a level such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(2) Liquefaction hazard zones shall be delineated as areas where historic occurrence of liquefaction, or local geological, geotechnical and ground water conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(3) Earthquake–induced landslide hazard zones shall be delineated as areas where Holocene occurrence of landslide movement, or local slope of terrain, and geological, geotechnical and ground moisture conditions indicate a potential for permanent ground displacements such that mitigation as defined in Public Resources Code Section 2693(c) would be required.

(b) Highest priority for mapping seismic hazard zones shall be given to areas facing urbanization or redevelopment in conjunction with the factors listed in section 2695(a)(2)(A), (B), (C) and (D) of the Public Resources Code.

NOTE: Authority cited: Section 2695, Public Resources Code. Reference: Section 2695(a)(1), Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

§ 3723. Review of Preliminary Seismic Hazard Zones Maps.

(a) The Mining and Geology Board shall provide an opportunity for receipt of public comments and recommendations during the 90–day period for review of preliminary seismic hazard zone maps provided by the Public Resources Code Section 2696. At least one public hearing shall be scheduled for that purpose.

(b) Following the end of the review period, the Board shall forward its comments and recommendations, with supporting data received, to the State Geologist for consideration prior to revision and official issuance of the maps.

NOTE: Authority cited: Section 2696, Public Resources Code. Reference: Section 2696, Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

§ 3724. Specific Criteria for Project Approval.

The following specific criteria for project approval shall apply within seismic hazard zones and shall be used by affected lead agencies in complying with the provisions of the Act:

(a) A project shall be approved only when the nature and severity of the seismic hazards at the site have been evaluated in a geotechnical report and appropriate mitigation measures have been proposed.

(b) The geotechnical report shall be prepared by a registered civil engineer or certified engineering geologist, having competence in the field of seismic hazard evaluation and mitigation. The geotechnical report shall contain site–specific evaluations of the seismic hazard affecting the project, and shall identify portions of the project site containing seismic hazards. The report shall also identify off–site seismic hazards that could adversely affect the site in the event of an earthquake. The contents of the geotechnical report shall include, but shall not be limited, the following:

(1) Project description.

(2) A description of the geologic and geotechnical conditions at the site, including an appropriate site location map.

(3) Evaluation of site–specific seismic hazards based on geological and geotechnical conditions, in accordance with current standards of practice.

(4) Recommendations for appropriate mitigation measures as required in section 3724 (a), above

(5) Name of report preparer(s), and signature(s) of a certified engineering geologist and/or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation.

(c) Prior to approving the project, the lead agency shall independently review the geotechnical report to determine the adequacy of the hazard evaluation and proposed mitigation measures and to determine that the requirements of section 3724 (a), above, are satisfied. Such reviews shall be conducted by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation.

NOTE: Authority cited: Section 2695, Public Resources Code. Reference: Section 2695(a)(3)(A), (B), and (C), Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

§ 3725. Waivers of Geotechnical Report Requirements.

For a specific project, the lead agency may determine that the geological and geotechnical conditions at the site are such that public safety is adequately protected and no mitigation is required. This finding shall be based on a report presenting evaluations of sites in the immediate vicinity having similar geologic and geotechnical characteristics. The report shall

be prepared by a certified engineering geologist or registered civil engineer, having competence in the field of seismic hazard evaluation and mitigation. The lead agency shall review submitted reports in the same manner as in section 3724(c) of this article. The lead agency shall also provide a written commentary that addresses the report conclusions and the justification for applying the conclusions contained in the report to the project site. When the lead agency makes such a finding, it may waive the requirement of a geotechnical report for the project. All such waivers shall be recorded with the county recorder and a separate copy, together with the report and the commentary, filed with the State Geologist within 30 days of the waiver.

NOTE: Authority cited: Section 2695, Public Resources Code. Reference: Section 2697(a)(5), Public Resources Code.

HISTORY

1. New section filed 1–27–92; operative 2–26–92 (Register 92, No. 12).

Article 10.5. Selection of Professional Service Firms

§ 3726. Selection of Professional Service Firms.

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Seismic Hazards Mapping Act (PRC Section 2690 et. seq.).

(b) Selection by the department for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

NOTE: Authority cited: Section 2695, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY

1. New article 10.5 (sections 3726–3736) and section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3727. Definitions, As Used in These Regulations.

(a) "Small business" shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3728. Establishment of Criteria.

(a) The department shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload, ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the department according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Department employees with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the employees would be subject to the prohibition of Section 87100 of the Government Code.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3729. Estimate of Value of Services.

Before any discussion with any firm concerning fees, the department may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the department determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be re-evaluated and modified if necessary.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3730. Request for Proposals.

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the department shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The department shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the department concludes that small business firms could be especially qualified. A failure of the department to send a copy of an announcement to any firm shall not operate to preclude any contract.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4527, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3731. Selection of Firm.

After expiration of the period stated in the publications or other public announcements, the department shall evaluate statements of qualifications and performance data which have been submitted to the department. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the department shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526–4527, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3732. Negotiation.

The department shall attempt to negotiate a contract with the most highly qualified firm. When the department is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3729 if those procedures were used, negotiations shall be terminated. The department shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The department shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the department be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3733. Amendments.

In instances where the department effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3734. Contracting in Phases.

Should the department determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the department shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the department, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3735. Department's Power to Require Bids.

Where the department determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4529, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

§ 3736. Exclusions.

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–25–2000; operative 11–24–2000 (Register 2000, No. 43).

Article 11. Financial Assurance Mechanisms

§ 3800. Purpose.

It is the purpose of this article to specify additional financial assurance mechanisms to assure reclamation pursuant to Public Resources Code Section 2710 et seq. (Surface Mining and Reclamation Act, as amended).

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New article 10 and section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order including renumbering of article heading transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3801. Authority.

Review, approval, adjustment, enforcement, notification, forfeiture and all other responsibilities of the lead agency, operator and Department of Conservation with respect to financial assurances shall be conducted as prescribed in Public Resources Code Section 2710 et seq. unless expressly outlined in this article.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3802. Definitions.

The following definitions shall govern the interpretation of this article:

(a) "Budget Set Aside" means a financial assurance mechanism, meeting the requirements of Section 3806.2 of this article, by which a government entity proposes to make specific identified monies within the entity's budget available to perform reclamation pursuant to the approved reclamation plan.

(b) "Financial Assurance Amount" means that amount of money necessary to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan, plus a reasonable estimate of the administrative costs and expenses which would be incurred by the lead agency or the Department of Conservation, the total of which shall be calculated in accordance with section 3804, and shall constitute an obligation to pay by the operator.

(c) "Financial Assurance" means an instrument, fund or other form of Financial Assurance as provided in Section 2773.1(a) and (e) of the Public Resources Code and this Article.

(d) "Pledge of Revenue" means a financial assurance mechanism meeting the requirements of Section 3806.1, of this Article, by which a governmental entity proposes to make specific, identified future revenue available to perform reclamation pursuant to the approved reclamation plan.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2726–2734, Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3803. Financial Assurance Mechanisms.

As outlined by this article, financial assurances may take the form of any one or a combination of the following, which the lead agency, upon review by the Department of Conservation, reasonably determines are adequate to perform reclamation in accordance with the approved reclamation plan.

(a) For non-governmental entity operators:
(1) Surety bonds;
(2) Irrevocable letters of credit; and
(3) Trust funds;
(b) For governmental entity operators:
(1) Surety bonds;
(2) Irrevocable letters of credit;
(3) Trust funds;
(4) Pledges of Revenue; or
(5) Budget Set Aside.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3804. Calculation of Financial Assurance Amount.

(a) The Financial Assurance Amount shall be calculated as prescribed in Public Resources Code Section 2773.1 and based on:

(1) an analysis of the physical activities and materials necessary to implement the approved reclamation plan;

(2) the lead agency's unit costs, or costs for third party contracting, for each of these activities, if applicable;

(3) the number of units of each of these activities, if applicable;

(4) a contingency amount not to exceed 10% of the reclamation costs.

(b) The calculated amount should not include the cost of completing mining of the site.

(c) In order for the lead agency or the Department of Conservation to determine what annual adjustments, if any, are appropriate to the Financial Assurance Amount, the operator shall annually submit to the lead agency a revision of the written calculation required under Section 3804(a).

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3805. Review by the Department of Conservation.

Pursuant to Section 2774(c), Public Resources Code, the lead agency shall submit a copy of the proposed Financial Assurance and the Calculation of Financial Assurance Amount submitted by the operator pursuant to Section 3804 to the Director of the Department of Conservation for review. With this submittal the lead agency shall include the information and documentation relied upon in calculating the amount of the propsed Financial Assurance and indicate to the Director that the Financial Assurance Amount is adequate for the lead agency or the Department of Conservation to conduct and complete reclamation on the mined lands in accordance with the approved reclamation plan. The Director shall have 45 days, upon receipt, to prepare written comments regarding the proposed Financial Assurance, if he/she so chooses.

NOTE: Authority cited: Section 2774, Public Resources Code. Reference: Section 2774(c), (d), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 with amendments and filed 8–3–94 (Register 94, No. 31).

§ 3805.5. Modification or Release of Financial Assurance.

(a) Prior to the modification of a financial assurance amount, or to the release of the financial assurance instrument to which both the lead agency and the Department of Conservation are co-beneficiaries under Public Resources Code section 2773.1, the lead agency shall provide to the director of the department the following documents at one time:

(1) An inspection report, prepared by a qualified person as provided for in Public Resources Code section 2774, indicating that there are aspects of the surface mining operation that require modification of the existing financial assurance amount, or stating that the mined land has been reclaimed in accordance with the approved reclamation plan, and that there are no aspects of the reclaimed surface mining operation that are inconsistent with the meaning of reclamation as defined in Public Resources Code section 2733, and the Surface Mining and Reclamation Act of 1975, Chapter 9, commencing with section 2710.

(2) A revised financial assurance cost estimate prepared by the operator and accepted by the lead agency, or prepared by the lead agency, in accordance with Public Resources Code section 2773.1, with supporting documentation, indicating the specific cost changes to the existing financial assurance amount, or indicating that there are no further outstanding reclamation liabilities to be included in the financial assurance.

(3) A statement by the lead agency, with supporting documentation that may include the most recent inspection report and any geological and engineering reports prepared as part of the inspection report, that the mined land remains subject to a financial assurance as modified, or that the mined land has been reclaimed in accordance with the approved reclamation plan, that there are no outstanding reclamation liabilities, and recommending to the director that the financial assurance be released.

(b) The director shall have 45 days from the date of receipt of the documents to review and comment on them as provided for in Public Resources Code section 2774, and to conduct the director's own inspection of the surface mining operation if the director determines it necessary under Public Resources Code section 2774.1, and do one of the following:

(1) Notify the lead agency of the director's concurrence that the modified financial assurance amount is adequate, or that there are no outstanding reclamation liabilities on the mined land and that the original financial assurance should be released pursuant to Public Resources Code section 2773.1, at which time the financial assurance shall be released; or,

(2) Notify the lead agency that the director has found, based upon an inspection, aspects of the surface mining operation that require additional modifications to the financial assurance amount, or aspects that are not in compliance with the approved reclamation plan and the Surface Mining and Reclamation Act of 1975; or,

(3) Commence the financial assurance forfeiture process under Public Resources Code section 2773.1.

(c) If a violation by the surface mining operation is confirmed by an inspection either by the lead agency or by the director, then the lead agency, or the director, may take actions under Public Resources Code section 2774.1 to ensure that the violation is corrected. In any event, the financial assurance shall not be released until the violation is corrected.

(d) Prior to sending written notification and release of financial assurances as provided under Public Resources Code section 2773.1, the lead agency shall obtain written concurrence of the director that the completion of reclamation of the mined land disturbed by the surface mining operation is in accordance with the requirements of the lead agency–approved reclamation plan.

(e) If a violation of the Surface Mining and Reclamation Act of 1975 or of the approved reclamation plan is confirmed by the inspection, and the lead agency does not take action under Public Resources Code section 2774.1 to ensure that the violation is corrected or take action under Public Resources Code section 2773.1 for forfeiture of the financial assurance, then the director may refer the matter to the board for further action under Public Resources Code section 2774.4.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2729, 2731, 2733, 2735, 2773.1, 2774 and 2774.1, Public Resources Code.

HISTORY

1. New section filed 5–11–2004; operative 5–11–2004 pursuant to Government Code section 11343.4 (Register 2004, No. 20).

§ 3806. Surface Mining Operations Owned and Operated by State or Local Governmental Entities.

In addition to the mechanisms provided in Public Resources Section 2773.1 and this article, a financial assurance mechanism for reclamation for a surface mining operation owned and operated by the state, county, city, district, or other political subdivision may be in the form of a:

(a) Pledge of Revenue; or

(b) Budget Set Aside.

These financial assurance mechanisms may only be used by the state, county, city, district, or other political subdivision.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3806.1. Pledge of Revenue.

(a) A pledge of revenue shall consist of a resolution or other appropriate document from the governing body of the state, county, city, district, or other political subdivision responsible for reclamation of the mined lands pursuant to the approved reclamation plans. The resolution or document shall remain effective continuously throughout the period in which the pledge of revenue is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The pledge of revenue shall contain the following items:

(1) The resolution or document establishing the pledge of revenue;

(2) The types and sources of pledged revenue;

(3) The period of time that each source of revenue is pledged to be available;

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and

(5) The authorization for the lead agency or the Department of Conservation to use the proceeds of the pledge to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the pledge pursuant to Section 2773.1(b).

(c) The state, county, city, district, or other political subdivision may pledge any following types of revenue that it controls and that will be available in a timely manner to conduct and complete reclamation:

(1) Fees, rents, or other charges;

(2) Tax revenues within statutory limitations; and/or

(3) Other guaranteed revenues that are acceptable to the lead agency and the Board.

(d) If the governmental entity ceases at any time to retain control of its ability to allocate any pledged revenue to conduct and complete reclamation, the entity shall notify the lead agency and the Department of Conservation and shall obtain alternative coverage within 60 days after control lapses.

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 with amendment of subsections (c)–(c)(2) and filed 8–3–94 (Register 94, No. 31).

§ 3806.2. Budget Set Aside.

(a) A Budget Set Aside shall consist of a specific fund or line item set aside by the state, county, city, district or other political subdivision responsible for reclamation of the mined lands. The Budget Set Aside shall remain effective continuously throughout the period in which the Budget Set Aside is used to satisfy the requirements of Section 2773.1, Public Resources Code.

(b) The set aside shall contain the following items:

(1) A resolution or other appropriate document establishing the set aside or line item including proof of approval by the governing body or appropriate official of the state, county, city, district, or other political subdivision;

(2) The types and sources of specific funds;

(3) The period of time that each funding source is to be available:

(4) The calculation amount of the financial assurance prepared pursuant to Section 3804; and

[The next page is 446.13.]

(5) The authorization for the lead agency or the Department of Conservation to use the funds to conduct and complete reclamation if the lead agency or the Department of Conservation determines that the operator is incapable of performing the reclamation covered by the set aside pursuant to Section 2773.1(b).

NOTE: Authority cited: Section 2773.1, Public Resources Code. Reference: Section 2773.1(e), Public Resources Code.

HISTORY

1. New section filed 2–23–94 as an emergency; operative 2–23–94 (Register 94, No. 8). A Certificate of Compliance must be transmitted to OAL by 6–23–94 or emergency language will be repealed by operation of law on the following day.
2. Certificate of Compliance as to 2–23–94 order transmitted to OAL 6–22–94 and filed 8–3–94 (Register 94, No. 31).

§ 3806.3. Acceptance of Liability.

(a) An Acceptance of Liability shall consist of a specific written statement by a Federal entity responsible for performing reclamation that obligates that Federal entity for all costs associated with the full reclamation of mined lands in accordance with the requirements of an approved reclamation plan.

(b) The Acceptance of Liability shall contain the following items:

(1) a duly authorized resolution, statement, or other appropriate document that guarantees liability and obligates the Federal entity to reclaim the mine site; and,

(2) a statement that if the Federal entity ceases at any time to retain control of the mine operation, that the Federal entity's Acceptance of Liability shall remain in effect until the succeeding mine operator provides a financial assurance mechanism provided for in Public Resources Code Section 2773.1 and this Article 11. In no event shall any succeeding mine operator commence surface mining operations until a financial assurance mechanism is accepted by the lead agency.

NOTE: Authority cited: Sections 2755 and 2773.1, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 1–28–2005; operative 2–27–2005 (Register 2005, No. 4).

§ 3806.5. Surface Mining Operations Owned and Operated by a Federal Entity on State Owned Land.

In addition to the financial assurance mechanisms provided in Public Resources Code Section 2773.1 and this Article 11, a financial assurance mechanism for reclamation for a surface mining operation owned and operated on State lands by a Federal entity may be in the form of a:

(a) Pledge of Revenue

(b) Budget Set Aside

(c) Acceptance of Liability

NOTE: Authority cited: Sections 2755 and 2773.1, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 1–28–2005; operative 2–27–2005 (Register 2005, No. 4).

Article 11.5. Forfeiture of Financial Assurance

§ 3810. Purpose.

The purpose of this article is to define the procedures to be followed by the lead agency, or the board acting at the request of the director, or when the board is acting as lead agency pursuant to Public Resources Code Section 2774.4 or Section 2774.5, in determining whether a surface mine operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation, and should therefore forfeit its financial assurance pursuant to Public Resources Code Section 2773.1(b).

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2773.1, 2774.4 and 2774.5, Public Resources Code.

HISTORY

1. New article 11.5 (sections 3810–3817) and section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3811. Circumstances Leading to a Hearing.

A lead agency or the board may conduct a hearing to determine the forfeiture of financial assurances when any of the following circumstances has occurred:

(a) Unless an appeal of a financial assurance amount is pending before the board pursuant to Public Resources Code Section 2770, an operator has failed to provide an acceptable financial assurance mechanism within 30 days of notification by the lead agency of its approval of an adequate financial assurance amount. Acceptable financial assurance mechanisms are described in Title 14, California Code of Regulations Section 3803.

(b) The operator has failed to provide the lead agency with a revised financial assurance cost estimate as required by Public Resources Code Section 2773.1 that adequately addresses the criteria contained in Title 14, California Code of Regulations Section 3804 within 30 days of receipt of notification to provide a revised cost estimate.

(c) An acceptable financial assurance mechanism has lapsed and has not been renewed or replaced by another acceptable mechanism within 30 days and any remaining financial assurance coverage is not, according to the lead agency, adequate by itself to ensure the reclamation of the mine site according to the approved reclamation plan.

(d) The lead agency is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as defined in Public Resources Code Section 2727.1.

(e) The surface mining operation meets the criteria stated under Public Resources Code Section 2770(h)(6). Submitting of an interim management plan after the operator has been notified that his or her mine meets the criteria in Section 2770(h)(6) shall not prevent the lead agency or the board from proceeding with its hearing.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2727.1, 2770 and 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3812. Public Hearing.

The determination by the lead agency or the board that a surface mine operator is financially incapable of reclaiming according to an approved reclamation plan, or that an operator has abandoned a mine site without commencing reclamation, shall be made during a public hearing. The hearing may be conducted as part of a regularly scheduled business meeting of the lead agency, or may be held during a special meeting. Where the board is the lead agency, the board may delegate the hearing to a committee composed of not less than two board members selected by the board Chairman or the Chairman's designee. The determination of the board committee shall be reported to the full board for its action at its next meeting.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3813. Hearing Procedure — Notice.

(a) The local lead agency shall give prior notice of the public hearing in accordance with the provisions of its local ordinances.

(b) Where the board is the lead agency, at least 10 days prior to the hearing date, public notice shall be given as follows:

(1) Mailing the notice to the operator and to the director.

(2) Mailing the notice to any person who requests notice of the hearing;

(3) Mailing the notice to the board's regular mailing list; and,

(4) Mailing the notice to the city or county jurisdiction within which the surface mining operation is located.

(c) The notice of hearing shall include the following:

(1) The name of the surface mine operator or agent of record;

(2) Identification of the surface mining operation, and a brief description of the location of the operation by reference to any commonly known landmarks in the area;

(3) A statement that the purpose of the hearing is to determine the financial capability of the operator to reclaim his or her mining operation in accordance with the approved reclamation plan;

(4) A statement inviting the operator, public agencies, and other interested persons to make statements at the hearing regarding the decision of the lead agency; and,

(5) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3814. Administrative Record.

The administrative record shall consist of, but not be limited to, the following:

(a) The approved reclamation plan for the mining operation;

(b) The currently approved financial assurance mechanism in an amount certain;

(c) The name and address of the surface mining operator and the name and address of any person designated by the operator as an agent for the service of process;

(d) A detailed cost estimate provided by the operator and supporting a financial assurance amount prepared by a qualified individual, such as a licensed grading contractor, licensed civil engineer, or a licensed geologist, who must be licensed in the state of California, and prepared not more than six months from the last annual inspection of the mine conducted by the lead agency;

(e) A copy of the last annual inspection report conducted by the lead agency pursuant to Public Resources Code Section 2774, or any other more recent inspection report conducted by the lead agency or the Department of Conservation.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2773.1 and 2774, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3815. Criteria for Determining Financial Capability.

The lead agency or the board shall use, but not be limited to, the following criteria when determining the financial capability of a mine operator to perform reclamation. It is the sole responsibility of the surface mine operator to provide the lead agency or the board with sufficient information to reasonably demonstrate his or her financial capability. An operator shall be found financially incapable if the lead agency or the board makes any of the following findings:

(a) The operator is incapable of providing, or refuses to provide, a financial assurance in an amount deemed adequate by the lead agency or the board; or,

(b) The operator is incapable of providing, or refuses to provide, a financial assurance mechanism approved by the board in Section 3803 of this subchapter; or,

(c) The lead agency, the board, or the director, is unable to contact the mine operator or the mine's agent of record after 90 days of the mine's becoming idle as defined in Public Resources Code Section 2727.1; or,

(d) The mine operation meets the criteria stated in Public Resources Code Section 2770(h)(6).

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2727.1, 2770 and 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3816. Hearing Procedures — Sequence.

(a) The public hearing conducted before the board shall normally proceed in the following manner; a local lead agency may conduct the hearing sequence according to its locally adopted procedures:

(1) Identification of the record;

(2) Statements on behalf of the lead agency;

(3) Statements on behalf of the operator;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the lead agency

(6) Rebuttal on behalf of the operator; and

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman of the board or the Chairman's designee for purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee shall have the authority to impose time limits upon statements and presentations and accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the board at least five days prior to the hearing.

(d) The public hearing conducted before the board or a lead agency shall be recorded.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

§ 3817. Hearing Procedures — Determination.

Following the public hearing, the lead agency or the board shall determine whether, based on the record before it and the criteria described in Section 3815 of this Article, the operator is financially incapable of performing reclamation in accordance with its approved reclamation plan, or has abandoned its surface mining operation without commencing reclamation. If the operator is determined to be financially incapable of performing reclamation or to have abandoned the operation, then the following shall occur:

(a) The lead agency, or the director in cases where the Board is the lead agency, shall notify the operator within 10 days of the date of determination of its intent to take appropriate actions to cause forfeiture of the operator's financial assurances. Notification shall be made by personal service or certified mail.

(b) The lead agency, or the director, or the board in cases where the board is the lead agency, shall follow the procedures described in Public Resources Code Section 2773.1(b).

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2773.1, Public Resources Code.

HISTORY

1. New section filed 10–3–2002; operative 11–2–2002 (Register 2002, No. 40).

Article 12. Administrative Penalty Petition Procedures

§ 3900. Purpose of Regulations.

The regulations contained in this article govern procedures for petitions to the State Mining and Geology Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an Administrative Penalty by the Director of the Department of Conservation.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New article 12 (sections 3900–3911) and section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New article 12 (sections 3900–3911) and section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3901. Filing of Petition/Notice of Defense.

Any person filing a petition to the Board pursuant to Public Resources Code Section 2774.2 concerning the issuance of an administrative penalty by the Director of the Department of Conservation shall, within 30 days of the date of issuance of the order setting an administrative penalty, file a petition/notice of defense with the Board requesting a hearing. The petition/notice of defense shall be on the form set forth in Section 3911 of this article, or shall supply the following information to the Board. Failure to submit all the following documents within the 30 days filing

period will result in an incomplete filing and an automatic rejection of the appeal.

(1) Written statements, with supporting documentation, indicating specifically the basis for the petitioner's challenge of the Director's order of administrative penalty;

(2) A written statement advising the Board of the name, address and telephone number of the petitioner's representative, if any;

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).
3. Amendment of first paragraph filed 9–30–2002; operative 10–30–2002 (Register 2002, No. 40).

§ 3902. Determination of Jurisdiction.

The Chairman of the Board, or the Chairman's designee who is a Board member, shall determine within 15 days of receipt of the information required by Section 3901 of this article, whether the petition is within the jurisdiction of the Board for the purpose of hearing the petition, and determine whether the petition's challenge raises substantial issues related to the validity of the allegations supporting the Director's order. If the Chairman finds, based upon the criteria stated in (a), (b), and (c) below, that the petition raises no substantial issues with respect to the Director's allegations contained in the order of administrative penalty, or has not been filed within statutory time limits, then the Chairman shall refuse to grant a hearing on the petition. In making these determinations, the Chairman shall consider the following:

(a) Whether the filing of the petition/notice of defense with the Board is within the time limits stipulated in Public Resources Code Section 2774.2;

(b) Whether the petition specifically relates to the allegations contained in the Director's notice and order of administrative penalty;

(c) Whether prima facie documentation supporting the petition's position is reasonably sufficient to substantiate the petition's challenge.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3903. Administrative Record.

The Administrative Record shall consist of the record before the Director, evidence submitted on behalf of the petitioner, any other relevant evidence which, in the judgment of the Board, should be considered applicable, and evidence presented during the hearing on the petition.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3904. Hearing Procedures—Scheduling.

The Board shall schedule and hold a public hearing on a petition no later than 60 days from the Chairman's acceptance of the petition, or at such time as may be mutually agreed upon by the Board and the petitioner. The hearing may be conducted as part of a regular business meeting of the Board, or may be conducted by a committee of the Board. The Board shall endeavor to schedule such public hearings in or near the jurisdiction from which the petition originated, but may otherwise schedule such petitions to be heard in Sacramento.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3905. Hearing Procedures—Authority for Delegation.

The Board may delegate conduct of the hearing to a committee composed of three members of the Board, who shall consist of either the Chairman or Vice Chairman of the Board, and two other members of the Board selected by the Chairman. The Chairman or Vice Chairman shall conduct the hearing. The record of the hearing and the recommendations of the committee shall be presented to a quorum of the Board at its next regular business meeting for a decision of the full Board consistent with the procedures set forth in Section 3910 of this article.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3906. Hearing Procedures—Notice.

(a) At least 10 days prior to the hearing, the Board shall give public notice as follows:

(1) Mailing or delivering by personal service the notice to the petitioner and to the petitioner's lead agency;

(2) Mailing or delivering by personal service the notice to the Director of the Department of Conservation.

(3) Mailing the notice to any person who requests notice of the petition or hearing; and,

(4) Mailing the notice to the Board's regular mailing list.

(b) The notice of hearing shall include the following:

(1) The name of the petitioner;

(2) A statement describing the basis for the action;

(3) The amount of the administrative penalty petitioned;

(4) The time, date, and location of the public hearing.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3907. Hearing Procedures—Record.

The record before the Board at the public hearing shall be the administrative record submitted pursuant to Sections 3901, 3902, and 3903 of this article.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3908. Hearing Procedures—Recording and Transcription.

Hearings conducted under the procedures of this article shall be electronically recorded by the Board. Cost of transcription or reproduction of the electronic recording, if requested, shall be borne by the party making such request.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2755, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

§ 3909. Hearing Procedures—Use of Informal Hearing Procedure and Sequence.

(a) The Board may conduct the petition hearing under this article pursuant to the informal hearing adjudicative proceedings described in the California Administrative Procedure Act. The informal hearing procedure is intended to satisfy due process and public policy requirements in a manner that is simpler and more expeditious than hearing procedures otherwise required by statute, for use in appropriate circumstances.

(b) The public hearing shall normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the petitioner;

(3) Statements on behalf of the Director;

(4) Statements on behalf of the lead agency;

(5) Statements on behalf of the public;

(6) Rebuttal on behalf of the petitioner;

(7) Rebuttal on behalf of the Director;

(8) Motion to close the public hearing.

(c) Not withstanding the above, the Chairman or the Chairman's designee (Board member) for the purposes of conducting the hearing may, in the exercise of discretion, determine the order of the proceedings.

(d) The Chairman or the Chairman's designee (Board member) shall have the authority to impose time limits upon statements and presentations and to accept written statements in lieu of oral statements. Four copies of any written statements shall be submitted to the Board at least ten days prior to the hearing.

(e) Should the appellant, or his or her representative, fail to appear at the scheduled hearing, the board may make a determination upon the record otherwise before it, or, in the alternative, the board may consider the petition for hearing withdrawn.

(f) If the board determines that the petition for hearing has been withdrawn and more than 30 days has passed since the date of issuance of the order setting an administrative penalty, the order setting the administrative penalty shall not be subject to review by any court or agency.

(g) The actions of the Chairman or the Chairman's designee (Board member) under this section are not subject to judicial review.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act. Reference: Section 2774.2, Public Resources Code; and Article 10, Administrative Procedure Act.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation, including repealer of subsection (e); operative 12–16–98 (Register 98, No. 47).
3. New subsections (e) and (f) and subsection relettering filed 9–30–2002; operative 10–30–2002 (Register 2002, No. 40).

§ 3910. Hearing Procedures—Determination.

(a) Following the public hearing, the Board shall determine: (1) whether the alleged violations cited in the Director's order are supported by substantial evidence in light of the whole record before it; and, (2) the action the Board should take to affirm, modify, or set aside, in whole or in part, the administrative penalty issued by the Director. The Board shall issue its own order upholding its determination.

(b) Modify means to change the administrative penalty from its original construction by the director. The board may modify the administrative penalty, in whole or in part, by such measures as it deems appropriate which include, but are not limited to, increasing or decreasing the penalty amount, establishing compliance deadlines, and structuring a method for payment of the penalty.

(c) Notification of the Board's determination shall be made by certified mail or personal service to the petitioner, the lead agency, and the Director within 15 days following the regular business meeting of the Board at which the decision is made.

NOTE: Authority cited: Sections 2755 and 2774.2, Public Resources Code. Reference: Section 2774.2, Public Resources Code.

HISTORY

1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).
3. New subsection (b) and subsection relettering filed 9–30–2002; operative 10–30–2002 (Register 2002, No. 40).

§ 3911. Petition/Notice of Defense Form.

STATE OF CALIFORNIA

DEPARTMENT OF CONSERVATION
STATE MINING AND GEOLOGY BOARD

IN THE MATTER OF THE ADMINISTRATIVE PENALTY ASSESSED AGAINST: an individual, d.b.a. PETITIONER(S)	Case No. PETITION/ NOTICE OF DEFENSE

( ) I acknowledge receipt of this action assessing an administrative penalty under Public Resources Code Section 2774.1(c) against me or the company for which I am the agent.

( ) I request a hearing before the State Mining and Geology Board.

( ) I object to the action on the ground that it does not state acts or omissions upon which the Department of Conservation may proceed.

( ) I object to the form of the action on the ground that it is so indefinite or uncertain that I cannot identify the transaction or prepare a defense.

( ) I admit the action in whole or in part. (Indicate which parts you admit by paragraph number or list on a separate page facts or allegations admitted.)

( ) I deny the action in whole or in part. (Indicate which parts you deny by paragraph number or list on a separate page facts or allegations denied.)

( ) I have no personal knowledge of the facts or allegations. (Indicate which parts by paragraph number or on a separate page.)

( ) I present the following new matter by way of defense:
(On a separate page, list other facts which may exonerate or mitigate your possible responsibility or otherwise explain your relationship to the alleged violation. Be as specific as you can. If you have or know of any document(s), photograph(s), map(s), letter(s), or other evidence that you believe is/are relevant, please identify it/them by name, date, type, and any other identifying information and provide the original(s) or (a) cop(y/ies) if you can):

( ) I wish to present the following information, statement, etc. in addition:
(Use a separate page, if needed.)

( ) I have documents, exhibits, declarations under penalty of perjury and/or other materials that I am attaching to this form or that I want to be made a part of the administrative record for this administrative penalty. (Please list in chronological order by date, author and title and enclose a copy with this completed form.)

( ) I object to the action on the ground that, under the circumstances, compliance with the requirement of a regulation would result in a material violation of another regulation enacted by another department affecting substantive rights. (List the other regulation(s).)

( ) I will pay the full assessed amount and waive a hearing.
DO NOT SEND CASH. *Please note your case number on your remittance, made payable to:* ***State of California, Department of Conservation,*** *to ensure proper credit and mail it to this address: Department of Conservation, Office of Mine Reclamation, 801 K Street, MS 09–06, Sacramento, California 95814.*

If you intend to be represented by an attorney, please state his/her name, address, and telephone number. Otherwise, state the address and phone number where you want legal documents sent. Mail this Notice of Defense to: *Executive Officer, State Mining and Geology Board, 801 K Street, MS 24–05, Sacramento, California 95814.*

DATED: _____ _____
Petitioner's Signature

_____
Name of Counsel/Petitioner (circle one) **Phone Number**

_____
Address **City** **State** **Zip**

HISTORY
1. New section filed 4–2–98; operative 4–2–98 (Register 98, No. 14). This interim regulation is exempt from most of the procedural requirements of the Administrative Procedure Act (specifically, from Articles 5 and 6 of Chapter 3.5, Division 3, Title 2, Government Code) and from review by the Office of Administrative Law pursuant to Government Code sections 11400.20 and will expire on December 31, 1998, unless earlier terminated or replaced by, or readopted as, permanent following the procedures of the Administrative Procedure Act.
2. New section refiled 11–16–98 as a permanent regulation; operative 12–16–98 (Register 98, No. 47).

Article 13. Selection of Professional Service Firms

§ 3920. Selection of Professional Service Firms.

(a) The purpose of these regulations is to establish those procedures authorized and required by Chapter 10 (commencing with Section 4525) of Division 5 of Title 1 of the Government Code. These regulations are specific to the Surface Mining and Reclamation Act of 1975 (Public Resources Code Sections 2710, et seq.

(b) Selection by the board for professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management, firms shall be on the basis of demonstrated competence and on the professional qualifications necessary for the satisfactory performance of the services required.

NOTE: Authority cited: Sections 2755–2759, Public Resources Code; and Section 4526, Government Code. Reference: Sections 4525–4529.5, Government Code.

HISTORY
1. New article 13 (sections 3920–3930) and section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3921. Definitions, as Used in These Regulations.

(a) "Small business" shall mean a small business firm as defined by the Director of General Services (section 1896 of Title 2 of the California Code of Regulations) pursuant to section 14837 of the Government Code.

(b) "Architectural, landscape architectural, engineering, environmental, land surveying, and construction project management services" are those services to be procured outside State of California Civil Service procedures and of a character necessarily rendered by an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor but may include ancillary services logically or justifiably performed in connection therewith.

(c) "Project" means a project as defined in Section 10105 of the Public Contract Code, or as defined in the Public Resources Code Section 21065.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4525 and 14837, Government Code; Section 10105, Public Contract Code; and Section 21065, Public Resources Code.

HISTORY
1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3922. Establishment of Criteria.

(a) The board shall establish criteria, on a case by case instance, which will comprise the basis for selection for each project. The criteria shall include such factors as professional excellence, demonstrated competence, specialized experience of the firm, education and experience of key personnel to be assigned, staff capability, workload ability to meet schedules, nature and quality of completed work, reliability and continuity of the firm, location, and other considerations deemed relevant. Such factors shall be weighted by the board according to the nature of the project, the needs of the State and complexity and special requirements of the specific project.

(b) In no event shall the criteria include practices which might result in unlawful activity including, but not limited to, rebates, kickbacks, or other unlawful consideration. Board members with a relationship to a person or business entity seeking a contract under this section are prohibited from participating in the selection process if the board member would be subject to the prohibition of Section 87100 of the Government Code.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526 and 87100, Government Code.

HISTORY
1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3923. Estimate of Value of Services.

Before any discussion with any firm concerning fees, the board may cause an estimate of the value of such services to be prepared. This estimate shall serve as a guide in determining fair and reasonable compensation for the services rendered. Such estimate shall be, and remain, confidential until award of contract or abandonment of any further procedure for the services to which it relates. At any time the board determines the estimates to be unrealistic because of rising costs, special conditions, or for other relevant considerations, the estimate may be reevaluated and modified if necessary.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3924. Request for Proposals.

(a) Where a project requires architectural, landscape architectural, engineering, environmental, land surveying, or construction project management services, the board shall make an announcement through a publication of the respective professional society, if any exist, in a construction trade journal or, if none exist, in other appropriate publications that are published within a reasonable time frame such that a lengthy publication delay does not adversely affect the project.

(b) The announcement shall contain the following information: The nature of the work, the criteria upon which the award shall be made, and the time within which statements of interest, qualification and performance data will be received.

(c) The board shall endeavor to provide to all small business firms who have indicated an interest in receiving such, a copy of each announcement for projects for which the board concludes that small business firms could be especially qualified. A failure of the board to send a copy of an announcement to any firm shall not operate to preclude any contract.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4527, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3925. Selection of Firm.

After expiration of the period stated in the publications or other public announcements, the board shall evaluate statements of qualifications and performance data which have been submitted to the board. Discussions shall be conducted with no less than three firms regarding the required service. Where three firms cannot be found which could provide the required service, a full explanation including names and addresses of firms and individuals requested to submit proposals must be entered in the files. From the firms with which discussions are held, the board shall select no less than three, provided at least three firms submit proposals, in order of preference, based upon the established criteria, which are deemed to be the most highly qualified to provide the services required.

NOTE: Authority cited: Section 4526, Government Code. Reference: Sections 4526–4527, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3926. Negotiation.

The board shall attempt to negotiate a contract with the most highly qualified firm. When the board is unable to negotiate a satisfactory contract with this firm with fair and reasonable compensation provisions, as determined by the procedure set forth in Section 3923 if those procedures were used, negotiations shall be terminated. The board shall then undertake negotiations with the second most qualified firm on the same basis. Failing accord, negotiations shall be terminated. The board shall then undertake negotiations with the third most qualified firm on the same basis. Failing accord, negotiations shall be terminated. Should the board be unable to negotiate a satisfactory contract at fair and reasonable compensation with any of the selected firms, additional firms may be selected in the manner prescribed in this article and the negotiation procedure continued.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4528, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3927. Amendments.

In instances where the board effects a necessary change in the project during the course of performance of the contract, the firm's compensation may be adjusted by negotiation of a mutual written agreement in a fair and reasonable amount where the amount of work to be performed by the firm is changed from that which existed previously in the contemplation of the parties.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3928. Contracting in Phases.

Should the board determine that it is necessary or desirable to have a given project performed in phases, it will not be necessary to negotiate the total contract price or compensation provisions in the initial instance, provided that the board shall have determined that the firm is best qualified to perform the whole project at a fair and reasonable cost, and the contract contains provisions that the board, at its option, may utilize the firm for other phases and that the firm will accept a fair and reasonable price for subsequent phases to be later negotiated and reflected in a subsequent written instrument. The procedure with regard to estimates and negotiation shall otherwise be applicable.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3929. Board's Power to Require Bids.

Where the board determines that the services needed are technical in nature and involve little professional judgment and that requiring bids would be in the public interest, a contract shall be awarded on the basis of bids rather than by following the foregoing procedures for requesting proposals and negotiation.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4529, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

§ 3930. Exclusions.

The provisions of this article shall not apply to service agreements for an architect, landscape architect, engineer, environmental specialist, land surveyor, or construction project management contractor, engaged to provide consulting services on specific problems on projects where the architectural, landscape architectural, engineering, environmental, land surveying, or construction project management work is being performed by State of California Civil Service employees.

NOTE: Authority cited: Section 4526, Government Code. Reference: Section 4526, Government Code.

HISTORY

1. New section filed 10–4–2000; operative 10–4–2000 pursuant to Government Code section 11343.4(d) (Register 2000, No. 40).

Article 14. Appeals of Orders to Comply with the Surface Mining and Reclamation Act of 1975

§ 3940. Purpose of Regulations.

The regulations contained in this article govern procedures affecting the review of orders to comply with the Surface Mining and Reclamation Act of 1975 (Act) issued by the director of the department, or by the board when acting in the capacity of lead agency pursuant to Public Resources Code Section 2774.4.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Sections 2774.1 and 2774.4, Public Resources Code.

HISTORY

1. New article 14 (sections 3940–3948) and section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3941. Determination of Jurisdiction.

(a) The Chairman of the board, or the Chairman's designee, shall determine whether the review of the order is within the jurisdiction of the board for the purposes of hearing the alleged violation. If the Chairman or the designee finds that the criteria listed in (1) and (2) below have been satisfied, then he or she shall schedule a hearing of the order before the board, otherwise he or she shall refuse to grant a hearing. In making this determination, the Chairman, or the Chairman's designee, shall consider the following:

(1) Whether the order addresses violations related to the Act which have been confirmed by findings during an annual inspection or as the result of another physical site inspection of the mine;

(2) Whether the alleged violation has extended beyond 30 days from the date of receipt by the operator of notification from the director or the board.

(b) The Chairman of the board or designee shall make such a determination within 15 days of receipt of an order issued by the director. Where the board issues the order to comply pursuant to its lead agency authority under Public Resources Code Section 2774.4, no independent determination by the Chairman or the designee is required. The board shall notify the appellant and the director of its determination by certified mail or personal service.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3942. Administrative Record.

The administrative record shall consist of the information that was before the director for an order issued by the director, or before the board for an order issued by the board, at the time the order was issued and which comprised the basis for the order. The information before the director, or the board, shall consist of but may not be limited to the following:

(a) The name and address of the surface mining operator and the name and address of any person designated by the operator as an agent for the service of process;

(b) A general description of the surface mining operation;

(c) A description of the alleged violation specifying which aspects of the surface mine's activities or operations are inconsistent with the Act;

(d) A time for achieving compliance that the director, or the board, has determined to be reasonable.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3943. Hearing Procedures — Scheduling.

The board shall schedule and hold a public hearing on an order no sooner than 30 days from the date of issuance of the order. In no case shall the hearing be scheduled beyond 60 days after the issuance of the order. The hearing may be scheduled as part of a regular business meeting of the board or may be conducted by a committee of the board.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3944. Hearing Procedures — Authority for Delegation.

The board may delegate conduct of the hearing to a committee of at least two members of the board to be appointed for that hearing by the Chairman of the board. The Chairman of the board or the Chairman's designee shall conduct the hearing; the recommendations of the hearing committee shall be presented to a quorum of the board at its next regular business meeting for a decision of the full board consistent with the procedures set forth in Section 3948 of these regulations.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3945. Hearing Procedures — Notice.

(a) At least 10 days prior to the hearing, the board shall give public notice as follows:

(1) Mailing the notice to the lead agency (if the board is not the lead agency), the operator subject to the order to comply, and the director;

(2) Mailing the notice to any person who requests notice of the hearing;

(b) The notice of hearing shall include the following:

(1) The name of the operator subject to the order to comply;

(2) Identification of the proposed surface mining operation and a brief description of the location of the operation by reference to any commonly known landmarks in the area;

(3) A statement that the operator has been issued an order to comply with specific aspects of the Act;

(4) A statement inviting the operator, the lead agency, and the public to make statements at the hearing regarding the decision of board; and,

(5) The time, date, and location of the public hearing.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3946. Hearing Procedures — Record.

The record before the board at the public hearing shall be the administrative record submitted pursuant to Section 3942 of this article.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3947. Hearing Procedures — Sequence.

(a) The public hearing should normally proceed in the following manner:

(1) Identification of the record;

(2) Statements on behalf of the operator subject to the order;

(3) Statements on behalf of the director, or the board if acting as the lead agency;

(4) Statements on behalf of the public;

(5) Rebuttal on behalf of the operator; and

(6) Rebuttal on behalf of the director, or the board if acting as the lead agency;

(7) Motion to close the public hearing.

(b) Notwithstanding the above, the Chairman or the Chairman's designee for purposes of conducting the hearing may in the exercise of discretion, determine the order of the proceedings.

(c) The Chairman or the Chairman's designee may impose reasonable time limits upon statements and presentations and may accept written statements in lieu of oral statements. Written statements (12 copies) must be submitted to the board at least five days prior to the hearing.

(d) The public hearing shall be recorded.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

§ 3948. Hearing Procedures — Determination.

Following the public hearing, the board shall determine whether, based on the record before it, the evidence before the director for orders issued by the director, or the board for orders issued by the board, substantially supports the basis for the order at the time the order was issued. If the board finds that the evidence in the record supports the issuance of the order, the board shall uphold the order and any effective date contained in the order. If no effective date is contained in the order, then the board shall set a date upon which the order takes effect. If the board finds

that the evidence in the record does not substantially support the order, then the board shall not uphold the order and shall notify the director of the specific reasons for not upholding the director's order. Notification of the board's determination shall be made by certified mail or personal service to the operator and the director within 15 days following the regular business meeting of the board at which the determination is made.

NOTE: Authority cited: Section 2755, Public Resources Code. Reference: Section 2774.1, Public Resources Code.

HISTORY

1. New section filed 10–1–2002; operative 10–31–2002 (Register 2002, No. 40).

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